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- h) The external flue has been installed so that the discharge height is a minimum of 600mm above any structure within a 3m horizontal radius, or according to the distances used in AS2918 Domestic Solid Fuel Burning Appliances – Installation (which ever is the greatest).
- i) The external chimney type is either a concentric shroud, venturi cowl or a parallel rain excluder.

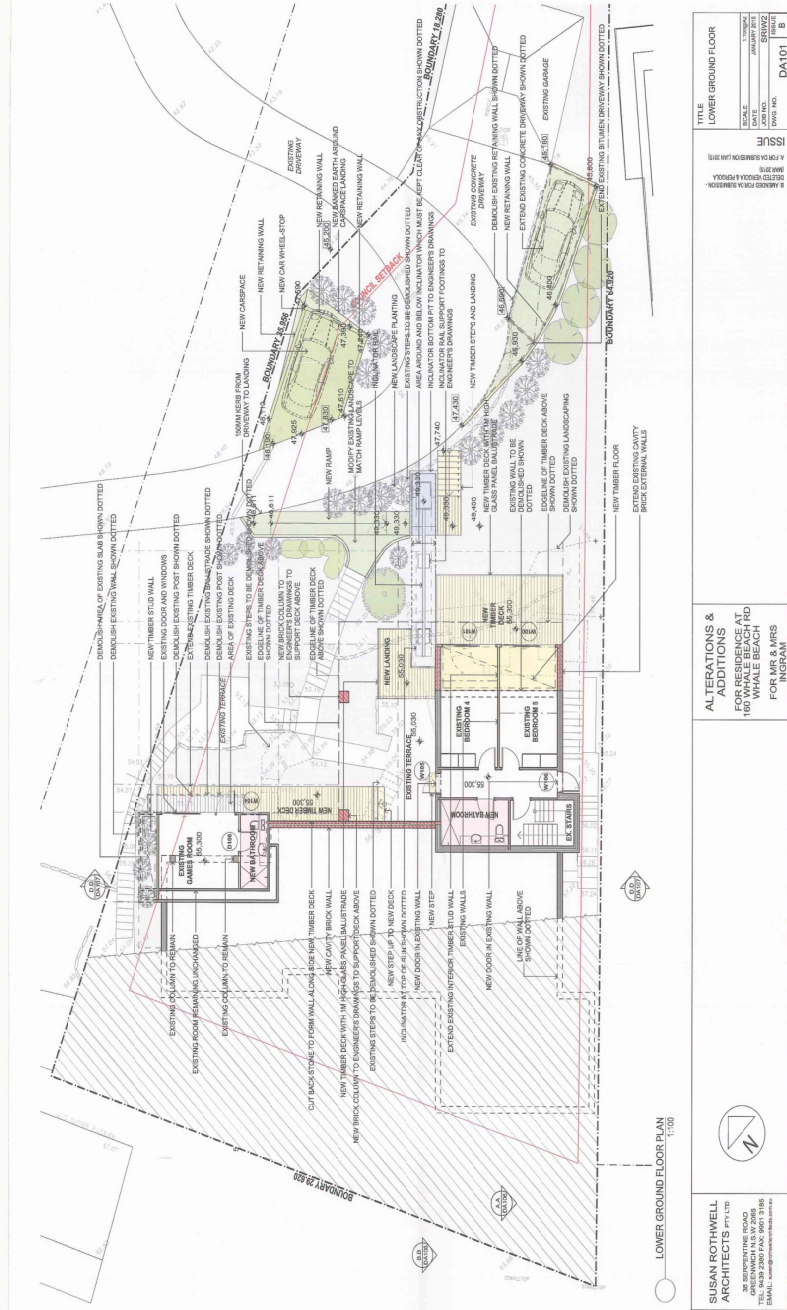
G. Advice:

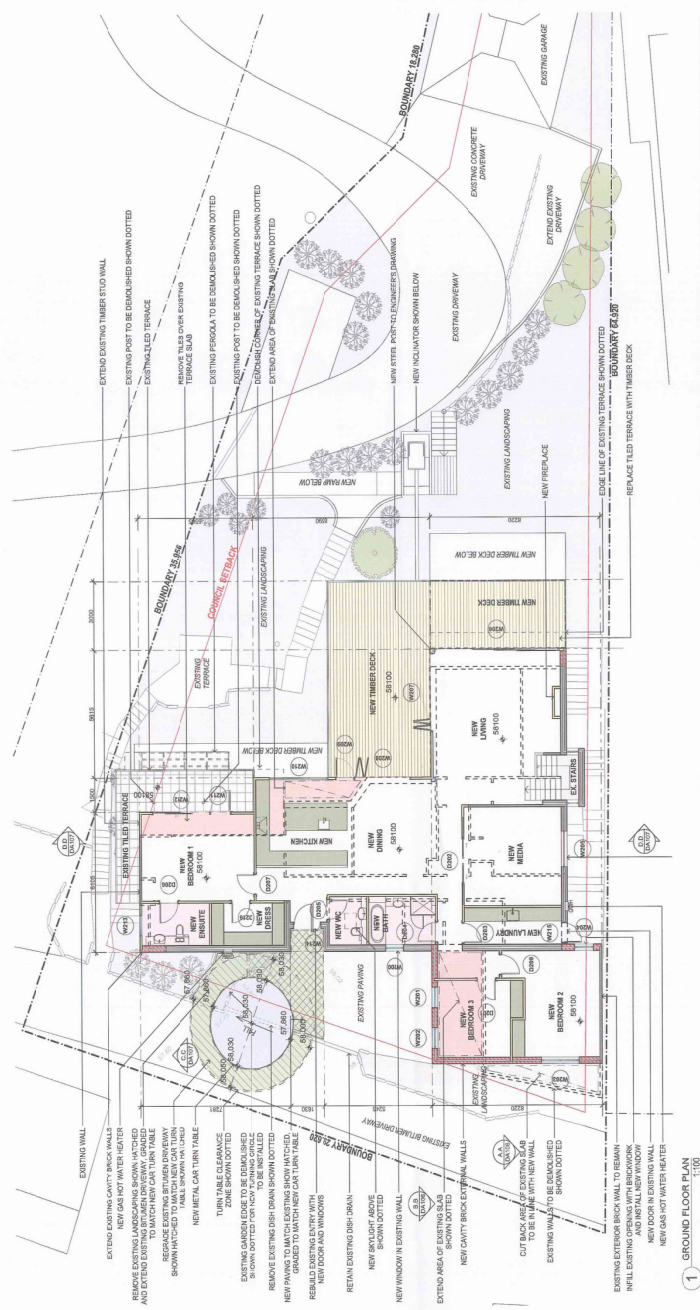
1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or www.1100.com.au
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the EPA Act 1979, this development consent lapses 5 years after the date from which this consent operates if the development is not commenced.
5. To ascertain the date upon which a consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.
7. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.

LOCALITY MAP

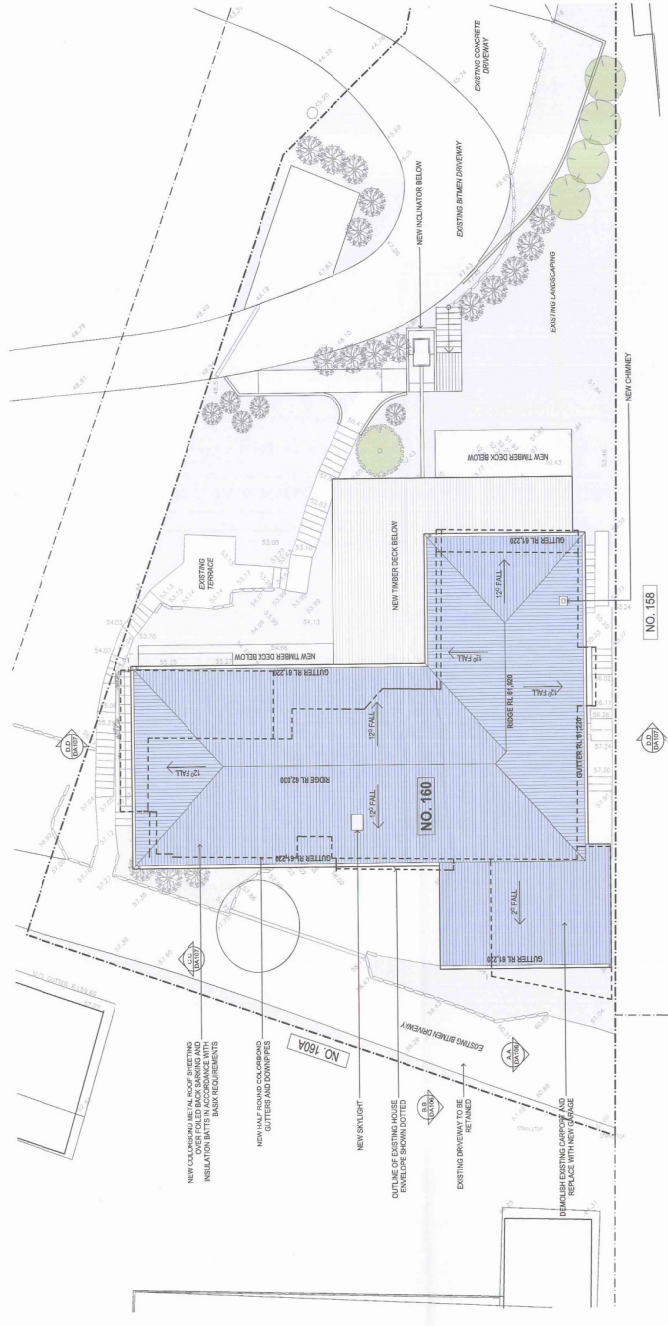


NOTIFICATION PLANS



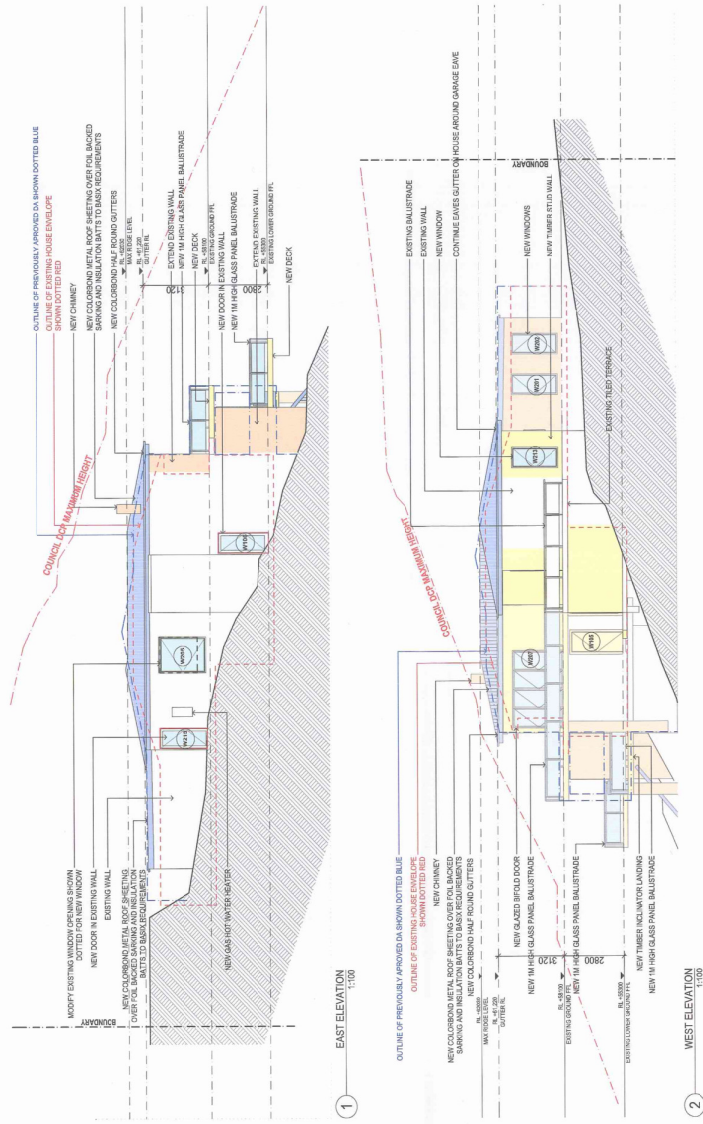


<p>SUSAN ROTHWELL ARCHITECTS PVT LTD 25 BEDFORD SQUARE GUILDFORD SURREY GU10 2NS TEL: 0432 2265 FAX: 0907 7156 E-MAIL: sarah@rothwellarchitects.co.uk</p>		<p>ALTERATIONS & ADDITIONS FOR RESIDENCE AT 100 WINDMILL COTT RD WHALE BEACH FOR MR & MRS GIBB & GIBB</p>	<p>1:100</p>
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1 ROOF PLAN
1:100

<p>SUSAN ROTHWELL ARCHITECTS PTY LTD 38 BERKSHIRE ROAD TEL: 08 9258 0100 FAX: 08 9258 0101 EMAIL: susan@rothwellarchitects.com.au</p>	<p>ALTERATIONS & ADDITIONS FOR RESIDENCE AT 160 WHALE BEACH FOR MR & MRS INDRAM</p>	<p>TITLE ROOF PLAN</p>
		<p>ISSUE 1. FOR SUBMISSION (JAN 2015) 2. REVISED FOR APPROVAL (JAN 2015) 3. REVISED FOR APPROVAL (JAN 2015) 4. REVISED FOR APPROVAL (JAN 2015) 5. REVISED FOR APPROVAL (JAN 2015) 6. REVISED FOR APPROVAL (JAN 2015) 7. REVISED FOR APPROVAL (JAN 2015) 8. REVISED FOR APPROVAL (JAN 2015) 9. REVISED FOR APPROVAL (JAN 2015) 10. REVISED FOR APPROVAL (JAN 2015) 11. REVISED FOR APPROVAL (JAN 2015) 12. REVISED FOR APPROVAL (JAN 2015) 13. REVISED FOR APPROVAL (JAN 2015) 14. REVISED FOR APPROVAL (JAN 2015) 15. REVISED FOR APPROVAL (JAN 2015) 16. REVISED FOR APPROVAL (JAN 2015) 17. REVISED FOR APPROVAL (JAN 2015) 18. REVISED FOR APPROVAL (JAN 2015) 19. REVISED FOR APPROVAL (JAN 2015) 20. REVISED FOR APPROVAL (JAN 2015) 21. REVISED FOR APPROVAL (JAN 2015) 22. REVISED FOR APPROVAL (JAN 2015) 23. REVISED FOR APPROVAL (JAN 2015) 24. REVISED FOR APPROVAL (JAN 2015) 25. REVISED FOR APPROVAL (JAN 2015) 26. REVISED FOR APPROVAL (JAN 2015) 27. REVISED FOR APPROVAL (JAN 2015) 28. REVISED FOR APPROVAL (JAN 2015) 29. REVISED FOR APPROVAL (JAN 2015) 30. REVISED FOR APPROVAL (JAN 2015) 31. REVISED FOR APPROVAL (JAN 2015) 32. REVISED FOR APPROVAL (JAN 2015) 33. REVISED FOR APPROVAL (JAN 2015) 34. REVISED FOR APPROVAL (JAN 2015) 35. REVISED FOR APPROVAL (JAN 2015) 36. REVISED FOR APPROVAL (JAN 2015) 37. REVISED FOR APPROVAL (JAN 2015) 38. REVISED FOR APPROVAL (JAN 2015) 39. REVISED FOR APPROVAL (JAN 2015) 40. REVISED FOR APPROVAL (JAN 2015) 41. REVISED FOR APPROVAL (JAN 2015) 42. REVISED FOR APPROVAL (JAN 2015) 43. REVISED FOR APPROVAL (JAN 2015) 44. REVISED FOR APPROVAL (JAN 2015) 45. REVISED FOR APPROVAL (JAN 2015) 46. REVISED FOR APPROVAL (JAN 2015) 47. REVISED FOR APPROVAL (JAN 2015) 48. REVISED FOR APPROVAL (JAN 2015) 49. REVISED FOR APPROVAL (JAN 2015) 50. REVISED FOR APPROVAL (JAN 2015) 51. REVISED FOR APPROVAL (JAN 2015) 52. REVISED FOR APPROVAL (JAN 2015) 53. REVISED FOR APPROVAL (JAN 2015) 54. REVISED FOR APPROVAL (JAN 2015) 55. REVISED FOR APPROVAL (JAN 2015) 56. REVISED FOR APPROVAL (JAN 2015) 57. REVISED FOR APPROVAL (JAN 2015) 58. REVISED FOR APPROVAL (JAN 2015) 59. REVISED FOR APPROVAL (JAN 2015) 60. REVISED FOR APPROVAL (JAN 2015) 61. REVISED FOR APPROVAL (JAN 2015) 62. REVISED FOR APPROVAL (JAN 2015) 63. REVISED FOR APPROVAL (JAN 2015) 64. REVISED FOR APPROVAL (JAN 2015) 65. REVISED FOR APPROVAL (JAN 2015) 66. REVISED FOR APPROVAL (JAN 2015) 67. REVISED FOR APPROVAL (JAN 2015) 68. REVISED FOR APPROVAL (JAN 2015) 69. REVISED FOR APPROVAL (JAN 2015) 70. REVISED FOR APPROVAL (JAN 2015) 71. REVISED FOR APPROVAL (JAN 2015) 72. REVISED FOR APPROVAL (JAN 2015) 73. REVISED FOR APPROVAL (JAN 2015) 74. REVISED FOR APPROVAL (JAN 2015) 75. REVISED FOR APPROVAL (JAN 2015) 76. REVISED FOR APPROVAL (JAN 2015) 77. REVISED FOR APPROVAL (JAN 2015) 78. REVISED FOR APPROVAL (JAN 2015) 79. REVISED FOR APPROVAL (JAN 2015) 80. REVISED FOR APPROVAL (JAN 2015) 81. REVISED FOR APPROVAL (JAN 2015) 82. REVISED FOR APPROVAL (JAN 2015) 83. REVISED FOR APPROVAL (JAN 2015) 84. REVISED FOR APPROVAL (JAN 2015) 85. REVISED FOR APPROVAL (JAN 2015) 86. REVISED FOR APPROVAL (JAN 2015) 87. REVISED FOR APPROVAL (JAN 2015) 88. REVISED FOR APPROVAL (JAN 2015) 89. REVISED FOR APPROVAL (JAN 2015) 90. REVISED FOR APPROVAL (JAN 2015) 91. REVISED FOR APPROVAL (JAN 2015) 92. REVISED FOR APPROVAL (JAN 2015) 93. REVISED FOR APPROVAL (JAN 2015) 94. REVISED FOR APPROVAL (JAN 2015) 95. REVISED FOR APPROVAL (JAN 2015) 96. REVISED FOR APPROVAL (JAN 2015) 97. REVISED FOR APPROVAL (JAN 2015) 98. REVISED FOR APPROVAL (JAN 2015) 99. REVISED FOR APPROVAL (JAN 2015) 100. REVISED FOR APPROVAL (JAN 2015)</p>



<p>SUSAN ROTHWELL ARCHITECTS PTY LTD 38 SUSSEX DRIVE GREENWICH VIC 3156 TEL: 03 9594 1234 EMAIL: susan@rothwell.com.au</p>	<p>ALTERATIONS & ADDITIONS FOR REFERENCE AT 100 WHELE BEACH FOR MR & MRS INGRAM</p>	<p>TITLE EAST & WEST ELEVATIONS</p>	
		<p>DATE 10/07/15 DRAWN BY J. ROTHWELL CHECKED BY S. ROTHWELL DATE 10/07/15</p>	<p>ISSUE 1 DATE 10/07/15 DRAWN BY J. ROTHWELL CHECKED BY S. ROTHWELL DATE 10/07/15</p>





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C12.3	N0131/15 - 11 Corniche Road Church Point - Various alterations and additions to the existing dwelling
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Meeting: Sustainable Towns & Villages Committee

Date: 20 July 2015

COMMUNITY STRATEGIC PLAN STRATEGY: Land Use & Development

COMMUNITY STRATEGIC PLAN OBJECTIVE:

- To deliver a comprehensive suite of development controls that improve the liveability of the area

DELIVERY PROGRAM ACTION:

- To provide an effective development assessment and determination process
-

1.0 EXECUTIVE SUMMARY

1.1 SUMMARY

The Development Unit at its meeting held on the 11 June 2015 considered the Assessing Officers report (refer **Attachment 1**) for determination of Development Application N0131/15 for various alterations and additions to the existing dwelling at 11 Corniche Road, Church Point.

- 1.2 It is a policy requirement of NSW Planning & Environment that applications involving a variation to a development standard of more than 10% be referred to the elected Council for determination.
 - 1.3 Discussion in relation to these variations is contained within Section 8.0 (Discussion of Issues) of the Assessing Officer's report.
 - 1.4 The applicant's representative was present at the meeting and there were no objectors present. The Development Unit considered the issues raised by the applicant's representative as well as the issues addressed in the Assessing Officer's report and supported the Officer's recommendation for approval subject to the conditions contained in the draft consent and the deletion of Condition B19.
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2.0 RECOMMENDATION

That the Development Officer's recommendation be endorsed and Development Application N0131/15 - 11 Corniche Road, Church Point NSW 2105 for various alterations and additions to the existing dwelling be granted development consent subject to the conditions contained in the draft conditions of consent and the deletion of condition B19.

3.0 BACKGROUND

3.1 PURPOSE

To seek endorsement of the Development Unit's recommendation following consideration of Development Application N0131/15 for various alterations and additions to the existing dwelling at 11 Corniche Road, Church Point.

3.2 BACKGROUND

The Development Unit at its meeting held on the 11 June 2015 considered the Development Officer's report (refer **Attachment 1**) for determination of Development Application N0131/15.

Despite the height variation to policy of 12.8% the Development Unit considered that the merits of the application warranted support of the Assessing Officer's recommendation for approval as the breach was minor and only contained to a small portion of the roof element.

3.3 POLICY IMPLICATIONS

NSW Planning & Environment requires that applications involving a variation to a development standard of more than 10% be referred to the elected Council for determination.

3.4 RELATED LEGISLATION

Council are the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979.

3.5 FINANCIAL ISSUES

3.5.1 Budget

No implications unless Council's decision is challenged in the Land and Environment Court.

3.5.2 Resources Implications

No implications.

4.0 KEY ISSUES

- Variation of the Development standard for height
- Other issues as addressed within the assessing officer's report

5.0 ATTACHMENTS / TABLED DOCUMENTS

Attachment 1: Assessing Officer's report to the Development Unit meeting of 11 June 2015.

6.0 SUSTAINABILITY ASSESSMENT

The relevant sustainability assessments have been addressed in the attached assessing officer's report.

Report prepared by

Warwick Lawrence

MANAGER, ADMINISTRATION & GOVERNANCE

SUBJECT: N0131/15 - 11 Corniche Road, Church Point NSW 2105 - Various alterations and additions to the existing dwelling.

Meeting: Development Unit

Date: 11 June 2015

SUMMARY OF RECOMMENDATION

Consent with Conditions

REPORT PREPARED BY:	Michael Doyle
APPLICATION SUBMITTED ON:	23/04/2015
APPLICATION SUBMITTED BY:	JAMES DE SOYRES & ASSOCIATES P/L
OWNER(S):	DANIEL CRICHTON & ALICIA EGGINGTON

RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0131/15 for various alterations and additions to the existing dwelling at 11 Corniche Road, Church Point NSW 2105 subject to the draft conditions of consent attached.

Report prepared by
Michael Doyle, Planner

Andrew Pigott
MANAGER, PLANNING & ASSESSMENT

SUBJECT: N0131/15 - 11 CORNICHE ROAD, CHURCH POINT NSW 2105 Various alterations and additions to the existing dwelling.

Determination Level:

Development Unit

SUMMARY OF RECOMMENDATION:

CONSENT WITH CONDITIONS

REPORT PREPARED BY:

Michael Doyle

APPLICATION SUBMITTED ON:

23 April 2015

APPLICATION SUBMITTED BY:

James de Soyres & Associates Pty Ltd
PO BOX 657
Newport Beach NSW 2106

OWNER(S):

MR DANIEL PETER CRICHTON
MS ALICIA DENISE EGGINGTON

1.0 SITE DETAILS

Development Application N0131/15 is 11 Corniche Road, Church Point which is Lot 12 in Deposited Plan 11 518. The site is long and has a total site area of 793.6m². The site is on the Corniche Rd's eastern side and falls below street level.

- Between the front and rear property lines, there is an approximate fall of 15.6m, equating to a 24.6% slope.
- Over the existing and proposed dwelling footprint, there is an approximate fall of 2.7m, equating to a 14.3% slope.
- Over the existing driveway and hardstand space and proposed carport, there is an approximate fall of 3.1m, equating to a 45.6% slope.

The site is occupied by a three-storey dwelling (although which is no more than two stories in any one place), driveway and hardstand space, paved and stepped areas and retaining walls. The driveway and hardstand space appear to be failing.

Residential dwellings neighbour the property. Dwellings opposite on Corniche Rd are elevated with the natural slope or set further back to maximise northeast orientation towards views of Pittwater Waterway and Newport and Clareville. The application's Statement of Environmental Effects recognises 'there are limited views from the street.'

2.0 PROPOSAL IN DETAIL

The application proposes alterations and additions to the existing dwelling including balcony extension, kitchen extension, a series of new windows and new rooves. The application also proposes to demolish the driveway and hardstand space and construct a carport at street level with a studio below.

3.0 STATUTORY AND POLICY CONSIDERATIONS

Under Pittwater Local Environmental Plan 2014, the site is zoned E4 - Environmental Living. Pursuant to the land use table in Part 2 of this instrument, dwelling houses are permissible with consent.

The following relevant state, regional and local policies and instruments apply:

- Environmental Planning and Assessment Act, 1979 (the Act)
- Environmental Planning and Assessment Regulation 2000 (the Regulation)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
 - Acid Sulphate Soils Map - Area 5
 - Biodiversity Map
 - Geotechnical Hazard Map
 - Height of Buildings Map - 8.5m
 - Lot Size Map - 700m²
- Pittwater 21 Development Control Plan (P21 DCP)
 - Church Point and Bayview Locality
 - Geotechnical Risk Management Policy for Pittwater - Hazard H1
 - On-site detention required
 - Land containing or adjoining Pittwater Spotted Gum Forest

Variation to development standards:

For comment, see 8.0 4.6

4.0 BACKGROUND

N0069/09

Development application proposed alterations and additions to the existing dwelling including

- a new garage attached to the top of the dwelling,
- a split level dwelling up to three stories in a single place, although with only minor overlap of the third storey, and
- rear swimming pool.

The application appears to retain the basement and parts of some external walls, however new works were substantial.

Council approved the application.

N0378/13

Development application proposed a new three-storey dwelling, attached garage and swimming pool. The applicant was James de Soyres & Associates. Council refused the application initially, however the applicant later made a s82 review request and Council approved the application.

Subject N0131/15

The application was notified in accordance with Council's notification policy.

The application was referred to Council's Development Engineer, Natural Resources Officer and Property section for comment.

The site was inspected on 07.05.15.

5.0 NOTIFICATION

Council notified seven adjoining property owners.

A notification sign was displayed at the property for 14 days during the nominated notification period. Council uploaded development drawings to its website belatedly on 07.05.15. The application was otherwise advertised in accordance with Council's Notification Policy.

Council has not received any submissions for this application.

6.0 ISSUES

- 4.3 Height of buildings
- 4.6 Exceptions to development standards

7.0 COMPLIANCE TABLE

- T - Can the proposal satisfy the technical requirements of the control?
- O - Can the proposal achieve the control outcomes?
- N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
Pittwater Local Environmental Plan 2014					
1.9A Suspension of covenants, agreements and instruments			-	-	-
Zone E4 Environmental Living			Y	Y	Y
4.3 Height of buildings		For comment, see 8.0 4.3	N	Y	Y
4.6 Exceptions to development standards		For comment, see 8.0 4.6	Y	Y	Y
5.10 Heritage conservation			-	-	-
7.1 Acid sulfate soils	(Considered by Council's Nat. Res. Officer.)	Acid Sulphate Region 5.	Y	Y	Y
7.7 Geotechnical hazards	(Considered by Council's Dev. Engineer.)		Y	Y	Y
7.10 Essential services			Y	Y	Y
Pittwater 21 Development Control Plan 2014					
3.1 Submission of a Development Application and payment of appropriate fee			Y	Y	Y
3.2 Submission of a Statement of Environmental Effects			Y	Y	Y
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings	Schedule of Finishes.		N	Y	Y
3.4 Notification			Y	Y	Y
3.5 Building Code of Australia			Y	Y	Y
3.6 State Environment Planning Policies (SEPPs) and Sydney Regional Environmental Policies (SREPs)			Y	Y	Y

Control	Standard	Proposal	T	O	N
4.6 Integrated Development: Aboriginal Places of Heritage Significance and Aboriginal Objects			-	-	-
5.3 Referral to NSW Office of Environment and Heritage			-	-	-
A1.7 Considerations before consent is granted		Council's Property section commented: <i>No further action required from Property.</i>	Y	Y	Y
A4.4 Church Point and Bayview Locality			Y	Y	Y
B1.4 Aboriginal Heritage Significance	(Considered by Council's Nat. Res. Officer.)	No apparent issues.	Y	Y	Y
B3.1 Landslip Hazard	(Considered by Council's Dev. Engineer.)		Y	Y	Y
B3.6 Contaminated Land and Potentially Contaminated Land			-	-	-
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	(Considered by Council's Nat. Res. Officer.)	The property contains a modified landscape typical of a suburban garden which slopes steeply down from the road. The proposed works include extensive alterations and additions to the existing dwelling. An arborist report has been submitted (Bluegum Tree Care and Consultancy, April 2015) which assesses three (3) trees potentially impacted by the proposed works. As the works will impact trees within Council road reserve this application was referred to Council's Tree Preservation Officer who supports the findings and recommendations in the report. No other trees will be impacted by the proposed works. No new landscaping has been proposed. There are no further natural environment issues.	Y	Y	Y
B5.2 Wastewater Disposal			Y	Y	Y
B5.3 Greywater Reuse			-	-	-
B6.1 Access Driveways and Works on the Public Road Reserve - Low Density Residential	(Considered by Council's Dev. Engineer.)		Y	Y	Y
B6.3 Internal Driveways - Low Density Residential	(Considered by Council's Dev. Engineer.)		Y	Y	Y
B6.5 Off-Street Vehicle Parking Requirements - Low Density Residential	(Considered by Council's Dev. Engineer.)		Y	Y	Y
B8.2 Construction and Demolition - Erosion and Sediment Management	(Considered by Council's Dev. Engineer.)		Y	Y	Y

Control	Standard	Proposal	T	O	N
B8.5 Construction and Demolition - Works in the Public Domain	(Considered by Council's Dev. Engineer.)		Y	Y	Y
C1.1 Landscaping	(Considered by Council's Nat. Res. Officer.)	For comment see B4.7	Y	Y	Y
C1.2 Safety and Security			Y	Y	Y
C1.3 View Sharing			Y	Y	Y
C1.4 Solar Access			Y	Y	Y
C1.5 Visual Privacy			Y	Y	Y
C1.6 Acoustic Privacy			Y	Y	Y
C1.7 Private Open Space			Y	Y	Y
C1.9 Adaptable Housing and Accessibility	Var. - Single dw.		Y	Y	Y
C1.12 Waste and Recycling Facilities			Y	Y	Y
C1.13 Pollution Control			Y	Y	Y
C1.14 Separately Accessible Structures			Y	Y	Y
C1.17 Swimming Pool Safety			-	-	-
C1.19 Incline Passenger Lifts and Stairways			-	-	-
C1.23 Eaves			Y	Y	Y
C1.24 Public Road Reserve - Landscaping and Infrastructure	Var. - Ex. landscaping		Y	Y	Y
C1.25 Plant, Equipment Boxes and Lift Over-Run			-	-	-
D4.1 Character as viewed from a public place		Carport is 0.7m from street.	N	Y	Y
D4.3 Building colours and materials		No Finishes Sch. yet SEE states 'dark, earthy tones'.	Y	Y	Y
D4.5 Front building line	Var. - Carports on steep sites	Studio lies underneath carport but does not face the street.	N	Y	Y
D4.6 Side and rear building line	Var. - Ex. setbacks for alt's and ad's	1.3m & 1.2m side setbacks	Y	Y	Y
D4.8 Building envelope	Var. - Slope >30% Var. - Eaves or shading devices	Var. made for carport. Proposed first floor deck roof extends upto 0.77m on western side and 1.77m on eastern side outside env.. Var. is considered.	N	Y	Y
D4.10 Landscaped Area - Environmentally Sensitive Land		482.7m2, or 60.7% landscaped area	Y	Y	Y
D4.12 Fences - Flora and Fauna Conservation Areas			-	-	-
D4.13 Construction, Retaining walls, terracing and undercroft areas	Undercroft areas <3.5m. Landscaping screens undercroft areas.	Studio undercroft 4.0m. Consent conditions shall require timber screening and screen planting.	N	Y	Y
D4.14 Scenic Protection Category One Areas			Y	Y	Y
State Environmental Planning Policies and other					
SEPP (Building Sustainability Index: BASIX) 2004			Y	Y	Y

8.0 DISCUSSION OF ISSUES

- **4.3 Height of buildings**

The proposed carport is calculated to rise up to 9.36m, however the carport retains street views and is forward of neighbouring dwellings and so shall not overshadow neighbours. There is also a significant slope over the site's front andm, specifically, a 45.6% slope over the carport's footprint. The carport and, underneath which presents to the site but not the street, the studio also respect and mostly sit forward of the steep site slope. The proposed carport is considered to meet cl. 4.3.

The proposed dwelling is calculated to rise up to 9.59m. Over the existing and proposed dwelling footprint, there is an approximate fall of 2.7m, equating to a 14.3% slope. The applicant must make a cl. 4.6 statement. For comment, see cl. 4.6

- **4.6 Exceptions to development standards**

1. Development standard to be varied

PLEP Part 7 Additional local provisions Cl. 4.3 Height of Buildings requires buildings to be no more than 8.5m high or up to 10m high for minor portions of the building if slope exceeds 30% and development steps with the slope.

The proposed dwelling top floor and its balcony roof reach up to 9.59m, yet the dwelling lies over a 14.3% slope.

The proposal seeks to vary the development standard by 1.09m, or 12.8%.

2. Means to vary the development standard

Cl. 4.6 of PLEP 2014 provides a mechanism for consideration of a variation to the 8.5m height limit.

3. The applicant's Cl. 4.6 statement

The applicant made a written request justifying the height development standard contravention:

As requested, we seek Pittwater Council's permission, under Clause 4.6 of the Pittwater Local Environmental Plan 2014, Exceptions to Development Standards, to vary Clause 4.3, Height of Buildings, in relation to the proposed new ridge level which will exceed the 8.5m building height envelope applicable to that area of the house.

This breach of the envelope will be minor, in the region of 500mm when measured from the assumed existing ground level under the dwelling. Since this area has already been significantly excavated, the proposed structure will have minimal impact on the environment and amenity. It is our view that the objectives of the Clause 4.3 will still be met.

4. Cl. 4.6 assessment

E4 Environmental Living provides for low-impact development and recognises areas' aesthetic values. Cl. 4.3 Height of Buildings aims to ensure buildings are in scale with and sensitive to the surrounding environment.

Notwithstanding that the applicant's Cl. 4.6 statement and the application assessment differ in their finding of the proposed building height, the applicant's finding that the proposed structure will have minimal impact on the environment and amenity are agreed with. The proposed roof to the existing first floor balcony, with continuation of the existing roof form, results in the increased building height, however the dwelling is also lower than the street, its side neighbours and is quite a distance from the rear and from view of Pittwater Waterway. The increased building height does not result in privacy or character concerns. The dwelling and the carport, through their positions on the site and with respect to neighbours and through their design, are sensitive of the views gained across the site and sensitive of natural topography and environment.

The proposed works are consistent with both the development standard and the zone objectives. The cl. 4.6 application is considered to be well-founded and is supported.

9.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan, Pittwater 21 Development Control Plan and other relevant policies as listed at item 3.0.

The proposal is consistent with the relevant statutory and policy controls and outcomes. The impacts of the alterations and additions to the existing dwelling, including detached carport at street level, to the natural environment, local area, public domain, neighbouring properties and the property itself are acceptable subject to the recommended conditions. The carport preserves street views and the dwelling maintains its existing walls. The dwelling's new roof increases the building's height on paper but does not impact the street or neighbours.

The building height exceeds the 8.5m standard by 12.8% and so the application must be determined by Council. The application is recommended for approval.

RECOMMENDATION OF DEVELOPMENT OFFICER/PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0131/15 for the alterations and additions to the existing dwelling at 11 Corniche Road, Church Point subject to the conditions of consent.

Report prepared by

Michael Doyle
PLANNER

Date: 27 May 2015

DRAFT

**CONSENT NO: N0131/15
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)
NOTICE TO APPLICANT OF DETERMINATION
OF A DEVELOPMENT APPLICATION**

Applicant's Name and Address:
James de Soyres & Associates Pty Ltd
PO BOX 657
Newport Beach NSW 2106

Being the applicant in respect of Development Application No N0131/15

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of Development Application No **N0131/15** for:

Various alterations and additions to the existing dwelling.

At: 11 CORNICHE ROAD, CHURCH POINT NSW 2105 (Lot 12 DP 11518)

Decision:

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with

- 1. Architectural drawings: Project no. 1502, DA-01, DA-11, DA-12, DA-13, DA-14, DA-21, DA-22, DA-31 & DA-32, dated 20.04.15, prepared by James de Soyres and Associates;**
- 2. BASIX Certificate: Cert. no. A 214 374, dated 21.04.15, prepared by James de Soyres and Associates Pty Ltd;**
- 3. Geotechnical Risk Management Report: Reference no. 2013-189.1, dated April 2015, prepared by Crozier Geotechnical Consultants;**
- 4. Arboricultural Impact Assessment, 11 Corniche Road, Church Point, dated April 2015, prepared by Bluegum Tree Care and Consultancy.**

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of the attached conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act 1979 (as amended), pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Endorsement of date of consent _____

Mark Ferguson
GENERAL MANAGER
Per:

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Conditions of Approval

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. A sign must be erected in a prominent position onsite only showing:
 - a) the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - c) that unauthorised entry to the work site is prohibited.The sign must to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
4. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - a) in the case of work for which a principal contractor is required to be appointed:
 - i) The name and licence number of the principal contractor, and
 - ii) The name of the insurer by which the work is insured under Part 6 of that Act.
 - b) in the case of work to be done by an owner-builder:
 - i) The name of the owner-builder, and
 - ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
 - c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information
5. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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6. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.

B. Matters to be incorporated into the development and maintained over the life of the development:

1. The studio is not to be used for separate habitation and is not contain any cooking facilities.
2. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.
3. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by Crozier Geotechnical consultants are to be incorporated into the construction plans.
4. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Pittwater Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for noxious/environmental weed lists.
5. No environmental weeds are to be planted on the site. Refer to Pittwater Council website www.pittwater.nsw.gov.au/environment/noxious_weeds for environmental weed lists.
6. Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.
7. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.
8. Any vegetation planted onsite outside approved landscape zones is to be consistent with:
 - a) Species listed in the Ecological Sustainability Plan or Bushland Management Plan (if applicable)
 - b) Species listed from the Endangered Ecological Community
 - c) Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Pittwater Council website http://www.pittwater.nsw.gov.au/environment/species_lists
9. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
10. The internal driveway finish is:
 - a) to be a stable surface for all weather conditions
 - b) to be constructed of materials that blend with the environment and are of dark or earthy tones or natural materials.

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11. In accordance with Pittwater Councils DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
12. Suitable arrangements are to be made for secure postal delivery service to the site. This can be achieved by following the Australia Post Terms and Conditions Appendix 2 Street mail service - conditions of delivery. A copy of the Terms and Conditions may be obtained from Australia Post or its website.
13. All privacy screens/privacy walls/screen walls are to have a minimum height of 1.8m, when measured from the finished floor level, and are to be maintained for the life of the development. This screens should consist of a solid translucent screen or perforated panels or trellises which have a maximum of 20% openings, and which are:
 - permanent and fixed;
 - made of durable materials and;
 - designed and painted or coloured to blend in with the house.
14. All sanitary drainage must be concealed in service ducts or otherwise hidden from external view to the satisfaction of the Responsible Authority.
15. All external glazing is to have a maximum reflectivity index of 25%.
16. New electrical connections are to be carried out using underground cabling.
17. Roofs to all structures are to be of dark or mid grey, brown and/or green tones only. No white or light coloured roofs are permitted.
18. Timber log retaining walls are not permitted and are not to be included in the proposed development.
19. Privacy screens, measuring at least 1.5m downwards from floor level, are to be affixed to the northwest and and northeast elevations of the studio to reduce the perceived height of its undercroft.
20. Screen planting is to be provided at ground level around the northwest and northeast sides of the studio, which after three years will, in conjunction with canopy planting, screen 60% of the studio's exposed undercroft. Species selection is to incorporate locally native species. This screen planting is to be maintained for the life of the development and is to be replaced if any part of it dies or is destroyed or removed.
21. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.

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2. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
3. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after building work has been completed and prior to any occupation certificate being issued in relation to the building.

To allow a Principal Certifying Authority to carry out critical stage inspections, at least 48 hours notice must be given before building work is commenced and prior to further work being undertaken.

4. Construction works approved by this consent must not commence until:
 - a) Construction Certificate has been issued by a Principal Certifying Authority
 - b) a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
 - c) at least 2 days notice, in writing has been given to Council of the intention to commence work.
5. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.
6. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
7. Plans and details demonstrating that the following issues have been addressed are to be submitted to the Accredited Certifier with the Construction Certificate application.
 - a) Driveway profiles must be obtained from Council for all access driveways across the public road verge to road edge. The driveway profiles provided by Council must be incorporated into and attached to design plans for the access driveway and internal driveway.
 - b) A Deed of Agreement indemnifying Council must be entered into for construction of a cosmetic access driveway across the public road verge (i.e. other than a plain concrete finish).
 - c) All construction of the access driveway across the public road verge must be undertaken by a Council authorised contractor.
 - d) Council's Fees and Charges apply to driveway profiles and Deed of Agreement for Access Driveway.

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8. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on a Public Road Reserve issued by the Council under the provisions of Section 138 of the *Roads Act 1993* for the design and construction of any works located on the road reserve including Access Driveways.
9. The finished surface materials, including colours and texture of any building, shall blend with the surrounding and/or natural materials including by being of dark & earthy tones. The colours and materials shall be non-glare and of low reflectivity. A satisfactory specification which achieves this shall be submitted to the Accredited Certifier or Council with the Construction Certificate application in the form of a *Schedule of Finishes*.
10. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

Note: This condition does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the States building laws.

2. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001 The Demolition of Structures.

Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

- a) Protection of site workers and the general public.
- b) Erection of hoardings where appropriate.
- c) Asbestos handling and disposal where applicable.
- d) Any disused service connections shall be capped off.

Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.

3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
4. The following facilities must be provided on the site:
 - a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - b) a garbage receptacle for food scrapes and papers, with a tight fitting lid.

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Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of the development.

5. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.
6. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
7. Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
8. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
9. Personnel with appropriate training, or demonstrated knowledge and experience in erosion and sediment control shall be responsible for supervising the installation and maintenance of approved erosion and sediment control measures – during and after construction and until the site has been restored to the satisfaction of council.
10. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.
11. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
12. No skip bins or materials are to be stored on Council's Road Reserve.
13. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - a) The builder's name, builder's telephone contact number both during work hours and after hours.
 - b) That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
 - c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - d) That no skip bins or materials are to be stored on Council's Road Reserve.

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- e) That the contact number for Pittwater Council for permits is 9970 1111.
14. All construction in the public road reserve must be undertaken by a Council authorised contractor.
15. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Bluegum Tree Care and Consultancy, dated April 2015 are required to be complied with before and throughout the development period, particularly with regard to the following:
- a) Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
 - b) Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
 - c) All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
 - d) Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
 - e) Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.
16. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas.
- Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.
17. Demolition works must be carried out in compliance with *WorkCovers Short Guide to Working with Asbestos Cement* and Australian Standard AS 2601 2001 The Demolition of Structures.
- The site must be provided with a sign containing the words *DANGER ASBESTOS REMOVAL IN PROGRESS* measuring not less than 400mm x 300mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.
- All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.
- Adjoining property owners are to be given at least seven (7) days notice in writing of the intention to disturb and remove asbestos from the development site.

E. Matters to be satisfied prior to the issue of Occupation Certificate:

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Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
2. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
3. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
4. The applicant must obtain written confirmation from Council that all works in the road reserve have been completed in accordance with the conditions of the Roadworks Permit
5. A certificate submitted by a Chartered Professional Engineer confirming to the satisfaction of the Principal Certifying Authority that the works in the public road reserve comply with Council requirements is to be provided with the Occupation Certificate application.
6. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
7. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report (Bluegum Tree Care and Consultancy, April 2015) are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate. Documented evidence of a qualified arborist having supervised the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the approved arborist report is required. This documentation is to be provided prior to the issue of the Occupation Certificate.
8. Street numbers are to be affixed so that they are clearly displayed and visible from a public place.
9. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.

G. Advice:

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1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or www.1100.com.au
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the EPA Act 1979, this development consent lapses 5 years after the date from which this consent operates if the development is not commenced.
5. To ascertain the date upon which a consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.
7. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.
9. This approval does not prejudice any action in respect of upgrading the building pursuant to the provisions of the Section 121B of the *Environmental Planning and Assessment (Amendment) Act, 1997*.

LOCALITY MAP

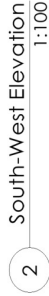


**FOR
DEVELOPMENT
APPLICATION
NOT FOR CONSTRUCTION**



NOTE

1. Allow R1.3 min. insulation to new or altered external framed walls
2. Allow R2.5 (up) min. insulation to new or altered flat ceilings with roof over

Development Application
North-East & South-West Elevations

1502 DA-21
 Project No: Drawing No: Date:
 1:100 26/03/2015
 Scale of picture

C12.4 Palm Beach Bus Shelter - New Licence

Meeting: Sustainable Towns & Villages Committee

Date: 20 July 2015

COMMUNITY STRATEGIC PLAN STRATEGY: Traffic & Transport

COMMUNITY STRATEGIC PLAN OBJECTIVE:

- To create an active transport network (including roads, pathways, cycle ways)

DELIVERY PROGRAM ACTION:

- Maintain and service Traffic & Transport Infrastructure
-

1.0 EXECUTIVE SUMMARY

1.1 SUMMARY

Telstra have requested we enter into a new licence with them regarding a Palm Beach Bus Shelter located at 854-865 Barrenjoey Road (Lot 51 in DP837427). The bus shelter encroaches on 16m² of Telstra land. The licence term is 20 years (plus a 20 year option). The rent is \$1pa on demand.

2.0 RECOMMENDATION

That the new 20 year licence (plus a 20 year option) for the Palm Beach Bus Shelter (854-865 Barrenjoey Road) be endorsed.

That the General Manager be authorised to sign all necessary documents.

3.0 BACKGROUND

3.1 PURPOSE

For Council to endorse a new 20 year licence (plus a 20 year option) for at 854-865 Barrenjoey Road (Lot 51 in DP837427).

3.2 BACKGROUND

Council have operated a Bus Stop at 854-865 Barrenjoey Road since the 1960's.

In 2003 Council upgraded the existing bus shelter and at the time tried to contact Telstra to inform them of the works, however no response was received.

In 2014 Telstra contacted Council to formalise the licence agreement for the 16 m² of Telstra land and as such they are now requesting that we enter a formal licence to continue to use this land for a Bus Shelter.

3.3 POLICY IMPLICATIONS

- Nil

3.4 RELATED LEGISLATION

- Nil

3.5 FINANCIAL ISSUES

3.5.1 Budget

- Ongoing maintenance of Bus Shelters is included in Council's operating budget. The cost of maintaining the Bus Shelter at 854-865 Barrenjoey Road has always been part of Council's operating budget.

3.5.2 Resources Implications

- \$1 per annum to be paid on demand to Telstra

4.0 KEY ISSUES

- Signing this licence with Telstra will allow Council to continue to operate a bus shelter at this site.
- Telstra requires Council to enter into a licence agreement for use of the subject land in order to indemnify them against any public liability claims which may occur on their property during the course of normal use of the bus stop.
- Council will continue to be responsible for the maintenance, cleaning and repairing of the bus shelter.

5.0 ATTACHMENTS / TABLED DOCUMENTS

Attachment 1 - Licence & Indemnity Form

Attachment 2 - Site Plan

6.0 SUSTAINABILITY ASSESSMENT

6.1 GOVERNANCE & RISK

6.1.1 Community Engagement

- No community engagement impacts identified

6.1.2 Risk Management

- Having a licence with Telstra will ensure the bus stop will remain in operation for next 20 years (plus a 20 year option).
- The signing of a licence will make Council liable for any public liability claims which result from the public's use of Telstra land.

6.2 ENVIRONMENT

6.2.1 Environmental Impact

- No environmental impacts identified

6.2.2 Mitigation Measures

- No mitigation measures required

6.3 SOCIAL

6.3.1 Address Community Need & Aspirations

- The bus shelter provides an essential service for residents travelling south on Pittwater Road.

6.3.2 **Strengthening local community**

- No community impacts identified

6.4 **ECONOMIC**

6.4.1 **Economic Development**

- No economic impacts identified

Report prepared by
Simonne Johnston, A/Principal Officer - Property & Projects

Paul Reid
MANAGER - COMMERCIAL PROPERTY & PROJECTS

LICENCE & INDEMNITY
Particulars
OUR DETAILS

Name	Telstra Corporation Limited (ABN 33 051 775 556) (Previously Australian Telecommunications Corporation)	(we, us or our)
Address for Notices	Director, Telstra Property C/- Jones Lang LaSalle Level 34, 241 Exhibition Street, Melbourne VIC 3000	
Contact Person	Property Management Director	
Fax Number	03 9639 9314	
Phone Number	03 9639 9314	

YOUR DETAILS

Name	Pittwater Council	(you or your)
ABN	61 340 837 871	
Address for Notices	PO Box 882 Mona Vale NSW 1660	
Contact Person	Paul Reid	
Email	paul_reid@pittwater.nsw.gov.au	
Fax		
Phone		

KEY DETAILS
➤ OUR LAND

Address	Lot 51 in DP 837427 located at 854-856 Barrenjoey Road, Palm Beach, NSW.
Accessible Areas	An area of 16m ² on Our Land which is described as 'Bus Shelter' in the plan annexed to this Licence & Indemnity.

➤ MATERIALS

	Bus shelter, benches, signs, lighting and associated cabling and other equipment required for the operation of the public bus shelter.
--	--

➤ TERM

	Twenty (20) years plus a twenty (20) year option.
--	---

➤ RENT

	\$1 per annum on demand
--	-------------------------

Permitted Purpose

We grant you a licence to access the Accessible Areas of Our Land for the purpose:

- A. Operating a public bus shelter
- B. Designing, installing, maintaining, cleaning, repairing and removing the Materials

on the terms and conditions set out in this document.

Agreement

1. Any term used in this agreement which is referred to on the front page of this agreement will have the same meaning as given on the front page of this agreement.
2. This agreement begins on the Start Date and continues until it is terminated.
3. This agreement is entered into in consideration of the parties incurring obligations and giving rights under this agreement and for other valuable consideration.
4. We grant you a licence for you (and your directors, employees, agents, volunteers, contractors or representatives) to access the Accessible Areas of Our Land, on the terms set out in this agreement, for the sole purpose of designing, installing, maintaining, cleaning and repairing the Materials and operating a public bus shelter.
5. You must ensure that the design (including the location) of the Materials:
 - (a) complies with all applicable laws and regulations;
 - (b) is not defamatory or offensive;
 - (c) does not infringe the intellectual property rights of any third party; and
 - (d) will not, and is not likely to:
 - (i) harm our, or any member of the Telstra Group's, name, reputation, products or services;
 - (ii) bring you, us, any member of the Telstra Group or the Materials into disrepute; or
 - (iii) cause you, us, any member of the Telstra Group or the Materials to be the subject of a scandal or ridicule.
6. Nothing in this document confers on you any rights of a tenant or creates the relationship of landlord and tenant between us and you.
7. You (and your directors, employees, agents, volunteers, contractors and representatives) may only access the Accessible Areas of Our Land:
 - (a) for the purpose of designing, installing, maintaining, cleaning, repairing the Materials
 - (b) at times agreed between you and us; and
 - (c) in the presence and under the supervision of our personnel, where reasonably required by us.
8. You must:
 - (a) ensure that any and all works carried out by you (including your directors, employees, agents, volunteers, contractors and representatives) under this agreement are carried out in accordance with all applicable laws and requirements;
 - (b) (subject to (c)), at your cost, obtain all necessary approvals and permits for the design, installation, repair and maintenance of the Materials and comply with the same and all other applicable laws and requirements;
 - (c) (if we have agreed to contribute to the costs of installation of the Materials) ensure that any conditions relating to our financial contribution towards the installation of the Materials are satisfied on time;
 - (d) ensure that the Materials comply with all relevant Australian Standards and are suitable for outdoor and all weather use;
 - (e) do all things and take all measures necessary to protect people and property during installation, repair and maintenance of the Materials, including erecting barricades and warning signs if appropriate;
 - (f) install the Materials at no cost to us and with due care and skill;
 - (g) give us at least 24 hours prior notice of the installation, replacement or removal of any of the Materials.
9. You must, at your cost, maintain the Materials during the term of this agreement and must ensure that the Materials remain in a clean and safe condition at all times. Without limiting the foregoing, you must:
 - (a) keep the Materials free from graffiti and dirt and free from any safety hazards; and
 - (b) promptly comply with any reasonable notice that we may give to you to clean, repair or maintain the Materials within 30 days of service of such a notice on you.
10. We may at any time and for any reason:
 - (a) modify or remove the Materials, or part of the Materials, at our cost, without notice to you; or
 - (b) notify you that you must modify or remove the Materials, or part of the Materials, at your cost.
11. If we request that you modify or remove the Materials, or part of the Materials, you must do so in accordance with our reasonable directions and to our reasonable satisfaction within 7 days of receiving our request.
12. You indemnify us against any liability, loss or expense caused by:
 - (a) a breach of this agreement;
 - (b) your access or use of the Accessible Areas of Our Land for the purposes of installing, maintaining, cleaning or repairing the Materials, including any damage caused by you to Our Land; or
 - (c) your unlawful or negligent acts or omissions, except to the extent that we contribute to the liability, loss or expense.
13. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this agreement.
14. The rights and remedies in this agreement are in addition to, and do not limit, any other rights and remedies available at law.

15. Notwithstanding any other clause in this agreement, each indemnity in this agreement is a continuing obligation, independent from the parties' other obligations under this agreement and continues after this agreement ends or is earlier terminated.
16. We may terminate this agreement by written notice to you if, in our reasonable opinion, you are in breach of any of the terms and conditions of this agreement.
17. A party may terminate this agreement on 6 months written notice to the other party. Any termination of this agreement will not affect any right, entitlement of benefit that may have arisen prior to the termination of this agreement (including our rights under any indemnity contained in this agreement). Our rights under clause 16 are not affected by this clause.
18. This agreement constitutes the entire agreement between the parties about the Materials and supersedes any previous agreement or representation relating to the Materials.
19. This agreement is governed by the laws of the Australian State or Territory in which Our Land is located. Each party submits to the non exclusive jurisdiction of the courts of that place and the courts of appeal from them.
20. All notices and consents must be in writing and sent to the addresses or fax numbers for notices specified on the front page of this agreement, or to your officer or as otherwise agreed. Notices must not be sent by email.
21. Each party warrants to the other that:
 - (a) entering into and performing its obligations under this agreement does not breach any existing agreement or arrangement with, obligations owed to or any rights of, any third party;
 - (b) it has full power and authority to enter into and perform its obligations under this agreement;
 - (c) it has taken all necessary action to authorise the execution, delivery and performance of this agreement; and
 - (d) this agreement constitutes its legal, valid and binding obligations, enforceable in accordance with its terms.

AGREED BY YOU

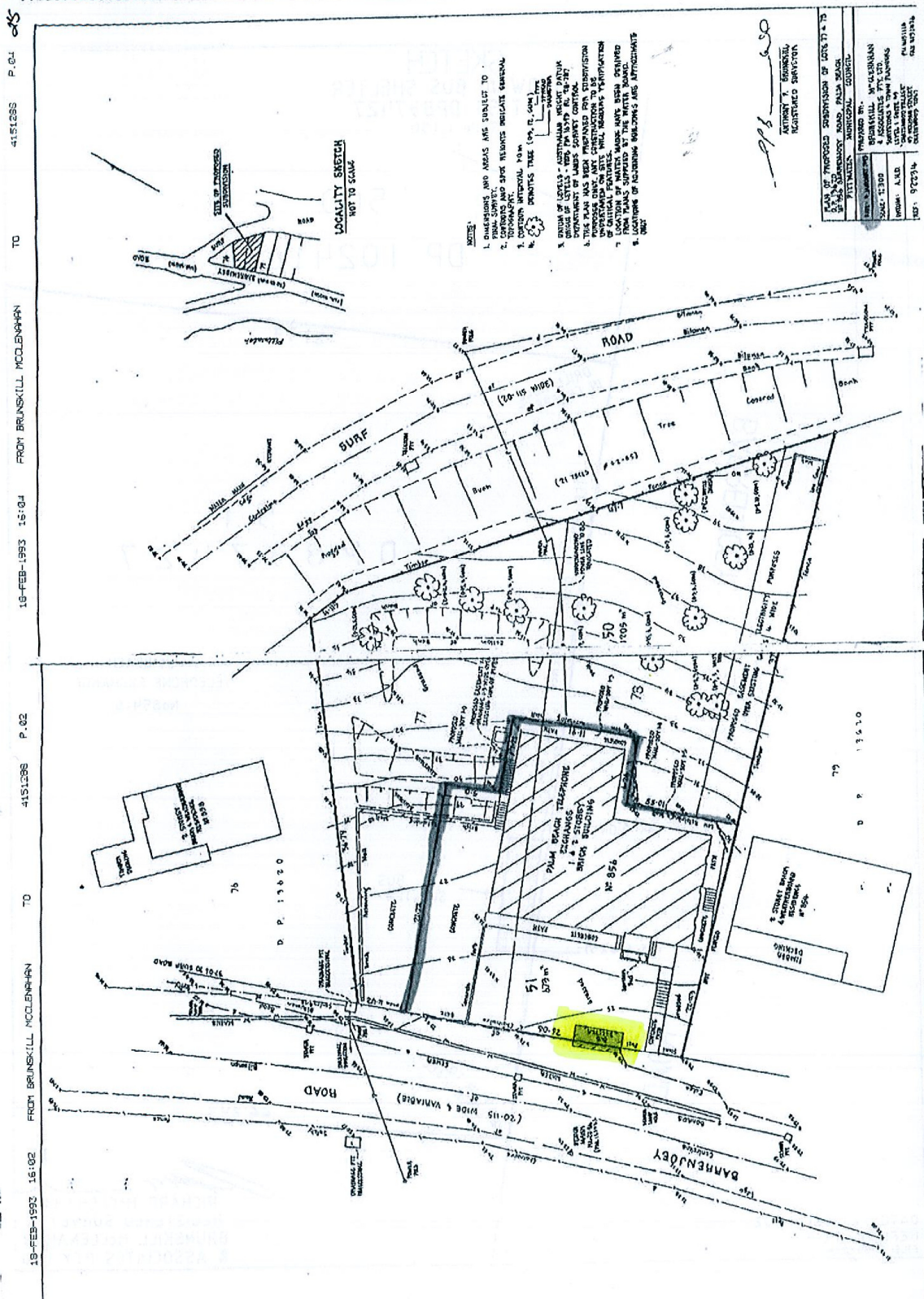
Signed for you by your authorised representative:

Signature		Date	
Print Name		Position	

AGREED BY US

Signed for us by our authorised representative:

Signature		Date	
Print Name		Position	



Council Meeting

13.0 Adoption of Leading and Learning Committee Recommendations

14.0 Adoption of Sustainable Towns and Villages Committee Recommendations
