



Statement of Environmental Effects: Section 4.56

440 BOBBIN HEAD ROAD
NORTH TUMMARRA

APRIL 2026



QUALITY ASSURANCE

PROJECT:	<i>S4.56 Modification to an Approved Residential Flat Building</i>
ADDRESS:	<i>440 Bobbin Head Road, North Turramurra</i>
LOT/DP:	<i>Lot 1 in DP 858405</i>
COUNCIL:	<i>Ku-ring-gai Council</i>
AUTHOR:	<i>Think Planners Pty Ltd</i>

Document Management

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<i>BC</i>	<i>Submission</i>	<i>9 April 2026</i>

Integrated Development (under S4.46 of the EP&A Act). Does the development require approvals under any of the following legislation?

Coal Mines Subsidence Compensation Act 2017	No
Fisheries Management Act 1994	No
Heritage Act 1977	No
Mining Act 1992	No
National Parks and Wildlife Act 1974	No
Petroleum (Onshore) Act 1991	No
Protection of the Environment Operations Act 1997	No
Roads Act 1993	No
Rural Fires Act 1997	Yes
Water Management Act 2000	No

Concurrence

SEPP (Industry and Employment) 2021	No
SEPP (Resilience and Hazards) 2021	No
SEPP (Transport and Infrastructure) 2021	No
SEPP (Planning Systems) 2021	No
SEPP (Precincts—Central River City) 2021	No
SEPP (Precincts—Eastern Harbour City) 2021	No
SEPP (Precincts—Regional) 2021	No
SEPP (Precincts—Western Parkland City) 2021	No
SEPP (Biodiversity and Conservation) 2021	No

CONTENTS

EXECUTIVE SUMMARY	5
BRIEF HISTORY	7
LAWFUL CONSENT AND USE	7
SITE AND LOCALITY DESCRIPTION	8
SUBJECT SITE	8
ZONING	10
DESCRIPTION OF AMENDED PROPOSAL	11
ASSESSMENT OF PLANNING ISSUES & CONTROLS	15
S.4.56 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979	15
STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS)	20
STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021	20
STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021	20
HOUSING SEPP 2021	22
KU-RING-GAI LOCAL ENVIRONMENTAL PLAN 2015	26
KU-RING-GAI DEVELOPMENT CONTROL PLAN	28
CONCLUSION	32

TABLE OF FIGURES

Figure 1: Subject site.....	8
Figure 2: Aerial photograph of the subject site (Landchecker)	9
Figure 3: Zoning Map Extract (Source: NSW Planning Portal).....	10
Figure 4: Zoning Map Extract (Source: NSW Planning Portal).....	26

EXECUTIVE SUMMARY

On 21 May 2002 development consent (DA0807/01) was granted by the Land and Environment Court of New South Wales (Appeal number: 10973 of 2001) for the following:

“Development consent is granted for a development pursuant to State Environmental Planning Policy. 5 - Housing for Aged Persons and People with a Disability comprising 220 dwellings, carparking for 286 vehicles, community facilities and associated landscaping to be constructed in accordance with plans drawn by Stephen Bowers Architect Pty Limited numbered DA01C and DA02B-DA14B.”

Subsequent to this approval a number of modifications have been approved, with the most recent Determination (eMOD0193/24) issued on 1 August 2025 for the following:

“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.”

This Statement of Environmental Effects has been prepared by Think Planners Pty Ltd as part of the supporting documentation for a Section 4.56 Modification Application to undertake a series of minor amendments to the approved plans associated with DA0807/01 (as amended) at 440 Bobbin Head Road, North Turramurra.

The proposed modifications are identified in the Architectural Plans by red clouding and notation. A comparative plan set has also been provided to assist Council in readily identifying and understanding the extent of the proposed changes to the approved development.

The proposed modification involves design development and refinement of the approved scheme, including internal layout changes, updated circulation and accessibility provisions, new lift and fire stair works, revised external access and landscape treatments, deletion of the approved bridge link, roof and elevation amendments, and associated upgrades to fire safety and service infrastructure. As a result of the proposed modification, the number of dementia studio rooms will increase from eight to nine, together with minor reconfiguration of existing rooms.

The additional room is proposed as a dedicated dementia care studio and has been designed to support residents living with cognitive impairment by providing a safe, familiar, and functional private space that aligns with contemporary aged care practice. The increase in studios from 8 to 9 is driven by a demand within the community for memory care spaces.

The broader design philosophy applied throughout Site 1 is based on the “memory care” philosophy, which integrates the built environment with resident wellbeing. This approach prioritises clear and intuitive layouts, consistent room configurations, and a domestic-scale setting to reduce confusion and support daily routines. Spaces are designed to be easily navigable, with simple circulation paths, good visibility, and minimised environmental stressors. Materials, finishes, and spatial arrangements are selected to promote familiarity and comfort, while discreet safety measures are incorporated to support residents with dementia without creating a sense of restriction. The standardisation of room layouts across the home further reinforces recognition and ease of use for residents.

Overall, the additional room and associated internal reconfiguration align with the cottage-style design approach that has been implemented to enhance resident amenity, safety, and quality of life.

There is no change to the overall gross floor area (GFA), with the changes being minor in nature and resulting in minimal environmental impacts.

The proposed modification will not result in unreasonable amenity impacts to adjoining properties and is appropriately characterised as “substantially the same development,” as it retains the overall integrity and design of the original approval.

Having regard to the merits of the proposed modifications, the amended plans, and the relevant planning controls, the proposal is considered acceptable. It is therefore recommended that Council grant consent to this Section 4.56 modification application, subject to appropriate amendments to the existing conditions of consent.

BRIEF HISTORY

A summary history of the development approvals over the subject site are identified below.

<i>Date</i>	<i>DA Number</i>	<i>Comment</i>
18 March 2001	DA4843/96	Retirement village, hostel, clubhouse and parking (313 dwellings) approved. The key EPI was SEPP 5 (Housing for older people or people with a disability)
21 May 2002	DA0807/01	Revised approval for 220 seniors housing dwellings, community facilities and associated works. Approved by the NSW LEC via Appeal number: 10973 of 2001.
26 May 2009	DA0725/08	46 self-contained seniors housing dwellings within the east bank area approved by the NSW LEC.
20 October 2011	MOD0116/11	Modification to DA0725/08 approved to update footpath levels.
21 October 2011	MOD0142/11	Modification to DA0725/08 approved to relocate pedestrian footpath.
25 February 2021	DA0403/20	Approval of a modification that made alterations and additions to existing community facility
2 September 2022	MOD0120/22	Modification to DA0403/20 for minor internal/external changes
1 August 2025	eMOD0193/24	Modification to DA0807/01 – conversion of 5 units to 8 dementia studios + respite areas (recommended for approval)

LAWFUL CONSENT AND USE

Council acknowledges in its report dated 30 July 2025 for eMOD0193/24 that the site benefits from a 'lawful' consent and that continuance of use has been established.

Attached for reference is legal advice provided by Mills Oakley for eMOD0193/24 as a matter of courtesy.



SITE AND LOCALITY DESCRIPTION

The site is legally described as Lot 1, DP 858405, though it is more commonly known as 440 Bobbin Head Road.

SUBJECT SITE

The subject site is an existing Retirement Village known as “The Landings at North Turramurra” and comprises of a diverse mix of residential accommodation, including villas, apartments and villa apartments.

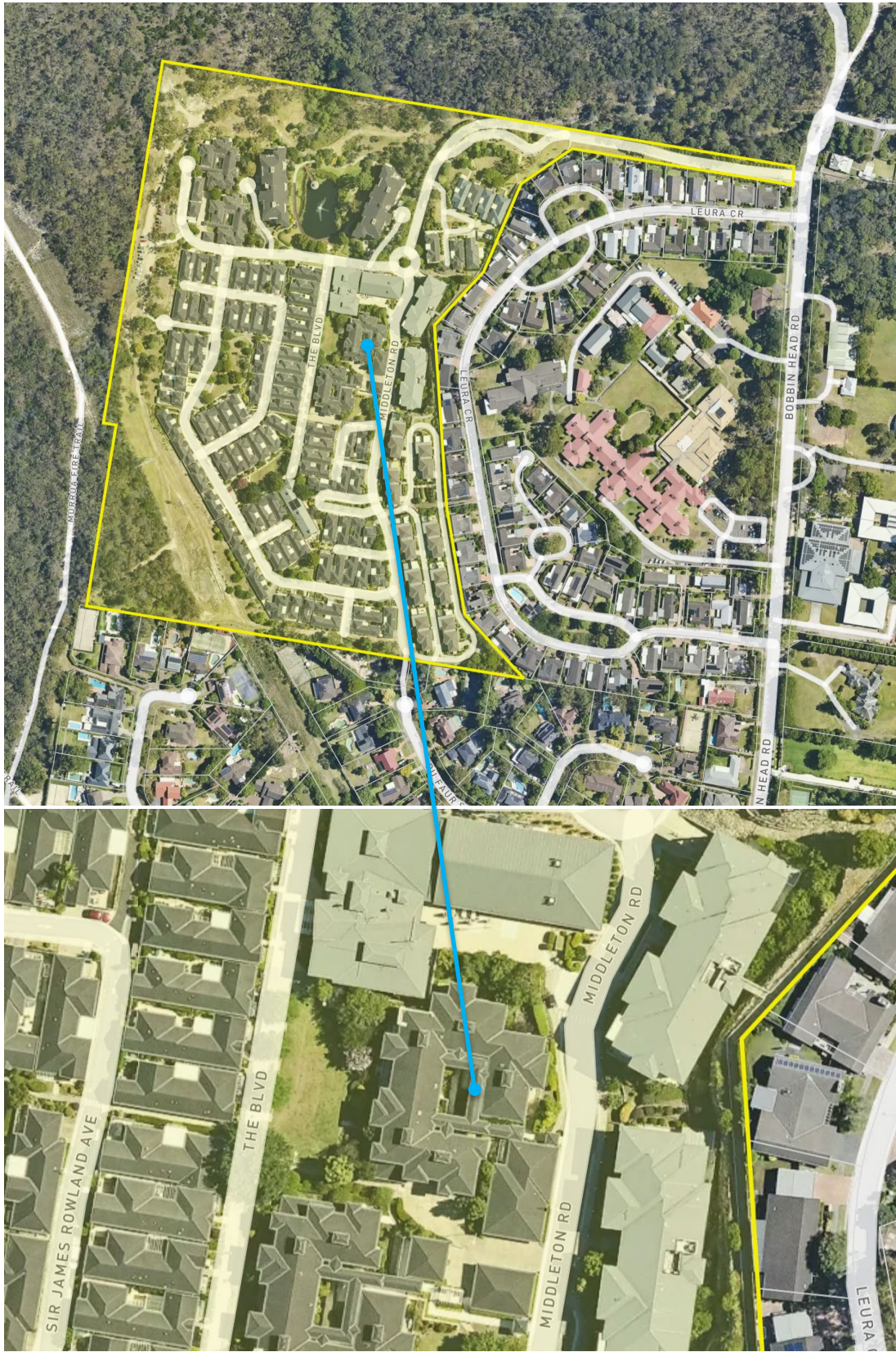
It is located on an area of about 11.87 ha, within an irregularly shaped lot with a network of internal streets. The site has frontage to Bobbin Head Road, through within the site the development site has an eastern frontage to Sir Neville Macnamara Drive and also a western frontage to The Boulevard.

The surrounding context is characterised by a combination of bushland, institutional and residential land uses. Ku-ring-gai Chase National Park adjoins the site to the north and west, while Lady Davidson Private Hospital and associated residential development are located to the east. Additional residential and aged care developments are situated to the south.

Figure 1: Subject site



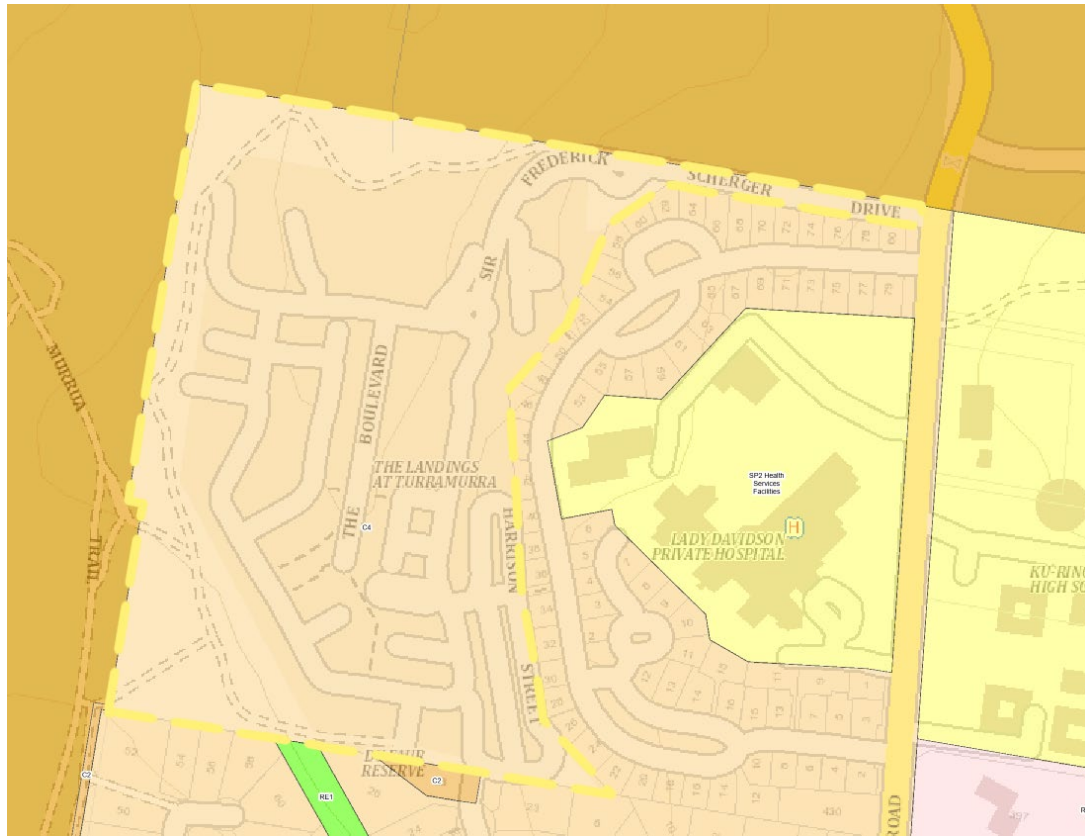
Figure 2: Aerial photograph of the subject site (Landchecker)



ZONING

The development site is C4 Environmental Living Under Kur-ring-gai LEP 2015.

Figure 3: Zoning Map Extract (Source: NSW Planning Portal).



Council acknowledges in its report dated 30 July 2025 for eMOD0193/24 that the site benefits from a 'lawful' consent and that continuance of use has been established.

Attached for reference is legal advice provided by Mills Oakley for eMOD0193/24 which establishes existing use rights over the subject site.

DESCRIPTION OF AMENDED PROPOSAL

This Statement of Environmental Effects has been prepared by Think Planners Pty Ltd as part of the supporting documentation for a Section 4.56 modification application to undertake a series of minor amendments to the approved plans associated with the approved and built development.

The proposed works include 16 discrete amendments as shown in the architectural plans. For reference, a comparison plan set has also been provided that shows the existing approval and the proposal side by side.

The Section 4.56 modification is seeking to alter the following design elements of the consent, as described and represented on the Architectural Plans:

Location	Plan Ref.	Amendment	Description
Main entry / frontage to Sir Neville Macnamara Drive	7	Updated Accessible Ramp	Reconfiguration of the principal access arrangement to provide an updated accessible ramp, including associated level transition works and compliant pedestrian access to the building entry.
Main entry / frontage to Sir Neville Macnamara Drive	9	Updated Gate and Fence	Upgrade to the front boundary treatment, including revised gate and fencing elements to the street frontage. The plans note new fencing to the boundary interface.
Main entry / frontage to Sir Neville Macnamara Drive	11	New Fire Hydrant	Installation of new fire hydrant infrastructure at the frontage for emergency service access and fire protection servicing.
Main entry / frontage to Sir Neville Macnamara Drive	12	New Fire Booster	Installation of a new fire booster and associated fire service equipment adjacent to the frontage fire infrastructure.
Main entry / frontage / entry-adjacent internal area	13	New Fire Indicative Panel	Installation of a new fire indicator panel in an entry-accessible location associated with the fire services upgrade.
Central internal circulation core	1	New Lift	Construction of a new lift within the central circulation area to improve vertical access between levels. Associated lift overrun is shown at roof level.
Central internal circulation core	2	New Fire Stairs	Construction of new fire-isolated stairs adjoining the lift core to provide compliant egress between levels.
Central internal circulation core / egress interface	16	New Fire Rated Foyer and Egress Doors	Construction of a fire-rated foyer and associated egress doors as part of the upgraded life safety and circulation works surrounding the new stair and lift intervention.
Level 01 accommodation area	3	Additional SOU	Internal reconfiguration to facilitate additional sole occupancy unit accommodation within the proposed upper-level layout. This increases the total number of SOU from 8 to 9. All SOU rooms bed, water

			closet and shower, wash basin, storage and laundry.
Level 01 communal / back-of-house area	4	Updated Store and Pan Room	Revision to the store and pan room configuration within the communal and service areas of Level 01.
Level 01 internal courtyard	6	New Zen Garden	Provision of a new landscaped Zen garden as a communal open space within the internal courtyard area.
Level 01 generally	8	Updated Layout	Broader reconfiguration of the upper-level internal layout, including accommodation, communal, service and circulation areas, as shown on the proposed plans.
Roof / external service area	5	New Screened A/C Location	Provision of a new screened air-conditioning / mechanical plant location at roof or upper external service level.
Western / connection interface area	10	Remove Approved Bridge Link	Deletion of the previously approved bridge link from the approved scheme, with consequential plan, roof and elevation amendments where that link was formerly proposed.
Upper-level balcony / edge treatment areas	14	New Upstand Glass	Installation of new upstand glazing / glass balustrade elements to upper-level edge conditions, as identified on the elevations and sections.
Various locations across both levels and elevations	15	Updated Building Openings	Revision to building openings, including new, altered and removed doors and windows, together with associated infill and façade amendments where noted on the plans.

As noted, the proposal seeks to increase the number of SOUs from eight to nine through internal layout modifications.

The proposed modification involves the further design development and refinement of the approved scheme, including internal layout changes, updated circulation and accessibility provisions, new lift and fire stair works, revised external access and landscape treatments, deletion of the approved bridge link, roof and elevation amendments, and associated upgrades to fire safety and service infrastructure. As a consequence of these changes, the number of dementia studio rooms will increase from eight to nine, together with minor reconfiguration of the existing rooms.

The additional room is proposed as a dedicated dementia care studio and has been designed to support residents living with cognitive impairment by providing a safe, familiar and functional private space consistent with contemporary aged care practice. The increase in studios from 8 to 9 is driven by a demand within the community for memory care spaces.

More broadly, the design philosophy applied throughout Site 1 is based on a “memory care” approach, which integrates the built environment with resident wellbeing. This approach prioritises legible and intuitive layouts, consistent room configurations, and

a domestic-scale setting to reduce confusion and support daily routines. Spaces are designed to be readily navigable, with simple circulation paths, good visibility and minimised environmental stressors. Materials, finishes and spatial arrangements have been selected to promote familiarity and comfort, while discreet safety measures are incorporated to support residents with dementia without creating an institutional or restrictive environment. The standardisation of room layouts across the home further reinforces recognition and ease of use for residents.

Overall, the additional room and associated internal reconfiguration are consistent with the approved cottage-style design approach and will enhance resident amenity, safety and quality of life.

Importantly, the proposed amendment is confined to the reorganisation of existing internal spaces and does not result in any increase to the approved building footprint or height. Accordingly, the development will not give rise to any additional visual, bulk or scale impacts when viewed from the public domain or adjoining properties. The retention of the approved built form ensures the proposal remains compatible with the established character of the site and surrounding locality.

The amendment is modest in nature and does not materially alter the overall intensity of the development, traffic generation, servicing requirements or infrastructure demand. The revised layout continues to provide appropriate communal and support areas, including lounge, dining and landscaped spaces, such that the amenity of future occupants will be maintained.

In addition, the internal layout changes will improve the functionality, accessibility and overall compliance of the development. The reconfigured rooms provide more efficient circulation, facilitate compliant access, including wheelchair manoeuvrability, and improve integration with the proposed lift and fire stair infrastructure. The rationalisation of back-of-house areas, including the store and pan room, together with the redistribution of internal spaces, results in a more coherent and operationally effective layout consistent with contemporary design expectations for this form of development.

Importantly, the proposed amendments will not result in any unreasonable amenity impacts. There is no increase in building height, overshadowing, overlooking or privacy impacts beyond those already approved. Similarly, noise, traffic and servicing impacts are expected to remain substantially unchanged, having regard to the minor nature of the additional room. The proposal therefore continues to satisfy the relevant planning controls relating to amenity, built form and site planning.

In summary, the additional room and associated internal layout modifications constitute a minor and acceptable refinement to the approved development. The amendments improve the functionality, accessibility and operational efficiency of the

building while maintaining consistency with the approved built form, the intended land use and the character of the surrounding context.

Accordingly, it is requested that the relevant conditions of consent be amended as set out below.

Condition 1A

1A. Plans and documentation (Modified – eMOD0193/24)

The works shall be carried out in accordance with the following plans listed below, as submitted with the modification application eMOD0193/24 and S.4.56 endorsed with Council's stamp except where amended by other conditions of this Modification Consent:

Section 4.56 Plan no.	Drawn by	Dated
<i>Architectural Plans</i>		
DA00.04 Revision A- P3	Rothe Lowman	22/11/2024 23/03/ 2026
DA00.05 Revision A- P3	Rothe Lowman	22/11/2024 23/03/ 2026
DA00.10 Revision A- P3	Rothe Lowman	22/11/2024 23/03/ 2026
DA00.11 Revision A- P3	Rothe Lowman	22/11/2024 23/03/ 2026
DA01.01 Revision A- P3	Rothe Lowman	22/11/2024 23/03/ 2026
DA01.02 Revision A- P3	Rothe Lowman	22/11/2024 23/03/ 2026
DA01.03 Revision A- P3	Rothe Lowman	22/11/2024 23/03/ 2026
DA02.01 Revision A- P3	Rothe Lowman	22/11/2024 23/03/ 2026
DA02.02 Revision A- P3	Rothe Lowman	22/11/2024 23/03/ 2026
DA03.01 Revision A- P3	Rothe Lowman	22/11/2024 23/03/ 2026
DA03.02 Revision A- P3	Rothe Lowman	22/11/2024 23/03/ 2026
DA04.01 Revision A- P3	Rothe Lowman	22/11/2024 23/03/ 2026

Section 4.56 Document(s)	Dated
Accessibility Report prepared by ABE Consulting Ref: 24364	15/11/2024 26/03/2026
Acoustic Report prepared by Acoustic Logic Ref: 20241246.1/2611A/R0/GC Revision "0"	26/11/2024
Building Code of Australia Assessment Report prepared by Private Certifiers Australia Ref: "Final V1.0"	15/11/2024 13/02/2026
Performance-based design brief prepared by Lit Consulting	
Colours, materials and fittings prepared by Rothe Lowman	-
Construction Management Plan prepared by Access Building & Maintenance	-
NSW RFS letter Ref: DA20250121000264-Original-1	13/02/2025
Sustainability report prepared by ARK Resources Ref: 527DK Sustainable Design Report prepared by SALT	9/04/2026
Sydney Water letter Ref: N/A	10/02/2025
Waste Management Plan prepared by Access Building and maintenance SALT	12/11/2024 8/04/2026

ASSESSMENT OF PLANNING ISSUES & CONTROLS

S.4.56 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

It is noted that this application is made under Section 4.56 being an application to the Council seeking to amend a development consent issued by the Land and Environment Court. In practical terms a Section 4.56 is the same as a Section 4.55 (2) modification and those provisions are addressed below.

The relevant provisions of Section 4.55(2) are still matters for consideration and they are addressed below.

Pursuant to Section 4.55 of the Act, a consent authority may consider an application to amend a development consent provided that it is substantially the same development.

An extract of Section 4.55 (2) is provided below:

- (2) **Other modifications** 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 the same or 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
 - (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a 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 that requires the notification or advertising of applications for modification of a development consent, and
 - (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

The approved development comprises a two-storey purpose-built residential care facility. The amended proposal retains this fundamental development concept without alteration. The use, scale, and overall built form of the development remain unchanged, and the proposal continues to operate as a residential care facility in the same manner as the existing approval.

Importantly, the proposed amendments do not result in any material change to the external building envelope. There is no increase in building height, no expansion of the building footprint, and no additional gross floor area. The bulk, scale and massing of the development therefore remain consistent with the approved scheme.

The amendments are largely confined to internal reconfiguration and operational improvements, including upgrades to life safety systems, accessibility enhancements, and refinements to the internal layout to improve functionality and compliance with contemporary standards. External changes are minor and limited to ancillary elements such as fencing, landscaping and services infrastructure, none of which alter the overall presentation or scale of the development in any substantive way.

While the proposal includes a minor increase in the number of dementia sole occupancy units from 8 to 9, this change is modest in scale and does not alter the essential character, intensity or operational nature of the development. The increase represents a marginal adjustment within the existing built form and is consistent with the approved use of the site.

Accordingly, the proposed amendments are appropriately characterised as modifications to a substantially the same development.

Land and Environmental Court Judgements

The question as to whether a modified proposal is ‘substantially the same’ as that originally approved has been an ongoing issue dealt with in the Land and Environment Court.

It is also important to note that the Court has consistently described the section 4.55 - modification provision of the Act as “beneficial and facultative”. It is designed to assist the modification process rather than to act as an impediment to it; “It is to be construed and applied in a way that is favourable to those who seek to benefit from the provision” (see *North Sydney Council v Michael Standley & Associates Pty Limited* [1998]).

As demonstrated below the change to an approval can be substantial without the amended proposal failing the ‘substantially the same’ test. By way of example, and relevant to the current proposal, the following cases were considered in the Court and found to be substantially the same development, with this extract contained in a *Gadens Publication* dated 17 June 2012:

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.

Bassett and Jones Architects Pty Limited v Waverley Council (No2) [2005]:

The modification application sought an additional storey to the approved front

building of a mixed commercial and residential development, which would alter the building from three- storeys to four-storeys; and the provision of a zero side setback for a part of the external side walls at all three levels. This resulted in an increase in floor space of 112 square metres, being a 20 per cent increase in floor space, and a 28 per cent increase in height (both of which exceeded the applicable council controls).

The Court found that the test was satisfied albeit only on “a very fine balance”. The Court noted however that the modified design might give rise to privacy impacts that may warrant refusal of the application when the merits of the change are assessed. The application was later refused on its merits, but not before passing the “substantially the same” threshold test.

Davi Developments Pty Ltd v Leichhardt Council [2007]: A modification application sought to change consent for a seven storey residential flat building with two levels of basement parking. There was to be a reduction of one floor, but an increase in the main parapet height by 900mm, and the substantial reconfiguration of the unit mix such that the numbers reduced from 42 to 30, with a rearrangement of the car park plan such that it was “entirely different”.

The Court nevertheless considered that the fundamental characteristics and essence of the building would remain essentially the same.

Bathla Investments Pty Limited v Blacktown City Council [2008]: The original approval was for eight townhouses presenting as four, single-storey buildings. Some of the townhouses were attached.

The modification application sought to change some of the townhouses to two storeys, and also sought to separate the dwellings and made changes to the garage designs and parking layout.

The Court noted that there were “numerous differences” between the schemes, however, the townhouse development presented as materially and essentially the same development.

Marana Developments Pty Limited v Botany City Council [2011]: The original approval was for the construction of five residential flat buildings (with basement car parking) comprising a total of 76 units. The modification application sought ‘significant changes to the external appearance and layout of the buildings’ including an increase in unit numbers from 76 up to 102, and an additional level of basement car parking.

This also involved a changed unit mix. Despite significant internal changes, the minimal change to the external floor plates and layout was of great significance and the test was satisfied.

Boyd v Bega Valley Council [2007]: It was proposed to add a second storey to a single storey dual occupancy development. Although the application was unsuccessful on merit grounds reasons (visual impact from the waterway caused by poor architectural design), the Court was satisfied that the increase from a single storey to a two storey dwelling satisfied “substantially the same” test.

Having regard to the established principles of the Land and Environment Court, including the requirement to assess whether a modified development is essentially and materially the same as that originally approved, it is considered that the proposal satisfies the “substantially the same development” test. The modified development retains the same fundamental identity, land use, scale, and planning outcomes as the approved scheme.

Accordingly, it is appropriate to conclude that the current application constitutes substantially the same development as previously approved. The development concept remains physically consistent and will operate in a manner consistent with the original consent.

It is anticipated that the application will be notified to adjoining landowners. An assessment of the proposal against the relevant planning controls is provided in the following sections of this Statement.

Minimal Environmental Impact

The proposed modification results in minimal environmental impact, as the works are largely confined to internal reconfiguration and targeted upgrades within the existing building envelope.

The scope of works includes internal layout amendments, accessibility improvements, and upgrades to fire safety infrastructure. External changes are limited in extent and comprise minor façade adjustments, balustrades, lightweight roof elements and fencing. These changes are consistent with the approved architectural expression and do not materially alter the visual presentation of the development.

Importantly, the approved building footprint, height and bulk remain unchanged. The overall site layout and relationship to adjoining development is maintained. The proposal does not result in any increase in gross floor area with only the number of SOU increasing from 8 to 9 due to internal reconfiguration and refinement of previously approved spaces rather than an expansion of the building envelope. The proposal also does not give rise to any material change in overshadowing, privacy, visual impact or other amenity effects.

Accordingly, the environmental impacts of the proposed modification are negligible and remain consistent with those previously assessed.

Substantially the same test

The proposed development as modified satisfies the “substantially the same development” test under s4.55(2) of the Environmental Planning and Assessment Act 1979.

The approved and modified developments are fundamentally the same, with the proposal continuing to comprise alterations and additions to the existing building. The modifications do not alter the essential character of the development. The built form, height, scale and architectural composition remain consistent with the approved scheme. The use of the site and operational characteristics of the development are unchanged. The modifications are primarily internal in nature, with only minor and ancillary external works to the facade.

The proposal therefore represents a refinement of the approved design, including updated building services, accessibility measures and fire safety improvements. Those changes do not result in a new or fundamentally different development. Rather, the development as modified remains clearly identifiable as the same development as originally approved.

For these reasons, the application satisfies the requirement that the modified development be substantially the same development as that for which consent was originally granted.

Section 4.55(3) – reasons for granting consent

Under Section 4.55(3) of the *Environmental Planning and Assessment Act 1979* a consent authority “...must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified”. In this regard Council in assessing this Modification Application can conclude that:

- The proposal remains consistent with the approved development and preserves its key planning parameters, including its scale, form and use and is therefore substantially the same as described.
- The environmental impacts of the modification are minimal and acceptable. There is no material change to built form, amenity impacts or the established relationship with surrounding development.
- The modifications improve the functionality, accessibility and safety of the building and therefore produce a positive outcome for dementia residents, workers and family of residents.
- The proposal does not give rise to any additional adverse impacts on surrounding properties or the locality.

- The proposal remains consistent with its existing use rights, along the SEPP 2004, Ku-ring-gai LEP and also the DCP.
- The modification represents a logical and orderly refinement of the approved development and facilitates the continued use and improvement of the building without altering its fundamental planning character.

The proposed modification therefore results in minimal environmental impact, remains substantially the same development as originally approved, and is supported by sound planning merit and council is therefore able to approve the development application.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS)

The site is used for the purposes of an aged care facility since its construction at the turn of this century. Therefore contamination has been addressed, in earlier approvals and does not warrant further consideration.

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The lift overrun will be connected to the existing drainage system, which Council have confirmed is satisfactory. Therefore, the proposal remains consistent with the objectives of Chapter 6.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

The Transport and Infrastructure SEPP 2021 (TI SEPP) provides the framework for the planning and efficient delivery of infrastructure in NSW. It applies to a broad range of infrastructure with the table below identifying relevant chapters to this Development Application:

Chapter	Applicable
2 Infrastructure	Yes
3 Educational establishments and child care facilities	No
4 Major infrastructure corridors	No
5 Three Ports – Port Botany, Port Kembla and Port of Newcastle	No
6 Moorebank Freight Intermodal Precinct	No
Sched. 2 Railways, roads and associated projects – Chapter 2	No
Sched. 3 Traffic generating development to be referred to TfNSW – Chapter 2	No
Sched. 8 Design quality principles in schools – Chapter 3	No

Chapter 2 – contains planning rules and controls for infrastructure in NSW, such as for hospitals, roads, railways, emergency services, water supply and electricity delivery. The following considers relevant sections of Chapter 2.

Division 5 Electricity transmission or distribution			
Subdivision 2 Development likely to affect an electricity transmission or distribution network			
Clause			Complies
2.47	Excavation—corridors and transmission circuits	Not relevant to this application	N/A
2.48	Determination of development applications—other development	Not relevant to this application	N/A
Division 12 A Pipeline and pipe line corridors			
Subdivision 2 Development adjacent to pipe line corridors			
Clause			Complies
2.77	Determination of Development Applications	Not applicable to this application	N/A
Division 15 Railways			
Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors – notification and other requirements			
Clause			Complies
2.97	Development involving access via level crossings	Not applicable to this application	N/A
2.98	Development adjacent to rail corridors	The proposal is adjacent to a rail corridor and requires referral to TfNSW.	Yes
2.100	Impact of rail noise or vibration on non-rail development	Not applicable to this application	N/A
2.101	Development within or adjacent to interim rail corridor	Not applicable to this application	N/A
2.102	Major development within Interim Metro Corridor	Not applicable to this application	N/A
2.103	Development near proposed metro stations	Not applicable to this application	N/A
Division 17 Roads and Traffic			
Subdivision 2 Development in or adjacent to road corridors and road reservations			
Clause			Complies
2.116	Development other than road facilities on public roads	The development is not proposed on part of a public road that is to be reclassified as part of this application. Accordingly, no further consideration of this clause is required.	N/A
2.117	Highway service centres in road corridors	The development is not proposed in a road corridor. Accordingly, no further consideration of this clause is required.	N/A

2.118 Development on proposed classified road	The development site is not located on a proposed classified road. Accordingly, no further consideration of this clause is required.	N/A
2.119 Development with frontage to classified road	Bobbin Head Road is listed on the <i>Schedule of Classified Road and Unclassified Regional Roads</i> as published by Transport for NSW (in accordance with Section 163 of the Roads Act 1998). The proposal represents a single additional dementia care studio, increasing the number from 8 to 9. Given the nature of the proposed development the additional studio room for a dementia patient will not have any additional traffic demand or generation. Therefore there is no impact on congestion, nor will it be impacted by road noise or vibration given the distance of at least 275m away from the road, and buffering buildings in between.	Yes
2.120 Impact of road noise or vibration on non-road development	The proposal represents a single additional dementia care studio, increasing the number from 8 to 9. Given the nature of the proposed development the additional studio room for a dementia patient will not have any additional traffic demand or generation. Therefore there is no impact on congestion, nor will it be impacted by road noise or vibration given the distance of at least 275m away from the road, and buffering buildings in between.	Yes
2.121 Excavation in or immediately adjacent to corridors	The proposal is not located in or immediately adjacent to a corridor. Accordingly, no further consideration of this clause is required.	N/A
2.122 Traffic Generating Development	The proposal is not traffic generating development.	N/A

HOUSING SEPP 2021

The proposed modification includes the addition of one studio room, increasing the total number of rooms from 8 to 9.

Previous legal advice from Mills Oakley (attached) confirms that the applicable environmental planning instrument is the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP 2004), pursuant to the savings and transitional provisions in Schedule 7A, given the original development consent was granted prior to the commencement of the Housing SEPP 2021.

Although SEPP 2004 contains savings provisions that may otherwise preserve the application of State Environmental Planning Policy No 5 – Housing for Older People or People with a Disability (SEPP 5), clause 6(3) of SEPP 2004 provides that SEPP 5 does not apply where a proposal involves the enlargement, expansion or intensification of an existing use. As the proposed modification increases the number of rooms from 8 to 9, it constitutes an intensification of the use. Accordingly, the applicable environmental planning instrument is SEPP 2004.

The relevant extract from the Mills Oakley advice is below:

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]."
*"(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 HSPD SEPP and Sshedule 7A of the Housing SEPP

SEPP 2004 (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY)

SEPP 2004 applies as the proposal represents an intensification of use as per Cl.6 (3) as the number of studio rooms has increased from 8 to 9:

- 3) *The provisions of State Environmental Planning Policy No 5—Housing for Older People or People with a Disability, as continued in force by subclause (1), do not apply so as to allow any enlargement, expansion or **intensification** of any development to which that subclause applies or any redevelopment. [emphasis added]*

Therefore, the SEPP 2004 is the applicable instrument.

Compliance with relevant provisions of SEPP 2004 are discussed in the table below.

Control	Comment	Compliance
PART 2 – SITE-RELATED REQUIREMENTS		
27 Bushfire Prone Land		
1) <i>A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 10.3 of the Act as “Bush fire prone land—vegetation category 1”, “Bush fire prone land—vegetation category 2”, “Bush fire prone land—vegetation category 3” or “Bush fire prone land—vegetation buffer” unless the consent authority is satisfied that the development complies with the requirements of the document titled Planning for Bush Fire Protection, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019.</i>	A Bushfire Assessment Report has been provided for the subject site via eMOD0193/24. Consultation occurred with the NSW Rural Fire Service with Condition 36 referencing the Bushfire Advice provided by the NSW Rural Fire Service. This condition remains appropriate with the modification making no changes that impact bushfire risk, which has been confirmed by advice from bushfire consultants, Building Code & Bushfire Hazard Solutions. They confirm that: <i>Building Code & Bushfire Hazard Solutions P/L (BCBHS) prepared a Bushfire Assessment Report (Reference 250323, Dated 8th November 2024) addressing the relevant specifications and requirements of Planning for Bush Fire Protection 2019 for the original development application. We have reviewed the proposed modifications and are of the opinion that the recommendations within the previous Bushfire Assessment Report and the Development Consent remain valid for the proposed works.</i> <i>We are therefore in support of the proposed section 4.56 modifications with no additional Bushfire Protection Measures.</i> The proposal therefore complies.	YES
28 Water and Sewer		
1) <i>The consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is</i>	The proposal is within an existing development connected to a	YES

satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.

reticulated water supply and sewage system.

Advice provided with eMOD0193/24 and attached to this S.4.56 confirms that the existing stormwater system remains appropriate.

PART 4 – DEVELOPMENT STANDARDS TO BE COMPLIED WITH

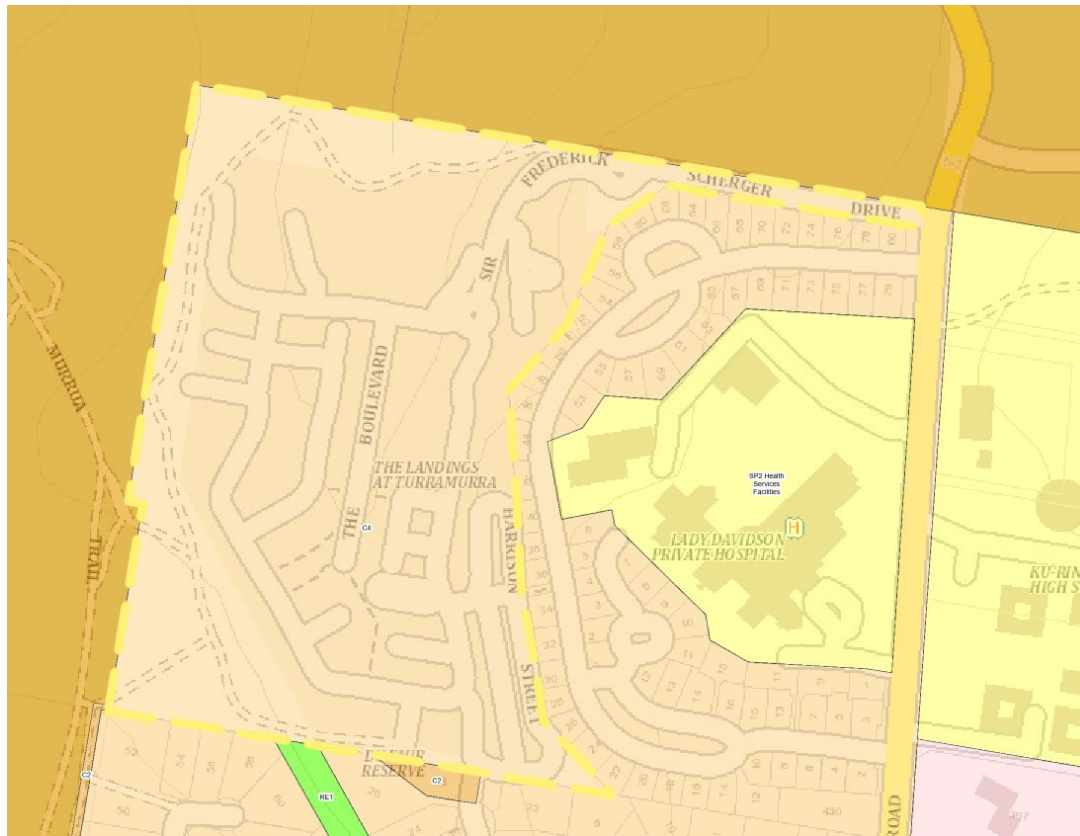
48. Standards that cannot be used to refuse development consent for residential care facilities

a) Building Height: <i>if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or</i>	The addition of the lift remains within the approved height of the subject site.	YES
b) Density and scale: <i>if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,</i>	There is no change to the approved FSR over the subject site with the GFA remaining at 1,600.3m ² .	N/A
c) Landscaped area: <i>if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,</i>	Not relevant to this S.4.56 application with there being no change.	N/A
d) Parking: <i>if at least the following is provided:</i> <i>(i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and</i> <i>(ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and</i> <i>(iii) 1 parking space suitable for an ambulance.</i>	The proposal increases the number of dementia care studio rooms from 8 to 9. Therefore the number of parking spaces required is 1 and 1 space is provided. Appropriate visitor parking spaces however are provided within the internal street network of the broader site. There is no change to staffing and no change to staff parking on site. A parking space is provided for an ambulance.	Yes

KU-RING-GAI LOCAL ENVIRONMENTAL PLAN 2015

The development site is zoned C4 Environmental Living as indicated on the zoning map extract below.

Figure 4: Zoning Map Extract (Source: NSW Planning Portal).



As noted earlier in this S.4.56 and agreed by Council via eMOD0193/24, the subject site benefits from existing use rights in that it is consistent with the approved use under DA/0807/01.

Objective	Consistency
To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.	The proposal is a low impact residential care facility with the proposed works within the existing envelope. It is accordingly consistent with this objective.
To ensure that residential development does not have an adverse effect on those values.	The proposal is located within the existing building envelope and has no impact on special ecological, scientific or aesthetic values.
To ensure development does not result in further fragmentation of ecological	No impact, given the works are located within the existing building envelope.

<i>communities, biodiversity corridors or other significant vegetation or habitat.</i>	
<i>To minimise direct and indirect risks to life, property and the environment from bushfire events.</i>	A Bushfire Assessment Report has been provided for the subject site via eMOD0193/24. Consultation occurred with the NSW Rural Fire Service with Condition 36 referencing the Bushfire Advice provided by the NSW Rural Fire Service. This condition remains appropriate with the modification making no changes that impact bushfire risk, which has been confirmed by advice from bushfire consultants and included within this S.4.56 Application. This objective is therefore satisfied.
<i>To ensure that development in this zone on land that adjoins land in Zone C1 National Parks and Nature Reserves or Zone C2 Environmental Conservation is compatible with the objectives of those zones.</i>	The works are well separated from the C1 and C2 Zones and this objective is therefore satisfied.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	The existing facility provides a key service that meets the day to day needs of its residents. This objective is accordingly satisfied.

The table below provides detail on the relevant development standards relevant to the current proposal.

Ku-ring-gai Local Environmental Plan 2015			
Clause	Control	Comment	Complies
Zoning	E4 Environmental Living	As noted earlier in this S.4.56 and agreed by Council via eMOD0193/24, the subject site benefits from existing use rights in that it is consistent with the approved use under DA/0807/01.	Yes
Part 2 Permitted or Prohibited Development			
2.3	Zone objectives and land use table	Consistent as shown in the preceding table.	Yes
2.6	Subdivision	No subdivision is proposed as part of this application.	N/A
2.7	Demolition	Consent is requested for the minor demolition works within the approved and built envelope.	Yes

Part 4 Principal Development Standards			
4.1	Minimum Subdivision lot size	Not applicable as no subdivision proposed	N/A
4.3	Height of buildings – 9.5m	No change is proposed to the approved height with the lift overrun lower than the highest point of the roof.	N/A
4.4	Floor space ratio – 0.2:1 SEPP 2004 – 1:1	No change to the approved FSR over the subject site with the GFA remaining the same	N/A
Part 5 Miscellaneous Provisions			
5.10	Heritage conservation	Has been addressed via previous DAs, noting that the proposed modifications will have no impact to any nearby heritage item.	N/A
Part 6 Additional Local Provisions			
6.1	Acid sulphate soils – Class 5	Not relevant given the proposal is within an existing built envelope and greater than 500m from class 1 to 4 classifications.	N/A
6.2	Earthworks	Not relevant as no earthworks are required.	N/A
6.3	Biodiversity	The proposal is not on land impacted by biodiversity values	N/A
6.4	Riparian land and adjoining waterways	The proposal is separated from and does not impact any riparian land and adjoining waterways, noting that the works are also contained within an existing built envelope.	N/A
6.5	Stormwater and water sensitive urban design	The proposed works include a minor increase in roof area as a result of the lift overrun. Given the limited extent of this addition, the existing stormwater system is of an adequate scale to manage the resulting additional roof water runoff.	Yes

KU-RING-GAI DEVELOPMENT CONTROL PLAN

All relevant Council controls have been considered in the following compliance table, noting that only those controls of relevance are discussed.

Section A

The proposal constitutes a minor modification to an existing approved and constructed residential care facility. It remains consistent with the relevant objectives of the Development Control Plan (DCP) and is supported by a comprehensive Site Analysis.

The Site Analysis is appropriately detailed, demonstrating a clear and thorough understanding of the site within its broader context. It effectively addresses key

environmental considerations, including solar access and visual connections, particularly in relation to outlook toward landscaped garden areas and communal open spaces from within the building.

Likewise, no trees or vegetation is impacted by the proposed development.

The proposal therefore remains consistent with Section A and relevant chapters including Part A, Part 2 and Part 13.

Section B, Part 15 Contamination

Contamination has been addressed in earlier approvals and no further consideration is necessary.

Section B, Part 16 Bushfire Risk

A Bushfire Assessment Report has been provided for the subject site via eMOD0193/24. Consultation occurred with the NSW Rural Fire Service with Condition 36 referencing the Bushfire Advice provided by the NSW Rural Fire Service.

This condition remains appropriate with the modification making no changes that impact bushfire risk, which has been confirmed by advice from bushfire consultants, Building Code & Bushfire Hazard Solutions. They confirm that:

Building Code & Bushfire Hazard Solutions P/L (BCBHS) prepared a Bushfire Assessment Report (Reference 250323, Dated 8th November 2024) addressing the relevant specifications and requirements of Planning for Bush Fire Protection 2019 for the original development application.

We have reviewed the proposed modifications and are of the opinion that the recommendations within the previous Bushfire Assessment Report and the Development Consent remain valid for the proposed works.

We are therefore in support of the proposed section 4.56 modifications with no additional Bushfire Protection Measures.

Council can therefore be satisfied that existing conditions on the consent remain appropriate.

Section B, Part 19 Heritage and Heritage Conservation Areas

This matter has been addressed through previous Development Applications, which determined that the proposed modifications will not impact any nearby heritage items.

Section B, Part 20 Development near Rail Corridors and Busy Roads

Bobbin Head Road is identified in the Schedule of Classified Roads and Unclassified Regional Roads published by Transport for NSW, in accordance with section 163 of the *Roads Act 1993*.

The proposal involves one additional dementia care studio, increasing the total number from 8 to 9. Given the nature and scale of the development, this additional studio is not expected to result in any measurable increase in traffic demand or vehicle generation. Accordingly, the proposal will not adversely affect traffic congestion.

Further, the development will not be adversely affected by road noise or vibration from Bobbin Head Road, having regard to its separation distance of at least 275 metres from the road and the presence of intervening buildings that provide additional physical buffering.

Council can therefore be satisfied that the proposal has no impact on busy roads, nor does Bobbin Head Road create any vibration or noise impact.

Section C

The following table addresses relevant parts of Section C.

Clause	Controls	Comment	Complies
Part 22 General Access and Parking			
22.1	Equitable Access	The submitted Accessibility Report prepared by ABE Consulting confirms that the proposed development has been assessed against the relevant provisions of the Building Code of Australia (BCA 2022) and the Disability (Access to Premises – Buildings) Standards 2010. The report concludes that the development is capable of achieving compliance with the applicable accessibility requirements, subject to minor design development and/or performance solutions to be resolved at detailed design stage. Accordingly, the proposal is considered to satisfy the relevant DCP accessibility objectives and controls.	Yes
22.2	General Parking and Access	No change, with the proposal remaining compliant with the required number of spaces for dementia care, which is one space.	Yes
22.4	Visitor Parking	No change from approved DA with visitor parking generally within the internal street network and identified areas.	Yes
22.5	Parking for people with a disability	The proposal retains the single ambulance space which is appropriately dimensioned to transport residents with dementia. Likewise, the village bus	Yes

Clause	Controls	Comment	Complies
		provided by The Landings can also utilise the ambulance space as required.	
Part 23 General Building Design and Sustainability			
23.3	Sustainability of building materials	The proposed development remains consistent with the Sustainability report prepared by ARK Resources and included on the development consent.	Yes
23.4	Materials, colours and finishes	The proposal retains the same materials and finishes and remains consistent with the original approval as amended by eMOD0193/24.	Yes
23.6	Building services	Remains compliant.	Yes
23.7 23.8	General acoustic privacy General visual privacy	Remains consistent with the original approval as amended by eMOD0193/24, noting that the modification is largely the reconfiguration of existing layout and revisions to openings including filling in openings and window replacement. Likewise, a/c areas are also screened and balustrades updated. This ensures that the proposal provides appropriate acoustic and visual privacy and existing conditions therefore remain appropriate.	Yes
Part 24 Water Management			
		The proposed works include a minor increase in roof area as a result of the lift overrun. Given the limited extent of this addition, the existing stormwater system is of an adequate scale to manage the resulting additional roof water runoff.	Yes
Part 25 Waste Management			
		Existing waste management conditions on the Development Consent remain appropriate given the minor nature of the proposed modifications	Yes

CONCLUSION

Following a review of the relevant planning controls, it is concluded that the proposed modification application is an appropriate outcome on site and remains consistent with the design intent of the original proposal.

Having regard to the benefits of the proposal and taking into account the absence of adverse environmental, social or economic impacts, the application is submitted to Council for assessment and granting of development consent. Think Planners Pty Ltd recommends the approval of the modification including the amendment of relevant conditions identified previously in this statement.