

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

Notice is hereby given that a Meeting of the Northern Beaches Local Planning Panel will be held in the Council Chambers, Civic Centre, Dee Why on

WEDNESDAY 20 FEBRUARY 2019

Beginning at 1:00pm for the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Paul Vergotis	Chair
Marcus Sainsbury	Environmental Expert
Graham Brown	Town Planner
Ray Mathieson	Community Representative

Quorum

A quorum is three Panel members

Conflict of Interest

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

**Agenda for a Meeting of the Northern Beaches Local Planning Panel
to be held on Wednesday 20 February 2019
in the Council Chambers, Civic Centre, Dee Why
Commencing at 1:00pm**

1.0	DECLARATIONS OF INTEREST	
2.0	MINUTES OF PREVIOUS MEETING	
2.1	Minutes of Northern Beaches Local Planning Panel held 6 February 2019	Error! Bookmark not defined.
3.0	DEVELOPMENT APPLICATIONS	5
3.1	DA2018/1442 - 28 Lewis Street, Dee Why - Alterations and additions to a dwelling house including swimming pool.....	5
3.2	MOD2018/0472 – Lot 2 Mona Vale Road, Terrey Hills– Modification of Development Consent No. DA 96/371 granted for Kimbriki Recycling and Waste Centre to permit additional excavation and landfilling.....	29
3.3	DA2018/1727 – Market Lane, Manly - Alterations and Additions to an existing Community Facility (Manly Library).....	84

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 6 FEBRUARY 2019

RECOMMENDATION

That the Panel note that the Minutes of the Northern Beaches Local Planning Panel held 6 February 2019 were adopted by the Chairperson and have been posted on Council's website.

3.0 DEVELOPMENT APPLICATIONS

ITEM 3.1	DA2018/1442 - 28 LEWIS STREET, DEE WHY - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING SWIMMING POOL
REPORTING OFFICER	Steve Findlay
TRIM FILE REF	2019/081903
ATTACHMENTS	1 Assessment Report 2 Plans

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is a Councillor.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2018/1442 for Alterations and additions to a dwelling house including swimming pool at Lot 1 DP 861565, 28 Lewis Street, Dee Why subject to the conditions and for the reasons set out in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1442
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Responsible Officer	Sarah McNeilly (Consultant Planner)
Land to be developed (address)	Lot 1 DP861565 28 Lewis Street, Dee Why
Proposed Development	Alterations and additions to an existing dwelling including a new second storey and roof top pool and deck.
Determination Level	
Zoning	R2 Low Density Residential (WLEP 2011)
Development Permissible	Yes
Existing Use Rights	No
Consent Authority	Northern Beaches Council
Land and Environment Court Action	No
Owner	Bronwyn Regan
Applicant	BBF Town Planners

Application lodged	31 August 2018
Application Type	Local
State Reporting category	Residential – Alterations and Additions
Notified	06/09/2018 to 24/09/2018
Advertised	Not Advertised, in accordance with A.7 of WDCP
Submissions	1
Recommendation	Refusal

Estimated Cost of Works:	\$400,000
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ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;



- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan – B1 Wall Height
 Warringah Development Control Plan – B3 Side Boundary Envelope
 Warringah Development Control Plan – B7 Front Boundary Setback
 Warringah Development Control Plan – C3 Parking Facilities
 Warringah Development Control Plan – D1 Landscaped Open Space
 Warringah Development Control Plan – D8 Privacy
 Warringah Development Control Plan – D9 Building Bulk
 Warringah Development Control Plan – D11 Roofs

SITE DESCRIPTION

Property Description:	Lot 1 DP DP861565 28 Lewis Street, Dee Why
Detailed Site Description:	<p>The subject site is located on the northern side of Lewis Street, approximately 100 metres west of its intersection with Hogarth Street in Dee Why. The site is rectangular in shape with a frontage and rear boundary of 13.74 metres and side boundaries of 26.33 metres, with a total area of 361.7m². The lot is the front lot in a previous battle-axe subdivision, with a driveway running the length of the western boundary serving the lot at the rear. This driveway is split, with half belonging to the subject site and the other part allocated to the lot at the rear. Rights of way cover the entire driveway area to permit vehicular access by both lots.</p> <p>The site is zoned R2 Low Density Residential and is currently developed with a one storey dwelling constructed with rendered brick and a tiled roof. A single car space makes up most of the rear yard, which at the time of the site inspection was being occupied by outdoor furniture and a spa.</p> <p>The frontage of the lot is turfed, and a low brick rendered fence with fairly dense garden screens the view of the dwelling from the street.</p>



	<p>The site slopes gradually from rear to the front.</p> <p>No.28 Lewis Street is surrounded by similar detached dwellings in all directions. The lots immediately to the west have also been subdivided in the past in a similar manner with a battle axe at the rear.</p>
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SITE HISTORY

The subdivision of Numbers 28 and 28a Lewis Street was approved by Council on the 23 July 1996.

The subdivision of Numbers 28 and 28a Lewis Street was registered with NSW Land Registry Services on the 8 August 1996.

A formal pre-lodgement meeting (PLM2018/1442) was undertaken for the proposed development on 5 April 2018. The conclusion of the Council staff in the Pre-lodgement Advice was as follows:

"The proposal in its current form is not supported. The main concern is the proposed roof level structures, including the pool, decking and stairs. These elements result in a built form that is unsatisfactory for the following reasons:

- *Excessive visual bulk*
- *Excessive height*



- *Potential loss of privacy for adjoining properties*
- *Out of character with development in the street.*

Additionally, the proposal is unacceptable in terms of:

- i. Car parking - intensification requires an additional car space (2 spaces overall)*
- ii. Landscaping - additional landscaped area required to provide screening and softening of the built form to reduce hard surface.*
- iii. Side Boundary Envelope - level of breach is excessive and should be reduced.*

Therefore, you are advised to thoroughly review these notes and consider pursuing other options. Fundamentally the site is small and limited in its ability to accommodate substantial additions. A more modest and conservative approach is required to find a more suitable and appropriate form and scale of development.

Accordingly, you are advised not to lodge a Development Application based on the current scheme."

PROPOSED DEVELOPMENT IN DETAIL

The Development Application seeks consent for alterations and additions to the existing dwelling including a second storey and a roof top pool and deck. The development proposes the use of fibrous cement cladding in light grey and white for walls with a windspray colorbond roof.

The ground floor will be altered to:

- Demolish the existing entry stairs and replace with a new path, steps and deck
- Replacement new ground floor windows
- Remodel of existing laundry and bathroom
- Install new kitchen
- Installation of central stairs accessing new first floor
- New and revised internal doors
- Outdoor rainwater tank (rear yard)
- Rooms will include kitchen, dining, living, lobby, 3 x bedrooms, bathroom and laundry.

A new first floor is proposed with the same footprint as the ground floor. It includes:

- Bedroom 1 with ensuite
- Bedroom 2
- Bathroom
- Entertaining room
- Media room
- Balcony (at the front of dwelling)
- Stair access to ground floor and roof top terrace

The roof top is proposed to be utilised with the rear including:

- Deck



- Pool
- Glass roof over stairwell

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EPAA)

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Not Applicable
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. Should the Development Application be approved, these matters will be addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. Should the Development Application be approved, this matter will be addressed via a condition of consent.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. Should the Development Application be approved, this matter will be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). Should the Development Application be approved, this matter will be addressed via a condition of consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report</p> <p>The proposed development will have a detrimental impact on the built environment and is excessive in scale when considered against the small site and surrounding development.</p> <p>The proposed development will not have a detrimental social impact on the locality.</p> <p>The proposed development will not have a detrimental economic impact on the locality.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The existing development on the site results in a minimal landscaped area with a large footprint compared to the lot area. The proximity to other dwellings on the small lot raises privacy constraints. Any development on the lot needs to ensure that the apparent bulk and impacts on neighbours are addressed.</p>



Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	The application was notified for a period of 14 days from 06/09/2018 to 24/09/2018. The public exhibition resulted in one objection from the property to the east, No. 30 Lewis Street, Dee Why.
Section 4.15 (1) (e) – the public interest	The current DA proposes a design which is excessive in scale and accordingly is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition of the application Council has received one submission. See below:

Name	Address
Mr Stephen Loise	30 Lewis Street, Dee Why

The following issues were raised in the submission:

- **Building Envelope**
 - Impacts on the living space of 30 Lewis Street
 - Irrelevant examples of precedent provided (neighbouring driveways)
- **External doorway and stairs on the Eastern elevation**
 - Doorways close to bedrooms and bathroom
 - BCA boundary compliance
- **Storm Water**
 - Issues with drainage flowing onto 30 Lewis Street from the excessive hard surfaces
 - Current landscaped area non-compliant and this is to be further reduced.

The individual matters raised within the submission are addressed in further detail below.

1) Building Envelope



- Impacts on living space of 30 Lewis Street
Comment
It is agreed that the breach of the building envelope is to the detriment of the eastern neighbouring. The excess building bulk has unreasonable amenity impacts upon the surrounding properties.
- Irrelevant examples of precedent provided (neighbouring driveways)
Comment
This application has been considered on its merits. The proximity to 30 Lewis Street combined with the breach of the envelope is agreed to be unsupportable.

2) External doorway and stairs on the Eastern elevation

- Doorways close to bedrooms and bathroom
Comment
The location of the laundry door is not considered to be unreasonable in an urban environment. No additional measures are required with regard to this.
- BCA boundary compliance
Comment
Any approval would be required to be in compliance with the BCA.

3) Storm Water

- Issues with drainage flowing onto 30 Lewis Street from the excessive hard surfaces
Comment
Any approval would be required to meet Council's engineers' requirements with regard to disposal of stormwater.
- Current landscaped area non-compliant and this is to be further reduced.
Comment
It is agreed that a further reduction in landscaped area is not appropriate, as the reduction of soft surfaces is to the detriment of infiltration and stormwater disposal.

MEDIATION

No requested for mediation have been made in relation to this application.

REFERRALS

Internal Referrals

No internal referrals were required for this application.

Referral Body External	Comments
Ausgrid	The proposal was referred to Ausgrid. No response has been received within the 21 day period and it is therefore assumed



	that no objections are raised and no conditions recommended.
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ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 55 – Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Certificate number A325614_02 dated 17 August 2018 has been submitted for the alterations and additions to the dwelling and construction of the pool. The certificates indicates compliance with the state government's requirements for sustainability.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:



The application was referred to Ausgrid on 5 September 2018. No response has been received within the 21 days and it is accordingly assumed there are no issues or objection to the proposal proceeding.

Warringah Local Environmental Plan 2011

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

The objectives for the R2 Low Density Residential zone are not considered to have been fully met as is discussed below.

- To provide for the housing needs of the community within a low density residential environment.*

Low density housing is retained.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

N/A

- To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

The alterations to the dwelling are not in character with the landscaped setting desired of the locality. The scale of the building is not in harmony with the natural environment.

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	8.5 metres	8.5 metres	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.3 Development near zone boundaries	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R2 Low Density Development Residential

Land use definition: WLEP 2011	Permitted or Prohibited
Dwelling house (with ancillary pool)	Permitted with consent

Warringah Development Control Plan



Built Form Controls

Built Form Control	Requirement	Proposed	% Variation	Complies
B1 Wall Height	7.2 m	7.6m (east) 7.9m (west)	10%	No
B3 Side Boundary Envelope	4m x 45°	East – up to 1.3m West – up to 2.2m	Up to a 32.5% Up to a 55%%	No
B5 Side Boundary Setbacks	0.9m	West – 2.66m East – 1.58m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	<u>Ground floor</u> – 6.19m <u>Ground floor</u> (deck) – 5m <u>First Floor</u> – 7.46m <u>First floor</u> (balcony) – 5m <u>Roof</u> – 5.6m	4.7% 23% N/A 23% 13.8%	No No Yes No No
B9 Rear Boundary Setbacks	6m	6.3m (existing)	N/A	Yes
D1 Landscaped Open Space and Bushland setting	40% (144.68m ²)	10.9% (39.5m ²)	73%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	N/A	Yes
B3 Side Boundary Envelope	No	No
R2 Side boundary envelope exceptions	No	No
B5 Side Boundary Setbacks	Yes	Yes
Side setbacks - R2	Yes	Yes
Side Setback Exceptions – R2	N/A	N/A
R2 – All other land in R2 zone	Yes	Yes
B7 Front Boundary Setbacks	No	No
R2 – all other land in R2	Yes	Yes
Front Boundary Setbacks exemptions - R2	No	No
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	No
C4 Stormwater	Yes	Yes
C5 Erosion and sedimentation	Yes	Yes
C7 Excavation and landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped open space and bushland setting	No	No



D2 Private Open Space	No	No
D3 Noise	No	No
D6 Access to sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	No
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	No	No
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree management	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Height

Description of Non-compliance

The DCP requires a wall height of 7.2m. The proposed additions result in breaches to the wall height on all elevations with a maximum breach of 0.7m, representing a variation of up to 10%.

Merit consideration

The objectives of the wall height control are not achieved.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

The impact of the wall height variation creates significant visual bulk and scale. Therefore, the visual impact of the development is not minimised when viewed from neighbouring properties or Lewis Street.

- *To ensure development is generally beneath the existing tree canopy level.*

The wall height would make it difficult to achieve canopy trees on the site. The site is currently significantly lacking in landscaped area and therefore limiting the possibility of planting canopy trees.

- *To provide a reasonable sharing of views to and from public and private properties.*

No views are impacted.

- *To minimise the impact of development on adjoining or nearby properties.*

The non-compliance with the wall height will result in unreasonable and detrimental impacts upon adjoining properties, particularly to the east, by virtue of visual impact,



privacy, and overshadowing.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

The proposed addition does not propose any excavation to the natural land form. The proposal seeks to benefit from a first floor addition that sits across the existing building footprint, which results in a significant visual impact.

This design solution is not considered to be an appropriate response to the sites topography and location in that the wall height will have a significant bearing on the overall height and bulk of the development, such that it will have an unreasonable impact on the amenity of adjoining properties.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

The excessive wall height prevents variation in the roof design.

These breaches, reaching a maximum height of 7.9 metres result in the unreasonable and detrimental impacts to Lewis Street and neighbouring properties by virtue of visual impact, privacy and overshadowing. This is particularly the case for the neighbour to the east who is in the closest proximity to the site.

It is considered that a reduction in the wall heights to provide a compliant wall height would aid in significantly improving the amenity for neighbours by removing the excessive building bulk.

The wall height in excess of 7.2 metres is not supported.

B3 Side Boundary Envelope

Description of Non-compliance

The proposal exceeds the envelope control on the eastern side boundary envelope by 1.3m (32.5% variation) and on the western side boundary envelope by a maximum of 2.2m (55%) for the entire length of the development (approximately 15.2m). (Note that these measurements are scaled from the plans).

Merit consideration

The objectives of the control are considered below.

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

The excessive envelope on the eastern and western portion of the building is to the detriment of the streetscape resulting in a building which will be visually dominant. The encroachment creates unreasonable building bulk and amenity impact particularly to the eastern adjoining property.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*



This is not achieved for the building to the east. To the west the departure is of lesser significance with an access driveway providing separation.

- *To ensure that development responds to the topography of the site.*

The proposal seeks to benefit from a first floor addition that sits across the existing building footprint, which results in a significant visual impact that has unreasonable impact on the amenity of adjoining properties.

The impact of the continuous building envelope breaches is a dwelling which is too large for the site.

It is recognised that the lot is restricted in its potential due to the small size (361.7sqm) and existing reduced landscaped area. However, when combining these factors with the overly ambitious upper levels results in a dwelling which is considered too large for the restricted site.

The impacts of the overdevelopment of the site will be excessive bulk and scale, and a dwelling which is visually dominant and to the detriment of the streetscape and neighbouring sites by creating a crowded and boxed in feel.

Any development of this site would need to remove the building envelopes variations to minimise the amenity impacts to the neighbouring properties.

The building envelope variations as proposed are not supported.

B7 Front Boundary Setback

Description of Non-compliance

The DCP requires a front setback of 6.5 metres. The existing dwelling has a front setback of 6.19 metres. The proposed development will reduce this to 5 metres for the deck and balcony and the roof will demonstrate a setback of 5.6 metres.

Merit consideration

The objectives of the control are discussed below.

- *To create a sense of openness.*

The reduced setback combined with the other significant non-compliances fails to achieve the sense of openness in the frontage which is required.

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

The proposed front setback is set further forward than the pattern of existing front setbacks of the neighbouring properties.

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

This proposed front setback is not considered to be an appropriate response to the sites location and siting relative to adjoining public and private properties, in that the front setback will have a significant bearing on the overall visual bulk of the development,



such that it will have an unreasonable impact upon the amenity of adjoining properties.

A greater setback or retaining the existing setback as a minimum is preferred for the small site.

- *To achieve reasonable view sharing.*

No views are impacted.

The impact of the reduced front setback at the ground level, first floor and extended roof enhances the overall bulk and visual scale of the dwelling. The reduced front setback for the ground and first floor will further intensify the apparent scale of the dwelling from both the streetscape and the neighbouring sites.

The loss of landscaped area at the front of the site is also to the detriment of the streetscape and results in a reduction of the key area where landscaping and planting can soften the overall built form.

The increase of the front setback and enhancement of the building footprint is not supported.

C3 Parking

Description of Non-compliance

The DCP requires two (2) parking spaces. The existing dwelling has one car space at the rear, which was utilised for outdoor furniture and a spa when the site visit was undertaken.

Merit consideration

The objectives of the control are considered below.

- *To provide adequate off street carparking.*

This is not achieved as only one (1) car space is provided.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

No additional parking is proposed.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

No additional parking is proposed.

The existing dwelling was approved with one car space as per the requirements of the approved subdivision.

The proposed additions will intensify the use of the site with up to three (3) additional bedrooms proposed. Therefore, it would be desirable to comply with the two (2) parking space requirement for a dwelling of this scale.



However, it is recognised that there is no additional space is provided to enable an additional car space. This is to the detriment of the site's development potential, particularly given the current use of the existing space.

D1 Landscaped Open Space

Description of Non-compliance

The DCP requires a landscaped area of 40%. The existing dwelling has a landscaped area of 13.5%. This area is being reduced to 10.9%, with an additional 9.4m² converted to built area.

Merit consideration

The objectives of the control are considered below.

- *To enable planting to maintain and enhance the streetscape.*

This is not achieved. The loss of landscaped area at the front of the site is to the detriment of the streetscape and results in a reduction of the key area where landscaping and planting can soften the overall built form.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

The reduced landscape proposed is to the detriment of the site. An increase in the landscaped area of the front setback would enable additional planting to not only soften the built form, but to provide increased vegetation and habitat for wildlife.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

This is not achieved due to the reduction in the front setback area of the property as a result of the proposal.

- *To enhance privacy between buildings.*

This is not achieved.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

This is not achieved.

- *To provide space for service functions, including clothes drying.*

No drying areas are shown on the plans.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

The lack of soft surfaces is to the detriment of infiltration and stormwater disposal.



The existing landscaped area is significantly under the required 40% at 10.9% (39.5m²). The proposed development further reduces this by 9.4m² to 9.4%. Any reduction in the landscaped area of the site cannot be supported with such a significant variation already apparent.

Any supportable development would need an increase in landscaped area within the front setback to allow for screening and softening of the development proposal.

D2 Private Open Space

Description of Non-compliance

The DCP requires a private open space area with an area of 60m² and minimum dimension of 5 metres. The site has a roof deck with an area of 28.5m and a width of 3m.

Merit consideration

The objectives of the control are considered below.

- *To ensure that all residential development is provided with functional, well located areas of private open space.*

This is not achieved with the only available private open space area being the roof top deck which does not achieve the minimum area or width and is not immediately accessible.

- *To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.*

The key living areas of the development are on the ground floor. No immediately accessible private open space is provided.

- *To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.*

The key private open space being on the roof top is to the detriment of neighbours visual and acoustic privacy.

- *To ensure that private open space receives sufficient solar access and privacy.*

Roof top solar access is positive.

This proposed private open area is non-compliant in area and width. The deck is also located on the roof top and is not easily connected with the key living areas and kitchen space. It is not considered to fulfil the requirements for private open space.

D3 Noise

Description of Non-compliance

The use of the roof top for recreation, including a swimming pool, is to the detriment of neighbouring acoustic privacy.

Merit consideration

The objectives of the control are considered below.

- *To encourage innovative design solutions to improve the urban environment.*

The roof top use is not desirable in this regard. While it allows for enhanced residential amenity on the subject site, it has the alternate impact for neighbouring sites with noise enhanced and created from the roof top which should not be anticipated the low density residential area.

- *To ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.*

This objective is not achieved as the roof top pool and deck has the potential to generate a relatively high level of noise (compared to normal community expectations) as a result of their location on the roof. This proposal is considered to be unreasonable and to the detriment of neighbours. There are also no details on the location of the pool pump and therefore, its acoustic impact cannot be assessed at this stage.

The location of the pool and deck on the roof top are to the detriment of neighbours' acoustic privacy. The use of this area for recreation purposes is not supported.

D8 PrivacyDescription of Non-compliance

The roof top deck and pool will result in overlooking of the neighbouring properties.

Merit consideration

The objectives of the control are considered below.

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

The roof top deck and pool has the ability to generate the potential for direct overlooking, as well as the potential to generate a high level of noise to the surrounding neighbouring properties. Therefore, the impacts from this roof top area are considered unreasonable. Other windows and deck areas are not considered of concern.

- *To encourage innovative design solutions to improve the urban environment.*

The applicant has tried to use an innovative roof top use as a part of this application. However, due to the small size of the site (361.7sqm), and its close proximity to the neighbouring properties it is not achieving the required levels of visual and acoustic privacy.

- *To provide personal and property security for occupants and visitors*

This is achieved.



The location of the pool and deck on the roof top are to the detriment of neighbours' visual and acoustic privacy. This roof top pool and deck will allow for direct overlooking and enhanced loss of acoustic privacy. The use of this area for recreation purposes is not supported.

D9 Building Bulk

Description of Non-compliance

The proposed addition exceeds key standards and controls and has not been designed to adequately step in and ensure reduced building mass.

Merit consideration

The objectives of the control are considered below.

- *To encourage good design and innovative architecture to improve the urban environment.*

The development is of excessive scale for the site. The planning outcome is not site responsive in that the multiple variations to the built form controls of WDCP 2011 do not relate to any natural constraints of the site (such as slope). The proximity to neighbours and lack of landscaped area combined with the wall height and envelope breaches result in a proposal which fails to meet the building bulk requirements and will have unreasonable amenity impacts for adjoining properties.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

The scale of the development when viewed from the street front and neighbours is greater than what is reasonable for this lot size. The impact is a building which is out of character with the streetscape and excessive in scale when viewed from all vistas. The proposed bulk sets an undesirable precedent for the location.

The small lot size, scale of surrounding development and siting of the existing dwelling, combined with the additional height results in a building which is too great in scale. The non-compliant building envelope, wall height, front setback, and landscaped area are a clear representation of the excessive scale of the proposal and overdevelopment of the site. It is not supported in its current form.

D11 Roofs

Description of Non-compliance

The dwelling roof is to be used for a deck and small pool.

Merit consideration

The objectives of the control are considered below.

- *To encourage innovative design solutions to improve the urban environment.*



The use of the roof top for recreational purposes on the small size lot is not an appropriate use due to the close proximity to neighbouring properties, and the potential noise and privacy impacts on these neighbouring sites.

- *Roofs are to be designed to complement the local skyline.*

The roof top pool and terrace add additional bulk to the dwelling that is already very large for the size of the site.

- *Roofs are to be designed to conceal plant and equipment.*

The pool and deck use of the roof space amplifies the unnecessary occupation of the area, which is at odds with this objective. There are no details on the location of the pool pump.

The location of the pool and deck on the roof top are to the detriment of neighbours' visual and acoustic privacy. This area will allow for direct overlooking and enhanced loss of acoustic privacy.

The use of this area for recreation purposes is not supported, particularly given the close proximity of neighbours dwellings.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

A contribution would be payable for the proposed development subject to Warringah Section 94A Development Contributions Plan should the application be approved.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and



- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions.

It is concluded that the proposal will result in an unreasonable impact on the streetscape, and to the neighbouring properties and their occupants and is accordingly recommended for refusal.

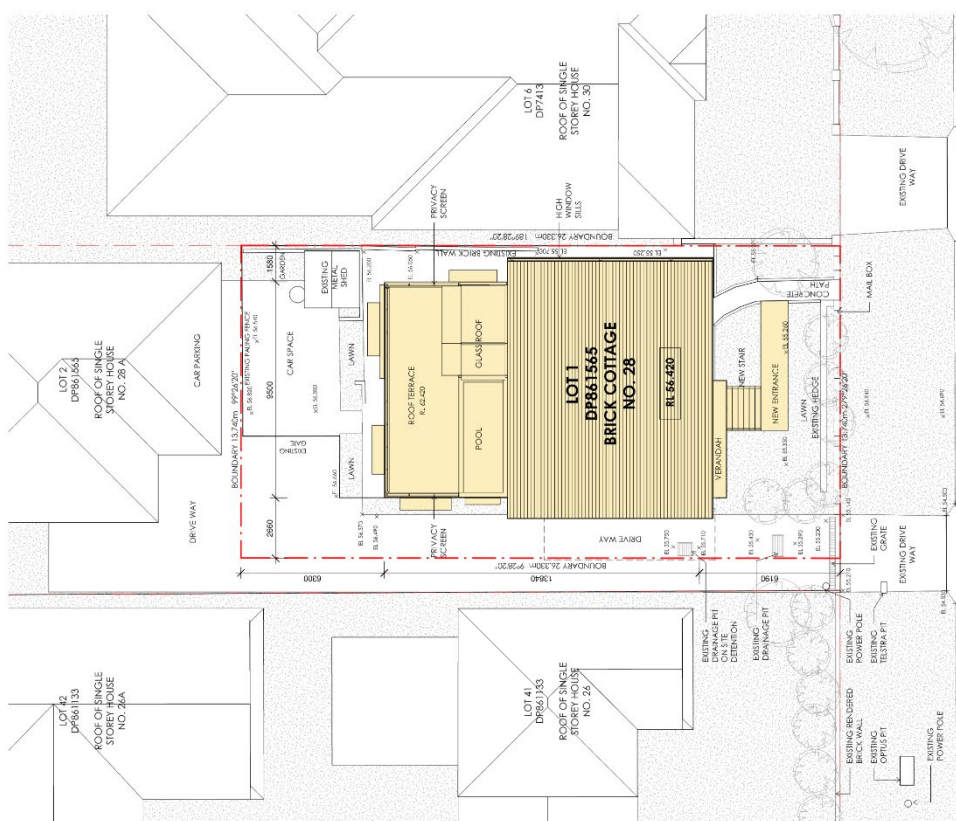
RECOMMENDATION

THAT Council as the consent authority REFUSE Development Consent to DA2018/1442 for alterations and additions to an existing dwelling house including swimming pool at Lot 1 DP 861565, no. 28 Lewis Street, Dee Why, subject the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.
2. Pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B1 Wall Height of the Warringah Development Control Plan 2011.
3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B3 Side Boundary Envelope of the Warringah Development Control Plan 2011.
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B7 Front Boundary Setbacks of the Warringah Development Control Plan 2011.
5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C3 Car Parking of the Warringah Development Control Plan 2011.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D1 Landscaped area of the Warringah Development Control Plan 2011.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D2 Private Open Space of the Warringah Development Control Plan 2011.
8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D8 Privacy of the Warringah Development Control Plan 2011.
9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9 Building Bulk of the Warringah Development Control Plan 2011.

The aerial map shows a grid of streets including Montrose Avenue, Houghton Avenue, and Houghton Street. A red rectangle highlights the proposed development site at the intersection of Montrose Avenue and Houghton Avenue. The site is labeled '210' and '211'. The map also shows lot numbers and a circular inset showing the site's location relative to the surrounding area.

The map shows a residential area with Lewis Street on the right. A central property is highlighted with a red dashed line, labeled 'BOUNDARY 13.5' x 100' L.O.C.'. This property contains a 'PROPOSED UPPER FLOOR EXTENSION' (88'x100' L.O.C.) and is surrounded by 'ADJOINING SINGLE STORY HOUSE' (88'x100' L.O.C.). To the left of the central property is a 'PRIVATE OPEN SPACE' (88'x100' L.O.C.). To the right of the central property is another 'ADJOINING SINGLE STORY HOUSE' (88'x100' L.O.C.). Further right, along Lewis Street, are several other properties, including '2 STORY HOUSE' (88'x100' L.O.C.) and 'SINGLE STORY HOUSE' (88'x100' L.O.C.). Blue dashed lines indicate 'STREET VIEW' and 'DISTRICT VIEWS TO BROOKVILLE & MANLY'. A red dashed line outlines a 'BOUNDARY 13.5' x 100' L.O.C.'.

[illegible]

LEWIS STREET

SITE AREA - 361.7m²

LEGEND:

	PROPOSED NEW WORK
EL XX XXX	EXISTING LEVEL
PL XX XXX	PROPOSED LEVEL

1 SITE PLAN
1:100

<p>FIGURE 1</p>	ISSUED FOR DEVELOPMENT APPLICATION									
	1	17/03/2018	DF							



ITEM 3.2

**MOD2018/0472 – LOT 2 MONA VALE ROAD, TERREY HILLS–
MODIFICATION OF DEVELOPMENT CONSENT NO. DA 96/371
GRANTED FOR KIMBRIKI RECYCLING AND WASTE CENTRE
TO PERMIT ADDITIONAL EXCAVATION AND LANDFILLING**

REPORTING OFFICER**Rodney Piggott****TRIM FILE REF****2019/082543****ATTACHMENTS**

- 1 Assessment Report**
- 2 Plans**
- 3 Ecological Report**

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is the Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. MOD2018/0472 for modification of Development Consent No. DA 96/371 granted for Kimbriki Recycling and Waste Centre to permit additional excavation and landfilling at Lot 4 DP 255466, Lot 2 Mona Vale Road, Terrey Hills subject to the conditions and for the reasons set out in the Assessment Report.



APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Assessment Officer:	External Consultant – Geoff Goodyer, Symons Goodyer Pty Ltd
Address:	Lot 4, DP 255466, Kimbriki Road, Ingleside – Kimbriki Resource Recovery Centre

Proposal:	Modification of Development Consent 96/371 for an existing waste and recycling centre.
Development Application No:	MOD2018/0472
Plans Reference:	SK001 H, SK002 I, SK003 J, SK004 C, SK005 G, SK006 B, SK007 B, SK008 A, SK009 A, SK010 A, Figure 01 E, Figure 02 F, Figure 03 G, Figure 04 G, Figure 05 – Figure 12 F.
Applicant:	Kimbriki Environmental Enterprises Pty Ltd
Owner:	Northern Beaches Council
Application Lodged:	3 September 2018

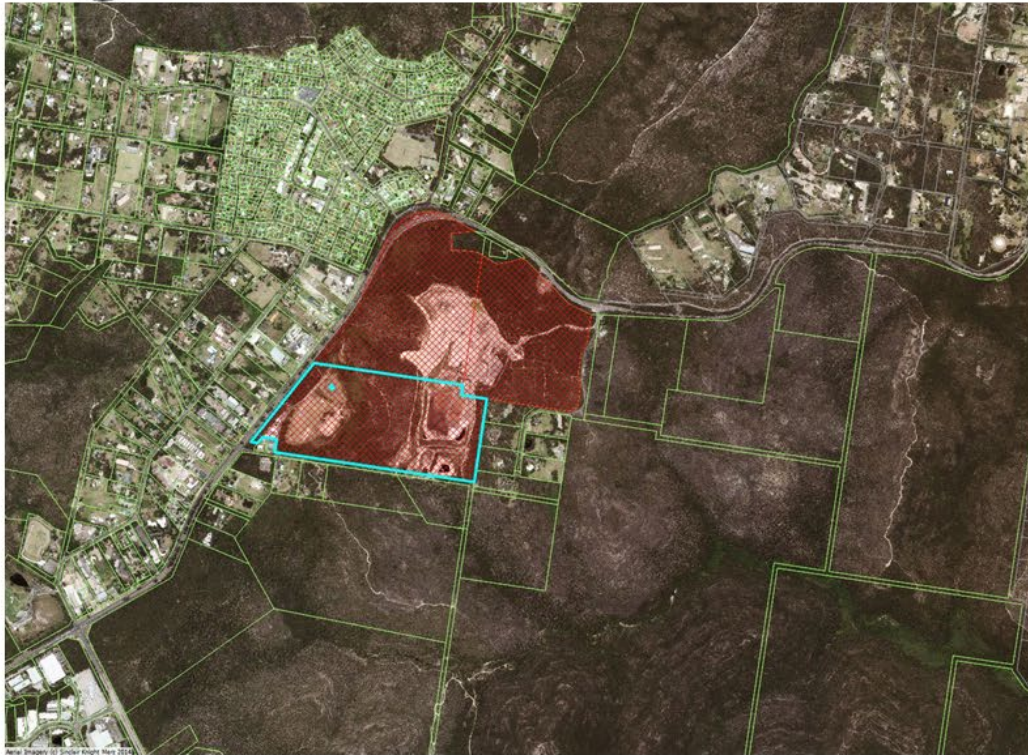
Zone:	SP2 Infrastructure (Waste or Resource Management Facility)
Permissible Development:	Waste or resource management facilities
Land and Environment Court Action:	No
Consent Authority:	Northern Beaches Local Planning Panel

SUMMARY

Submissions:	Nil
Submission Issues:	N/A
Assessment Issues:	<ul style="list-style-type: none"> Ecological impacts; and Substantially the same development.
Recommendation:	APPROVAL



LOCALITY PLAN (not to scale)



SITE DESCRIPTION

Kimbriki Resource Recovery Centre is located on the western side of Kimbriki Road, Ingleside. It is a regional waste and recycling facility servicing the local government areas of Northern Beaches and Mosman.

The site of the proposed extension of the waste and recycling area and associated infrastructure, known as Area 4A, is in the north-western corner of site and covers an area of 2.27 hectares.

Kimbriki Resource Recovery Centre adjoins Garigal National Park to the south and west and a small number of rural residential properties to the east.

The subject site is owned by Northern Beaches Council and is classified as Operational Land under the Local Government Act 1993.

RELEVANT BACKGROUND

The Kimbriki Resource Recovery Centre was established in 1974 initially as a landfill for the disposal of waste collected by local councils, residents and commercial users. The facility now



also provides disposal services for special wastes, resource recovery services, the sale of recycled and reclaimed products, and waste management educational activities.

On 10 July 1997 the Land and Environment Court issued Development Consent 96/371 for the continued use of the non-putrescible landfill, the extension of the life of the landfill by increased recycling, expansion of the landfill volume through quarrying, the construction of water pollution control facilities, and the rehabilitation of the site to an appropriate end use.

On 19 April 2012 the Minister for Planning and Infrastructure approved Application No. 10_0065 for a materials recovery facility (60,000 tonnes/year of dry recyclable materials) and a resource recovery facility (100,000 tonnes/year of food/garden waste and mixed residual waste). The facility is located to the east of the landfill site and adjoins Kimbriki Road.

On 9 July 2014 Council approved DA2014/0308 for “demolition works and the construction of an administration building for a waste management facility with associated carparking and landscaping”.

On 27 August 2015 The Minister for Planning and Infrastructure approved a modification to the approval for Application No. 10_0065. The modifications related to changes to the approved intersection upgrade concept plan, the use of Front End Loaders on the site, changed timing for completing of studies, amended clearing / biodiversity offset areas, and other minor administrative amendments.

On 25 January 2017 Application Mod2017/0066 was lodged to modify Development Consent 96/371 to delete a condition requiring a contribution towards the provision of traffic lights if they become necessary. The application was withdrawn on 20 April 2017.

On 29 June 2017 Application Mod2017/0174 was lodged to modify Development Consent 96/371 in similar terms to that which is the subject of the current modification application. The application was withdrawn on 26 September 2017.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is to modify Development Consent 96/371. The application is made under section 96AA of the EPA Act 1979, being an application to a consent authority to modify a consent issued by the Court.

The modification seeks to modify condition 60 to read “Quarrying shall be limited to the areas identified as 2, 3, 4A and 4B in the Environmental Impact Statement”. The relevant part of the condition is Area 4A which is not currently approved for quarrying and subsequent use for waste landfill. A minor modification is proposed to the boundary of Area 4A.

The addition of Area 4A to the waste landfill area will extend the capacity of the overall site by at least 18 years at current filling rates according to the Statement of Support accompanying the proposal.

It is also proposed to delete condition 61 which reads “An independent assessment of the conservation value of the Forest She-Oaks in Area 4A shall be undertaken prior to consideration of quarrying in this area, as set out in the Environmental Impact Statement. Quarrying shall only occur in Area 4A with the approval of Council”.



It is proposed to offset the impacts associated with the removal of 1.32 hectares of vegetation in accordance with the Biodiversity Offsets Scheme under the *Biodiversity Conservation Act 2016*.

The following diagrams have been extracted from the Statement of Support by SJB Planning accompanying the application:

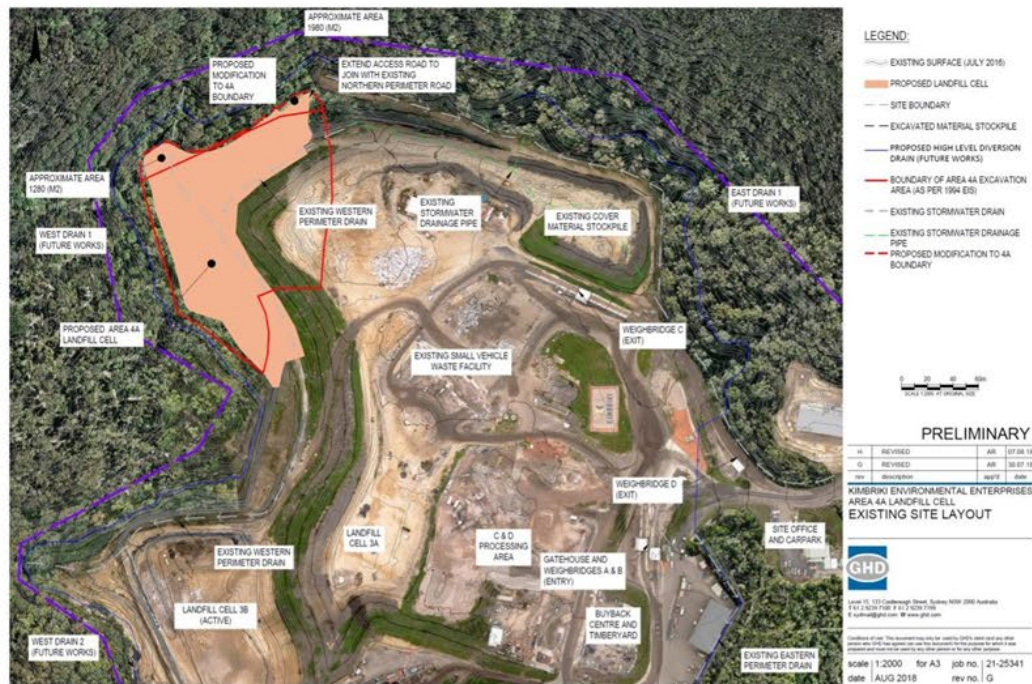


Figure 10: Proposed Area 4a Landfill Cell relative to boundary identified in 1994 EIS (Source: GHD, 2018)

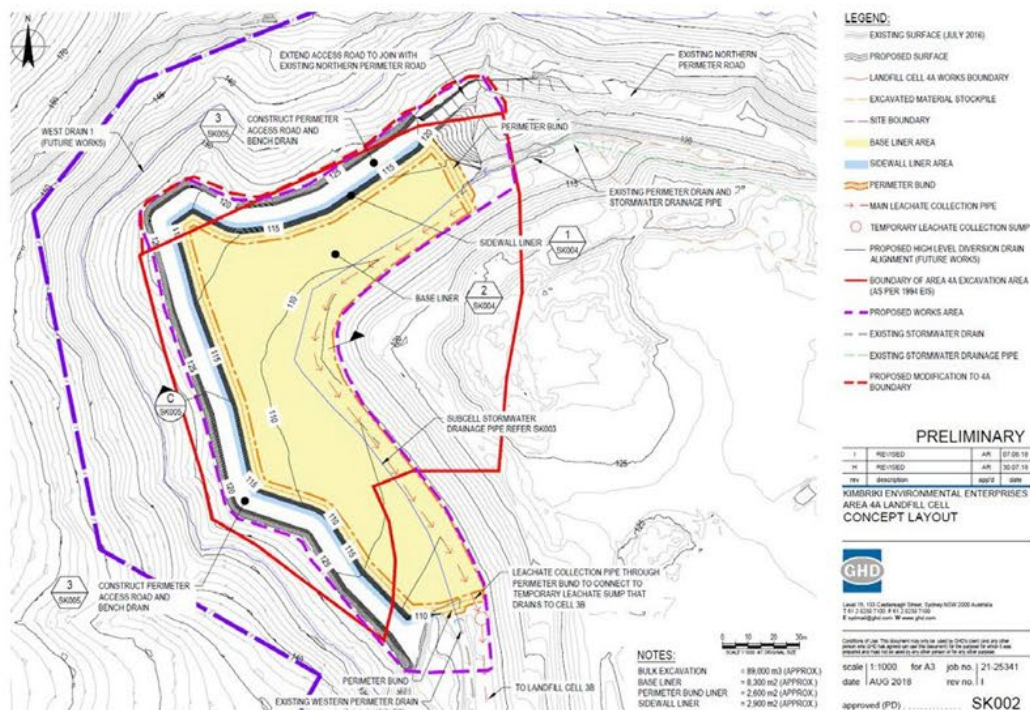


Figure 12: Proposed Area 4a Landfill Cell – Concept Layout

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulation 2000
- c) Local Government Act 1993
- d) Biodiversity Conservation Act 2016
- e) SEPP (Infrastructure) 2007
- f) SEPP 44 – Koala Habitat Protection
- g) SEPP 55 - Remediation of Land
- h) Warringah Local Environmental Plan 2011
- i) Warringah Development Control Plan

REFERRALS

Internal Referrals

Referral Internal	Body	Comments	Consent Recommended
	Traffic Engineer	No objections, no conditions.	Yes
	Environmental Investigations – Contaminated Lands	No objections subject to conditions.	Yes



Referral Internal	Body	Comments	Consent Recommended
Environmental Investigations – Industrial Use		No objections subject to conditions.	Yes
Landscape		No objections subject to conditions.	Yes
Waste Management		No objections, no conditions.	Yes
Parks and Recreation		No objections, no conditions.	Yes

Consultant Referrals

Referral Consultant	Body	Comments	Consent Recommended
Keystone Ecological Pty Ltd – Review of Ecological Assessment		No objections subject to conditions. A full copy of the review by Keystone Ecological is attached to this report.	Yes

External Referrals

Referral External	Body	Comments	Consent Recommended
Aboriginal Office (Mod2017/0174)	Heritage	No objections subject to conditions.	Yes
Ausgrid (Mod2017/0174)		No objections subject to conditions.	Yes
Department of Primary Industries – Fisheries		No objections, no conditions.	Yes
Environment Protection Authority		No response has been received at the time of writing this report. However, EPA has advised that a response will be received prior to the Panel meeting and a Memo will be prepared for the Panel's consideration.	TBC
Natural Resources Access Regulator		No objections, no conditions.	Yes
Roads and Maritime Services		No objections, no conditions.	Yes



NOTIFICATION & SUBMISSIONS

The subject application was notified in accordance with the EPA Regulation 2000 and Warringah Development Control Plan.

No submissions were received.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

There are special procedures prescribed in the EPAA and regulations with regards to "integrated development". Section 4.46 of the Act lists development which is "integrated development" because it also requires one or more additional specified approvals. Of relevance to the proposal is whether an approval is required under sections 89, 90 or 91 of the Water Management Act 2000. In this regard, the NSW Office of Water (which administers the Water Management Act 2000) has provided advice dated 17 October 2018 that an approval is not required because the proposed development is not occurring on waterfront land. Furthermore, the proposal is not integrated development as it doesn't propose any works that are controlled by section 138 of the Roads Act 1993. The NSW Department of Primary Industries – Fisheries has provided advice dated 24 September 2018 that the proposal does not require a permit under Part 7 of the Fisheries Management Act 1994. As detailed above a response has yet to be received from the EPA. However, the EPA has advised that a response will be provided prior to the Panel meeting and a memo will be prepared for the Panel's consideration.

The application has been lodged pursuant to section 4.56 of the EPAA which provides the following relevant matters for consideration:

Section 96(1A) 'Matters for Consideration'	Comments
Section 4.56(1)(a) – Proposed development as modified must be substantially the same as the development for which the consent was originally granted.	<p>The proposal is for a waste and recycling facility on the site, which is essentially the same as that which was originally approved.</p> <p>It is considered to be substantially the same both qualitatively and quantitatively.</p> <p>The proposal therefore satisfies the requirements to be "substantially the same" development as described in relevant case law, particularly <i>Sydney City Council v Ilenace Pty Limited</i> [1984] NSWLR 414 and <i>Moto Projects No. 2 Pty Ltd v North Sydney Council</i> [1997] NSWLEC280.</p>
Section 4.56(1)(b) – Proposed modification must be notified in accordance with the Regulations and Warringah Development Control Plan 2011.	The modification was notified in accordance with the Warringah Development Control Plan 2011.



Section 96(1A) 'Matters for Consideration'	Comments
Section 4.56(1)(c) – Council must notify, or make reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification.	Given the length of time since the development proposal was originally lodged and considered by Council and the Court it has not been possible to identify persons who made submissions in respect of the original development application, despite reasonable attempts having been made to identify them.
Section 4.56(1)(d) – Submissions received during the notification period must be considered	No submissions were received as a result of the public exhibition of this application.
Section 4.56(1A) – Council must consider relevant matters under section 4.15(1)	See below

The relevant matters for consideration under Section 4.15 of the EPAA are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	See discussion on "Warringah Development Control Plan" in this report.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This Clause is not relevant to this application.</p> <p>Clauses 54 and 109 of the EP&A Regulation 2000, relates to whether Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. No additional information was requested.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This Clause is not relevant to this application.</p> <p>Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This Clause is not relevant to this application.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This Clause is not relevant to this application.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This Clause is not relevant to the proposal.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This Clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>The proposed development will not have a detrimental social impact in the locality.</p> <p>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	<p>The site is zoned for the proposed purpose. The assessment of this application has concluded that the site is suitable for the proposed purpose.</p>



Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received as a result of the public exhibition of this application.
Section 4.15 (1) (e) – the public interest	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p> <p>The public interest has been help by the Courts to include principles of Environmentally Sustainable Development. Most recently, this has included a consideration of the impact of a proposal on greenhouse gas emissions (<i>Gloucester Resources Ltd v Minister for Planning</i> [2019] NSWLEC 7).</p> <p>The proposal includes a Greenhouse Gas Assessment (Arcadis, 12/5/2017). The assessment compares the greenhouse gas emissions arising as a result of the proposal to utilise Area 4a as part of the Kimbriki Resource Recovery Centre versus transporting waste to an alternative landfill facility (in fact, the assessment averaged the distance to 9 alternative locations). The report concludes that utilising Area 4a will result in 93.5% less emissions when compared to transporting waste over the 14.5-year life span of the proposal.</p>

Section 4.14(1)(a) of the EPAA requires that, for development on bush fire prone land, Council be satisfied that the development conforms to the specifications and requirements of the publication *Planning for Bush Fire Protection 2006* ("PBP") as are relevant to the proposal. The site is identified as bush fire prone land. The proposal is unlike other development on bush fire prone land in that it does not involve habitable buildings. As such, the proposal satisfies the aims and objectives of the PBP, as it is not necessary to protect buildings or their occupants from the threat of bush fire nor a need to provide asset protection zones.

LOCAL GOVERNMENT ACT 1993

The land is owned by Warringah Council. As such, the provisions of the Local Government Act 1993 relating to the classification and management of public land apply. The land is classified as "operational land". Consequently, unlike "community land", there is no requirement for that development of the land be restricted or in accordance with a plan of management under the Local Government Act 1993.

ENVIRONMENTAL PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999 (EPBCA)

The EPBCA provides that actions likely to cause a significant impact on matters of national environmental significance (MNES) undergo an assessment and approval process.

Mod2018/0472



Matters relating to the EPBCA are addressed in the ecological assessments by Biosis and Niche Environment and Heritage and subject to independent review by Keystone Ecological. The reports found that there was not flora meeting the definition of Ecological Communities listed under the EPBCA and insignificant impact on relevant fauna habitats.

BIODIVERSITY CONSERVATION ACT 2016 (BCA)

The BCA includes mandatory requirements for biodiversity assessment. The ecological reports accompanying the development application have been independently reviewed by Keystone Ecological which concludes that the biodiversity assessments satisfy the requirements of the BCA.

The BCA also establishes a mechanism whereby biodiversity impacts are offset either on site or through the retirement of Ecosystem Credits or Species Credits or payment to the Biodiversity Conservation Fund. It is not possible to provide offsets on site due to previous offsets associated with other projects within the Kimbriki Resource Recovery Centre. The recommendations of the Keystone Ecological independent review includes conditions requiring the retirement of Ecosystem Credits and Species credits or an equivalent payment to the Biodiversity Conservation Fund.

ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policies (SEPP's)

SEPP 19 – Bushland in Urban Areas

Clause 9 of SEPP 19 provides that where land adjoins bushland zoned for public open space purposes Council must consider the effect of the proposed development on that bushland and any other matters relevant to the protection or preservation of that bushland.

The ecological reports submitted with the application and reviewed by Keystone Ecological address the requirements of SEP 19.

SEPP 44 – Koala Habitat Protection

The ecological reports submitted with the application identify that the land is not core koala habitat and address the requirements of SEPP 44. The reports were independently reviewed by Keystone Ecological.

SEPP 55 - Remediation of Land

Clause 7(1)(a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. The existing landfill site is contaminated and the proposal will continue the use of the land for landfill and recycling – the site is considered to be suitable for this purpose in its contaminated state. No change of use is sought so there is no requirement for a preliminary assessment pursuant to clause 7(2).



SEPP (Infrastructure) 2007

Clause 104 and Schedule 3 of the SEPP provide that certain development must be referred to NSW Roads and Maritime Services (RMS) for consultation. RMS was consulted and raised no objections to the proposal.

Clause 123 of SEPP (Infrastructure) 2007 prescribes matters for consideration in determining a development application for the construction, operation or maintenance of a landfill for the disposal of waste. The proposal is to modify an existing approval and is not an application for development consent to these provisions to not apply to the proposal.

The proposed administration building replaces the existing administration building and has no impact on the existing and future methods or waste disposal and recovery on the site. Consequently, the matters for consideration in clause 123 of SEPP (Infrastructure) 2007 are not relevant to the proposal.

SEPP (Vegetation in Non-Rural Areas) 2017

Part 3 of SEPP (Vegetation in Non-Rural Areas) 2017 applies to vegetation that is declared applicable by a DCP. Clause E1 of Warringah DCP 2011 declares that a permit is required under Part 3 of SEPP (Vegetation in Non-Rural Areas) 2017 for the removal or cutting down of any tree over 5m in height and the removal or cutting down of vegetation in bushland. The proposal involves the impacts on 2.02 hectares of native vegetation with 1.32 hectares being cleared and the remaining 0.7 hectares being indirectly impacted.

The removal of vegetation is necessary to permit the proposed use of Area 4a as part of the Kimbriki Resource Recovery Centre. The impact on vegetation is assessed in the Flora and Fauna Assessment Report by Biosis, and the Biodiversity Development Assessment Report by Niche Environment and Heritage with management and mitigation measures detailed in the Biodiversity Management Plan by Niche Environment and Heritage. These documents have been independently reviewed by Keystone Ecological Pty Ltd (see attached) and appropriate conditions of consent are recommended.

Local Environment Plans (LEP's)

Warringah Local Environmental Plan 2011 (WLEP 2011)

Consideration of proposal against Warringah Local Environment Plan 2011:

Definition of proposed development: (ref. WLEP 2011 Dictionary)	Waste or resource management facility
Zone:	SP2 Infrastructure (Waste or Resource Management Facility)
Permitted with Consent or Prohibited:	Permissible with consent



Objectives of the Zone
<ul style="list-style-type: none"> To provide for infrastructure and related uses. To prevent development that is not compatible with or that may detract from the provision of infrastructure.
<p>The development is considered to be consistent with the objectives of the zone for the following reasons:</p> <ul style="list-style-type: none"> The proposal modifies the existing waste resource management facility which is an item of public infrastructure.

Principal Development Standards:			
Standard	Permitted	Proposed	Complies
Height of Buildings:	8.5 metres	No building proposed	Yes

Relevant Miscellaneous Provisions	
Provision	Comment
Infrastructure development	WLEP 2011 does not restrict or prohibit this development because it is permissible under clause 121 of SEPP (Infrastructure) 2007.

Relevant Additional Local Provisions	
Provision	Comment
Acid Sulfate Soils	Not affected
Earthworks	The proposed modification is accompanied by detailed investigations demonstrating that the impacts on drainage patterns and soil stability are managed appropriately. The proposed earthworks complement the future use of the land. The soil extracted is clean material and the fill introduced is managed appropriately. Amenity impacts arising from the use of the Kimbriki Resource Recovery Centre will continue to be managed to minimise amenity impacts. It is unlikely that any relics will be disturbed. Impacts on watercourses will be controlled in accordance with the Waterways Management Plan.
Flood Planning	Not affected
Development on Sloping Land	The proposed works are located within Areas B and C on the Landslip Risk Map. Potential impacts with regards to landslip will be managed in accordance with the geotechnical assessment submitted with the application.

Mod2018/0472



Relevant Schedules	
Schedule	Comment
5 Environmental heritage	The site does not contain a heritage item, is not within a Conservation Area, and is not in the vicinity of a heritage item.

Warringah Development Control Plan (WDCP)

Consideration of proposal against Warringah Development Control Plan:

Part B: Built Form Controls			
Control	Requirement	Proposed	Complies
None relevant			N/A

Part C: Siting Factors	
Control	Comment
C2. Traffic, Access and Safety	Council's Traffic Engineer and the RMS have raised no objections to the proposal. During operation there will be no change to the number of vehicles accessing the site per day or per year. Traffic impacts during construction are assessed in the Traffic Assessment by GHD accompanying the development application. It is noted that RMS is proposing to upgrade Mona Vale Road between Terrey Hills and Ingleside and that the scope of these works includes signalling the Mona Vale Road / Kimbriki Road intersection – the acceptability of the proposal from a traffic perspective does not rely on these works.
C3. Parking Facilities	The proposal does not generate the need for additional parking on site.
C4. Stormwater	Stormwater is currently managed in accordance with the Soil and Water Management Plan and the Environmental Management Plan together with Environmental Protection Licences. The development application includes a Stormwater Management Plan. The overarching management involves diverting stormwater around landfill operations and the installation of high-level stormwater drains to divert stormwater before entering the site. On-site stormwater



	is directed to three sediment basins. Stormwater quality is continually managed.
C5. Erosion and Sedimentation	The proposal includes an erosion and sedimentation control plan. Existing sedimentation and erosion control measures will be augmented through the installation of four permanent sediment / water quality control structures. Water quality will continue to be monitored to meet limits specified in the Environmental Protection Licences.
C7. Excavation and Landfill	All waste materials received and deposited on the site are inspected to ensure they meet the requirements of the Environmental Protection Licences. The proposed filling of the site is controlled to minimise impacts on adjoining land, including leachate control, erosion and sedimentation control, and stormwater management. The proposal includes a geotechnical assessment which has informed the design of the proposal.
C8. Demolition and Construction	A Waste Management Plan forms part of the development proposal.
C9. Waste Management	A Waste Management Plan forms part of the development proposal.

Part D: Design	
Control	Comment
D1. Landscaped open space and bushland setting	50% of the site is required to be kept as natural bushland or landscaped with locally indigenous species. In this regard the final use of the site following completion of the landfilling and recycling centre will be required to provide for indigenous planting. In the interim the Kimbriki Resource Recovery Centre provides an important service and is significant public infrastructure such that this requirement should not prevent the proposed development.
D3. Noise	A Noise and Vibration Assessment forms part of the development proposal. The assessment concludes that the proposed development will not generate noise above the prescribed limits.



D6. Access to sunlight	The proposed development will not result in any overshadowing of neighbouring development.
D7. Views	No views from residential properties will be affected.
D8. Privacy	There is no impact on privacy as the proposed development is separated from the nearest residential development by approximately 300m.
D22. Conservation of Energy and Water	Water is reused on site for dust suppression.

Part E: The Natural Environment	
Control	Comment
E1. Preservation of Trees or Bushland Vegetation	The proposal's impact on trees and bushland is assessed in detail in the ecological reports by Ecotone, Biosis and Niche Environment and Heritage and independently reviewed by Keystone Ecological. There is no opportunity for replanting whilst landfilling and resource recovery operations are occurring on Area 4a but when the landfill reaches capacity the site will be revegetated.
E2. Prescribed Vegetation	The proposal's impact on trees and bushland is assessed in detail in the ecological reports by Ecotone, Biosis and Niche Environment and Heritage and independently reviewed by Keystone Ecological.
E3. Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conversation Habitat	The proposal's impact on flora and fauna is assessed in detail in the ecological reports by Ecotone, Biosis and Niche Environment and Heritage and independently reviewed by Keystone Ecological. A Biodiversity Management Plan forms part of the development proposal and describes suitable mitigation strategies. The proposal includes biodiversity offsets and these are confirmed by recommended conditions of consent.
E5. Native Vegetation	The proposal's impact on trees and bushland is assessed in detail in the ecological reports by Ecotone, Biosis and Niche Environment and Heritage and independently reviewed by Keystone Ecological.



E6. Retaining Unique Environmental Features	Area 4a contains remnant bushland and unnamed drainage lines. The proposal's impact on trees and bushland is assessed in detail in the ecological reports by Ecotone, Biosis and Niche Environment and Heritage and independently reviewed by Keystone Ecological.
E7. Development on land adjoining public open space	The site is not identified on the DCP Map as adjoining public open space.
E8. Waterways and Riparian Lands	A Waterway Impact Statement forms part of the proposal and has been reviewed by Keystone Ecological. No objections have been raised by NSW Department of Natural Resources. There are no mapped waterways within Area 4a.
E10. Landslip Risk	A geotechnical assessment by GHD forms part of the development proposal. The report concludes that the proposed excavation has a predominantly "Very Low Risk" level for slope instability during the construction period. Stormwater is managed in accordance with the Stormwater Management Plan which is included in the proposal.
F4. SP2 Infrastructure Zone	The proposal will enable the Kimbriki Resource Recovery Centre to continue to operate as a waste and resource management facility. The Stormwater Management Plan, together with controls included in the Environmental Protection Licences, the Soil and Water Management Plan and the Environmental Management Plan ensure that impacts on Deep Creek and its catchment are minimised.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan:

The proposal is not subject to the application of Council's Section 94A Development Contributions Plan.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- Biodiversity Conservation Act 2016;

Mod2018/0472



- Environment Protection and Biodiversity Conservation Act 1999;
- Local Government Act 1993;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

The proposal has been assessed against the relevant matters for consideration under Sections 4.56 and 4.15 of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects specified in S.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2018/0472 for Modification of Development Consent No. 96/371 for and existing waste and recycling on land at Part Lots 2 and 4, DP 255466, Part Lot 200 and Lot 201, DP 1044605, Lot 3, DP 794191 and Lot 100, DP 822376, Kimbriki Road, INGLESIDE, subject to the conditions printed below:

CONDITIONS OF APPROVAL

A. Add Condition No. 1A – Modification of Consent – Approved Plans and Supporting Documentation to read as follows:

The development must be carried out in compliance with the Kimbriki Resource Recovery Centre, Landfill Cell in Area 4a - Statement of Support for Section 4.56 Modification Application prepared by SJB Planning dated August 2018 and Attachments 1 – 18.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)



B. Modify Condition No. 60 to read as follows:

Quarrying shall be limited to the areas identified as 2, 3, and 4b in the Environmental Impact Statement and Area 4a identified in the Statement of Support by SJB Planning dated August 2018.

C. Delete Condition No. 61.

D. Add the following conditions:

CONDITIONS TO BE COMPLIED WITH PRIOR TO ISSUING OF CONSTRUCTION CERTIFICATE

79. Biodiversity Development Assessment Report (BDAR)

Prior to the issue of Construction Certificate, an amended BDAR is to be submitted that addresses the following:

- Show in a figure or provide information that explains the orientation of sampling plots, including the 50 m transect and the 1 m² litter quadrats;
- Tabulate floristic data from the BAM quadrats in standard format of species by plot;
- Provide sampling sheets showing raw data collected at each BAM plot or provide explanation for their absence;
- Provide a map(s) / figure(s) showing the extent of the final footprint and details of the operational footprint; and
- Provide a list of associated digital files created for the BDAR.

80. Ecosystem Credits Required to be Retired

Prior to the issue of Construction Certificate, the class and number of Ecosystem Credits in Table 1 must be retired to offset impacts of the development.

Table 1

Impacted Plant Community Type	Number of Ecosystem Credits	IBRA sub-region
PCT 905 Lilly Pilly - Coachwood warm temperate rainforest on moist sheltered slopes and gullies, Sydney Basin Bioregion and South East Corner Bioregion	5	Pittwater Sub Region From a location within 100km of the subject site
PCT 1250 Sydney Peppermint - Smooth-barked Apple - Red Bloodwood shrubby open forest on slopes of moist sandstone gullies, eastern Sydney Basin Bioregion	19	Pittwater Sub Region From a location within 100km of the subject site



Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of this condition must be provided to the consent authority prior to issue of construction certification.

Reason: To offset impacts upon native vegetation.

81. Species Credits Required to be Retired

Prior to the issue of Construction Certificate, the class and number of Species Credits in Table 2 must be retired to offset impacts of the development.

Table 2

Impacted Species	Number of Species Credits	IBRA sub-region
<i>Calyptorhynchus lathami</i> Glossy Black-Cockatoo	32	Any IBRA sub-region in NSW
<i>Cercartetus nanus</i> Eastern Pygmy-possum	32	Any IBRA sub-region in NSW
<i>Ninox connivens</i> Barking Owl	32	Any IBRA sub-region in NSW
<i>Ninox strenua</i> Powerful Owl	32	Any IBRA sub-region in NSW
<i>Petaurus norfolcensis</i> Squirrel Glider	32	Any IBRA sub-region in NSW
<i>Tyto novaehollandiae</i> Masked Owl	32	Any IBRA sub-region in NSW
<i>Tyto tenebricosa</i> Sooty Owl	48	Any IBRA sub-region in NSW

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of this condition must be provided to the consent authority prior to issue of construction certification.

Reason: To offset impacts upon native species.

82. Biodiversity Management Plan (BMP)

The BMP may form part of a Construction Environmental Management Plan.

The BMP must identify the development site as per the BDAR and approved plans.

The BMP must identify areas of land that are to be retained as outlined in the BDAR.



Construction impacts must be restricted to the development site and must not encroach into areas of retained native vegetation and habitat. All materials stockpiles, vehicle parking, machinery storage and other temporary facilities must be located within the areas for which biodiversity impacts were assessed in the BDAR.

The BMP must identify all measures proposed in the BDAR to mitigate and manage impacts on biodiversity, including performance measures for each commitment.

Prior to the issue of Construction Certificate, the BMP must be amended to the satisfaction of the consent authority and include the following omissions:

- Nest box plan regarding the numbers and types to be installed, the protocols for installation, monitoring, and maintenance; and
- Map / figure that clearly delineates and details the construction footprint.

Reason: To ameliorate impact and protect biodiversity.

83. Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland protection measures are carried out according to the conditions of consent.

The Project Ecologist will provide certification that conditions relating to the approved and Biodiversity Management Plan are carried out. The Project Ecologist will ensure that all conditions relating to the biodiversity management of the site are fully implemented.

The Project Ecologist must have one of the following memberships/accreditation,

- Practising member of the NSW Ecological Consultants Association OR
- Accredited Ecological Consultant by the NSW Ecological Consultants Association OR
- Certified Environmental Practitioner of the Environment Institute of Australia and New Zealand.

Reason: To ensure bushland management.

84. Implementation of Biodiversity Management Plan

Except where prescribed otherwise in the conditions of consent, all requirements in the approved Biodiversity Management Plan are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the Project Ecologist and submitted to the consent authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management.

**85. Delineation Works Zone**

Prior to the commencement of any onsite works or commencement of vegetation clearance/modification, the extent of the works area must be surveyed and marked on ground.

The clearing of vegetation for the works is to be confined within the works area boundaries.

Details demonstrating compliance are to be submitted to the consent authority prior to issue of the Construction Certificate.

Reason: Bushland Protection.

86. Erosion and sediment control

Compliance with the following documents; The most current EPA Environmental Protection license, recommendations of the report stormwater management plan and report by GHD dated August 2018 and the recommendations set out in the draft Kimbriki Resource recovery centre soil and water management plan during the excavation and construction processes.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACHPCPC5)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**87. Tree protection**

(a) Existing trees which must be retained

i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation

ii) Trees located on adjoining land

(b) Tree protection

i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.

ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.

iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.

iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees



v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

CONDITIONS TO BE COMPLIED WITH DURING CLEARING AND CONSTRUCTION WORKS

88. Implementation of Biodiversity Management Plan

Except where prescribed otherwise in the conditions of consent, all requirements in the approved Biodiversity Management Plan are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the Project Ecologist and submitted to the consent authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management.

89. Fauna and Tree Hollow re-location

During any vegetation clearance for construction works the Project Ecologist is to be present to re-locate any displaced fauna that may be disturbed during this activity.

Tree hollows are to be salvaged from trees within the development area and placed within retained vegetation. This is to be done by a qualified and experienced Arborist, under the direction of the Project Ecologist.

Details prepared by the project ecologist in writing demonstrating compliance are to be submitted to the consent authority.

Reason: Fauna and habitat protection.

90. Installation of Nest Boxes and artificial hollows

Nest boxes suitable for microbats, possums and birds are to be installed in accordance with the approved Biodiversity Management Plan

A certificate demonstrating compliance must be prepared by the Project Ecologist and submitted to the consent authority prior to any commencement. The geographic location of all nest boxes is to be provided to Council.

Reason: Fauna Habitat Replacement.



91. Tree Hollow Inspection

All tree hollows proposed for clearing are to be inspected by the Project Ecologist prior to removal. Inspection of tree hollows is to be facilitated by a qualified and experienced tree climber or Arborist with the use of an elevated work platform where necessary.

Details prepared by the project ecologist in writing demonstrating compliance is to be submitted to the consent authority prior to commencement of tree removals.

Reason: Fauna and habitat protection.

92. Relocation of Logs and Coarse Woody Debris

Hollow logs and branches are to be salvaged from cleared trees and reused as fauna habitat within the retained areas.

Details are to be prepared by the project ecologist in writing demonstrating compliance and submitted to the consent authority.

Reason: Fauna Habitat enrichment.

93. Weed Removal and Management

No weeds are to be imported on to the site.

All invasive and priority weeds on the site are to be removed and managed continuously, in accordance with the Biosecurity Act 2015.

Details demonstrating the removal and management of weeds are to be prepared by the project ecologist in writing and submitted to the consent authority prior to occupation certificate.

Reason: Weed management and biosecurity.

94. Certification of ongoing work

A Bush Regeneration contract is to be entered into to ensure that works required by the approved Biodiversity Management Plan are adequately completed. The bush regeneration company is to provide certification that of contract engagement and commencement of works to the consent authority prior to occupation certificate.

Reason: Bushland Revegetation and Rehabilitation.

**95. Certification of Biodiversity Management and ongoing work**

The Project Ecologist is to certify that unless otherwise prescribed by the conditions of consent, all actions in the approved Biodiversity Management Plan have been undertaken fully and where relevant completed and that an appropriate program of revegetation and maintenance has been entered into to comply with requirements of the Plan.

Certification in writing is to be provided by the Project Ecologist to the consent authority prior to occupation certificate.

Reason: Vegetation / Biodiversity Management.

96. Requirement to Notify about New Contamination Evidence

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment. (DACHPE01)

97. During Works: Noise during excavation and construction

Compliance with the recommendations of Wilson Murry document 16234-A version A, May 2017 during the excavation and construction processes relating to all construction noise, rock hammers and blasting including monitoring be undertaken to adjust site parameters for noise and vibration prediction if necessary for blasting.

Reason: To minimize construction noise. (DACHPEDW5)

98. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.



The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees.

99. Protection of landscape features and sites of significance

a) All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed during demolition, excavation and construction works, except where affected by works detailed on approved plans.

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

Reason: Preservation of significant environmental features

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

100. Positive Covenant for encapsulated contamination

A covenant must be registered on the title of the land, giving notice of the former use, level of site contamination and its former location on the land.

A covenant must be registered on the title of the land binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated materials, including the discharge or prevention of discharge there from of any contaminants or for any works required by Northern Beaches Council or any State or Federal Department/Authority.

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

Reason: Environmental Protection. (DACHPF07)

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

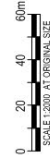
101. On-Going: Amenity

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997. (DACHPGOG5)

LEGEND:

- EXISTING SURFACE (JULY 2016)
- PROPOSED LANDFILL CELL
- SITE BOUNDARY
- EXCAVATED MATERIAL STOCKPILE
- PROPOSED HIGH LEVEL DIVERSION DRAIN (FUTURE WORKS)
- BOUNDARY OF AREA 4A EXCAVATION AREA (AS PER 1994 EIS)
- EXISTING STORMWATER DRAIN
- EXISTING STORMWATER DRAINAGE PIPE
- PROPOSED MODIFICATION TO 4A BOUNDARY



PRELIMINARY

H	REVISED	AR	07.01.11
G	REVISED	AR	30.07.11

rev/ description app'd date

KIMBRIKI ENVIRONMENTAL ENTERPRISES
AREA 4A LANDFILL CELL
EXISTING SITE LAYOUT



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scale 1:2000 for A3 job no. 21-253/1
date AUG 2011 rev no. G

approved (PD)

SK001



- LEGEND:**
- EXISTING SURFACE (JULY 2016)
 - PROPOSED SURFACE
 - LANDFILL CELL 4A WORKS BOUNDARY
 - EXCAVATED MATERIAL STOCKPILE
 - SITE BOUNDARY
 - BASE LINER AREA
 - SIDEWALL LINER AREA
 - PERIMETER BUND
 - MAIN LEACHATE COLLECTION PIPE
 - TEMPORARY LEACHATE COLLECTION SUMP
 - PROPOSED HIGH LEVEL DIVERSION DRAIN ALIGNMENT (FUTURE WORKS)
 - BOUNDARY OF AREA 4A EXCAVATION AREA (AS PER 1994 EIS)
 - PROPOSED WORKS AREA
 - EXISTING STORMWATER DRAIN
 - EXISTING STORMWATER DRAINAGE PIPE
 - PROPOSED MODIFICATION TO 4A BOUNDARY

PRELIMINARY

I	REVISED	AR	07.01.17
H	REVISED	AR	30.07.17
rev	description	app'd	date

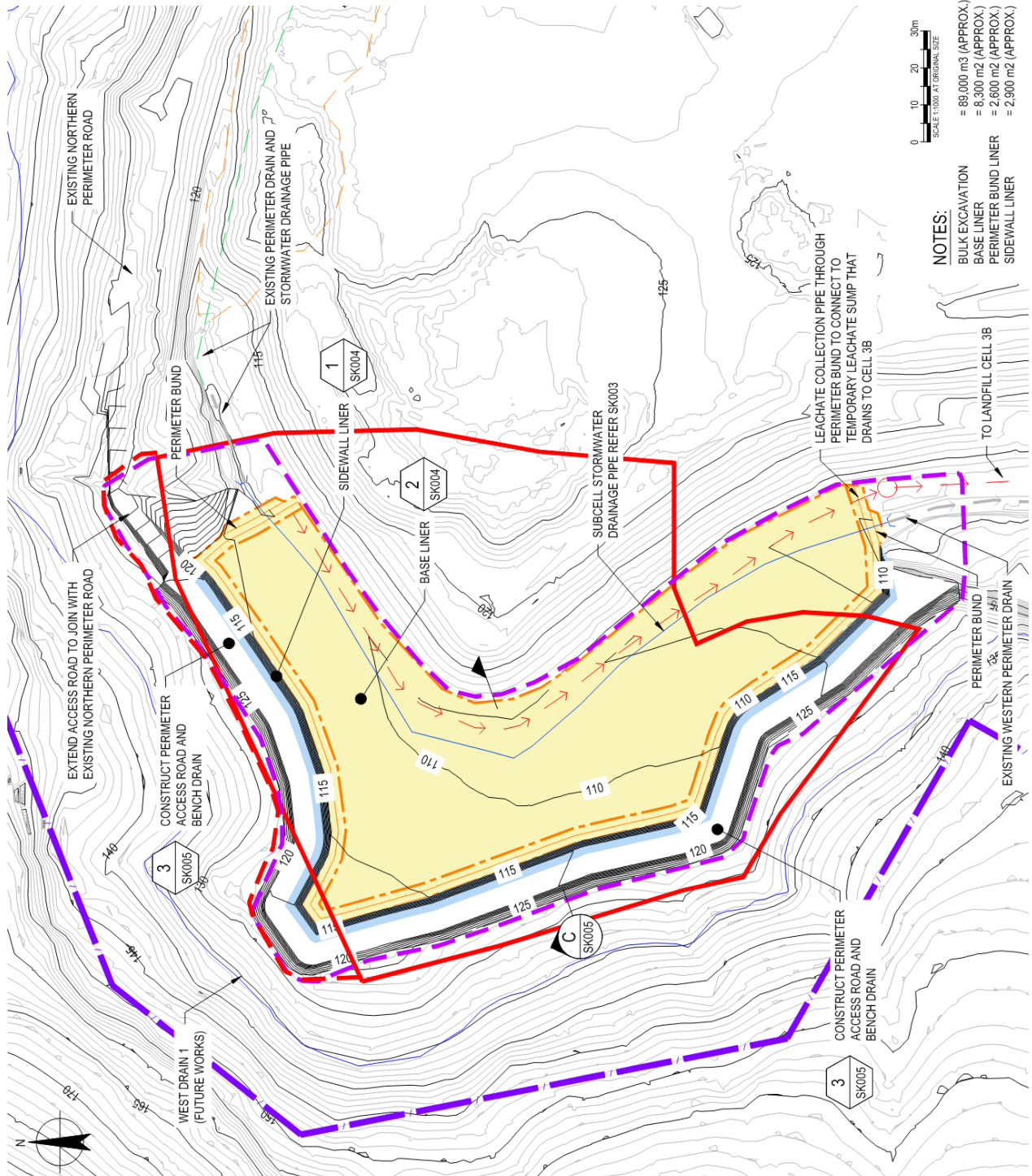
KIMBRIKI ENVIRONMENTAL ENTERPRISES
AREA 4A LANDFILL CELL
CONCEPT LAYOUT



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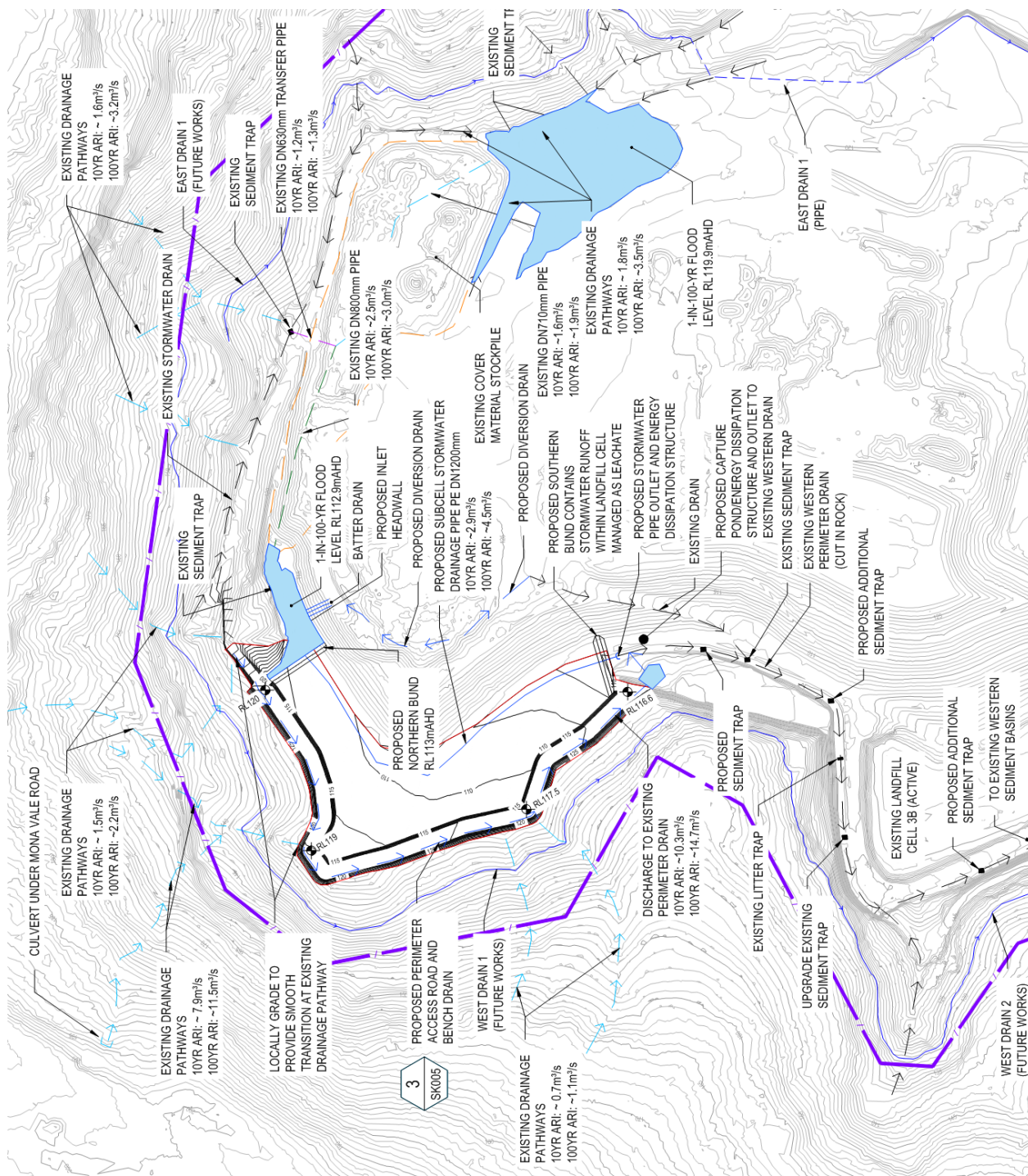
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date AUG 2017 rev no. 1
approved (PD) SK002



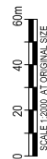
NOTES:

- BULK EXCAVATION = 89,000 m³ (APPROX.)
- BASE LINER = 8,300 m² (APPROX.)
- PERIMETER BUND LINER = 2,600 m² (APPROX.)
- SIDEWALL LINER = 2,900 m² (APPROX.)



LEGEND:

- EXISTING SURFACE (JULY 2016)
- PROPOSED SURFACE
- LANDFILL CELL 4A BOUNDARY
- SITE BOUNDARY
- EXCAVATED MATERIAL STOCKPILE
- NATURAL DRAINAGE CHANNEL
- EXISTING STORMWATER DRAIN
- PROPOSED STORMWATER DRAIN
- PROPOSED SUBCELL DRAINAGE PIPE
- EXISTING DN630mm PIPE
- EXISTING DN710mm PIPE
- EXISTING DN800mm PIPE
- PROPOSED HIGH LEVEL DIVERSION DRAIN ALIGNMENT (FUTURE WORKS)



PRELIMINARY

□	REVISED	AR	27.01.10
I	REVISED	AR	07.01.10
rev	description	app'd	date

**KIMBRIKI ENVIRONMENTAL ENTERPRISES
AREA 1A LANDFILL CELL
CONCEPT STORMWATER
MANAGEMENT**

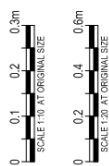
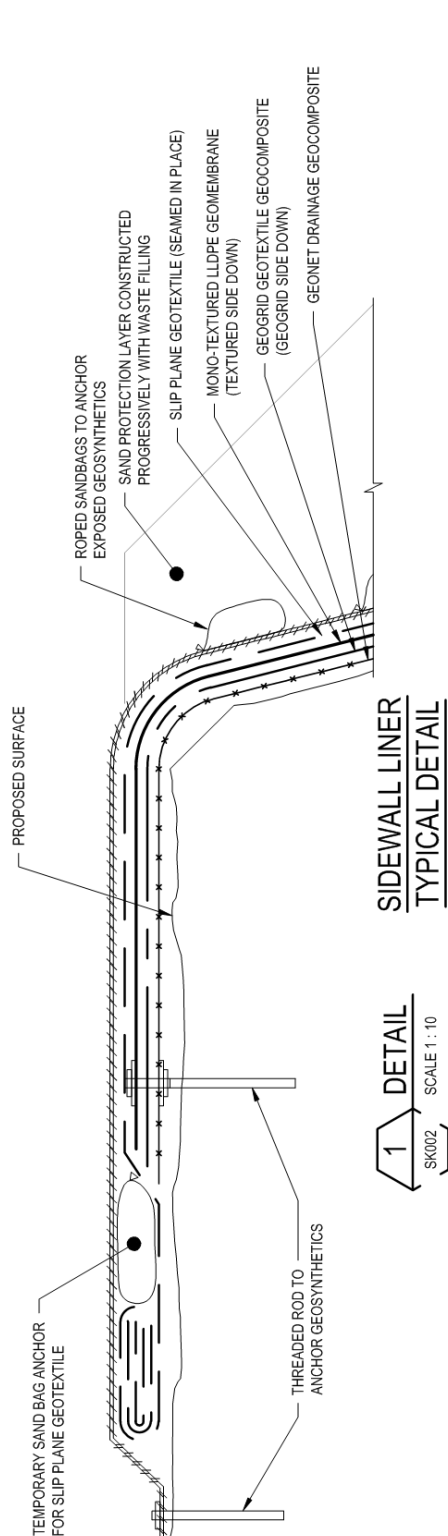


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date	AUG 201		rev no.	1

approved (PD)



PRELIMINARY

C	REVISED	AR	010116
B	REVISED	AR	020116
rev	description	app'd	date

**KIMBRIKI ENVIRONMENTAL ENTERPRISES
AREA □ LANDFILL CELL
TYPICAL DETAILS**



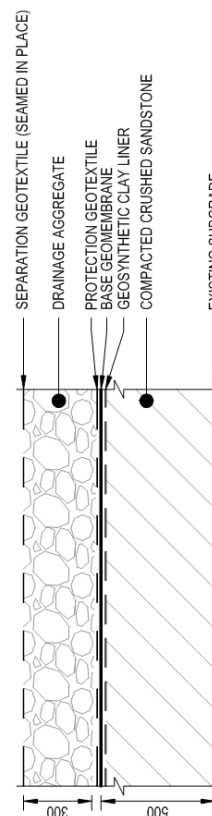
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scale | VARIES for A3 | job no. | 21-25311

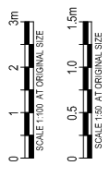
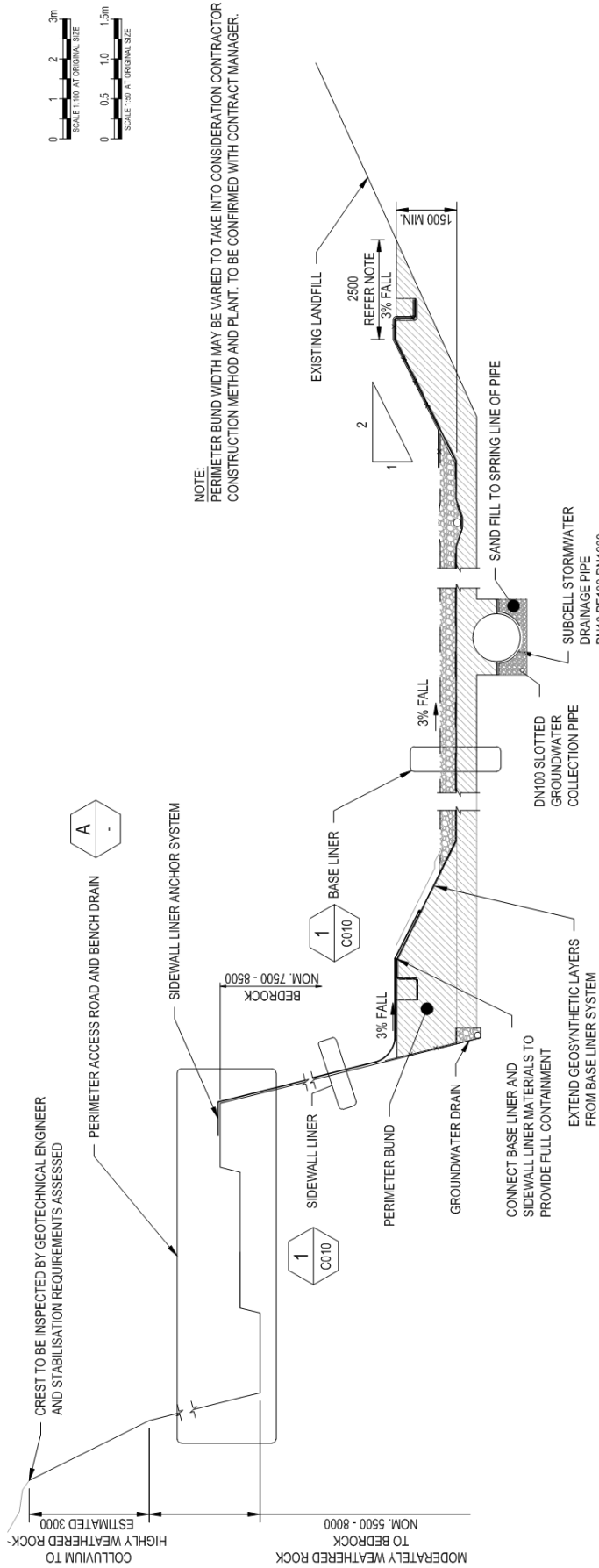
Date	AUG 2016	rev no.	C
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approved (PD)

SK00 ☐

BASE LINER
TYPICAL DETAIL





TYPICAL SECTION

C SECTION
SCALE 1:100

PRELIMINARY

rev	description	app'd	date
G	REVISED	AR	07.01.17
F	REVISED	AR	30.07.17

KIMBRIKI ENVIRONMENTAL ENTERPRISES
AREA 17A LANDFILL CELL
TYPICAL SECTIONS



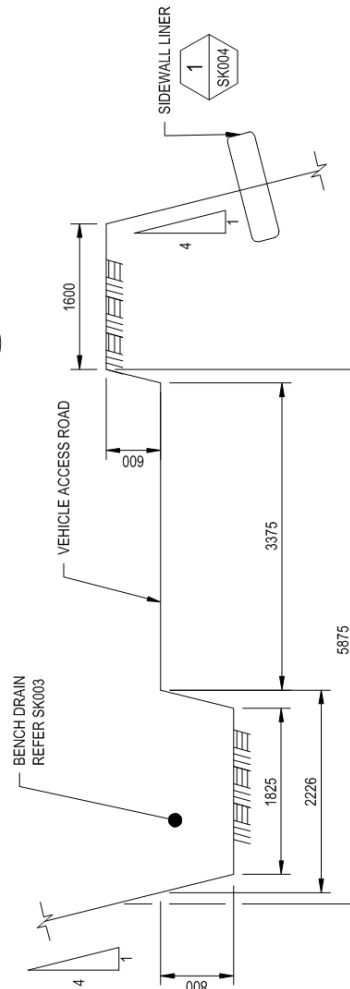
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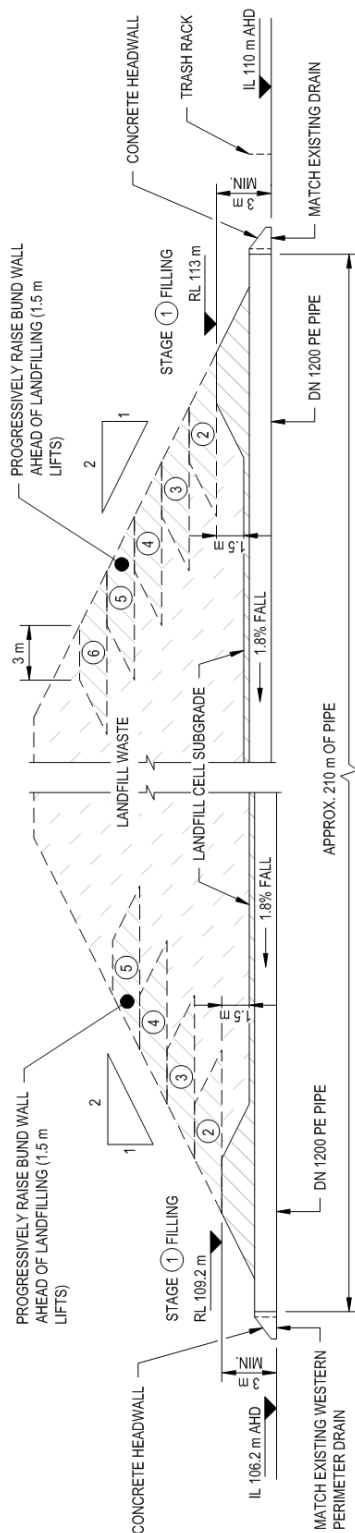
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date AUG 2017 rev no. G

approved (PD)

SK005



3 DETAIL ACCESS ROAD & BENCH DRAIN
TYPICAL DETAIL
SCALE 1:50



NORTHERN BUND
TYPICAL SECTION
SCALE 1 : 250

SOUTHERN BUND
TYPICAL SECTION
SCALE 1 : 250

PRELIMINARY

A	INITIAL ISSUE		app'd	date
rev	description			

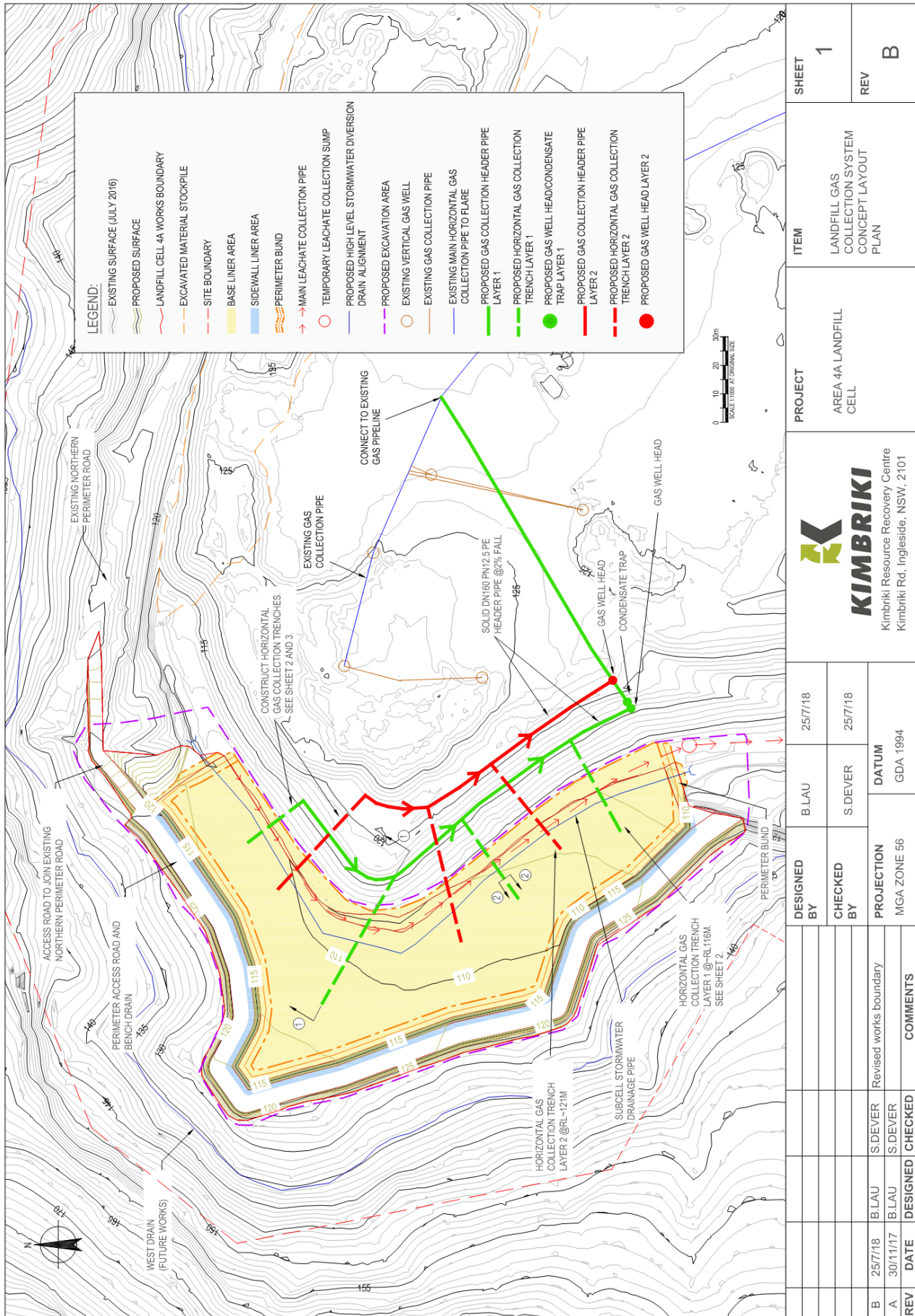


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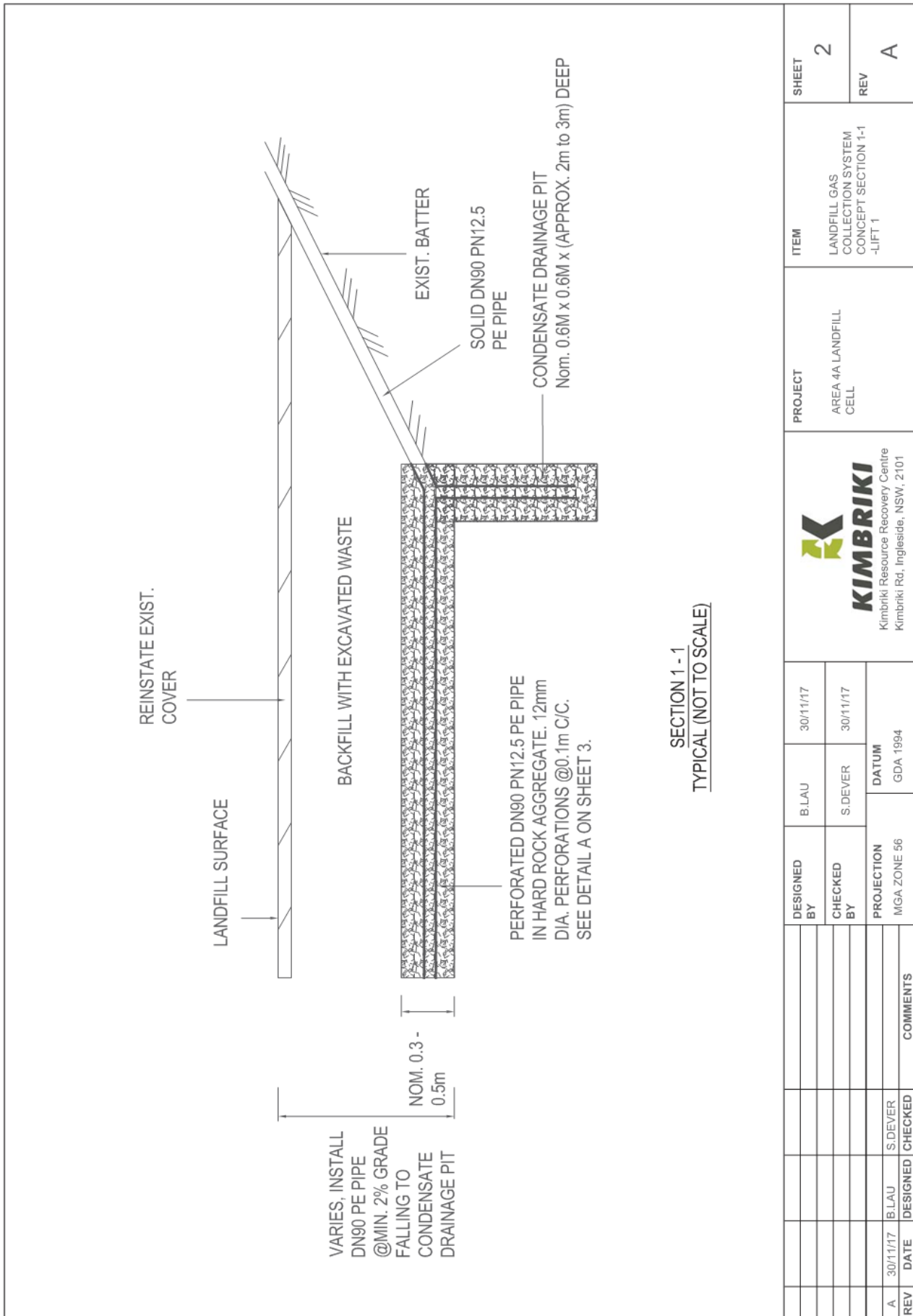
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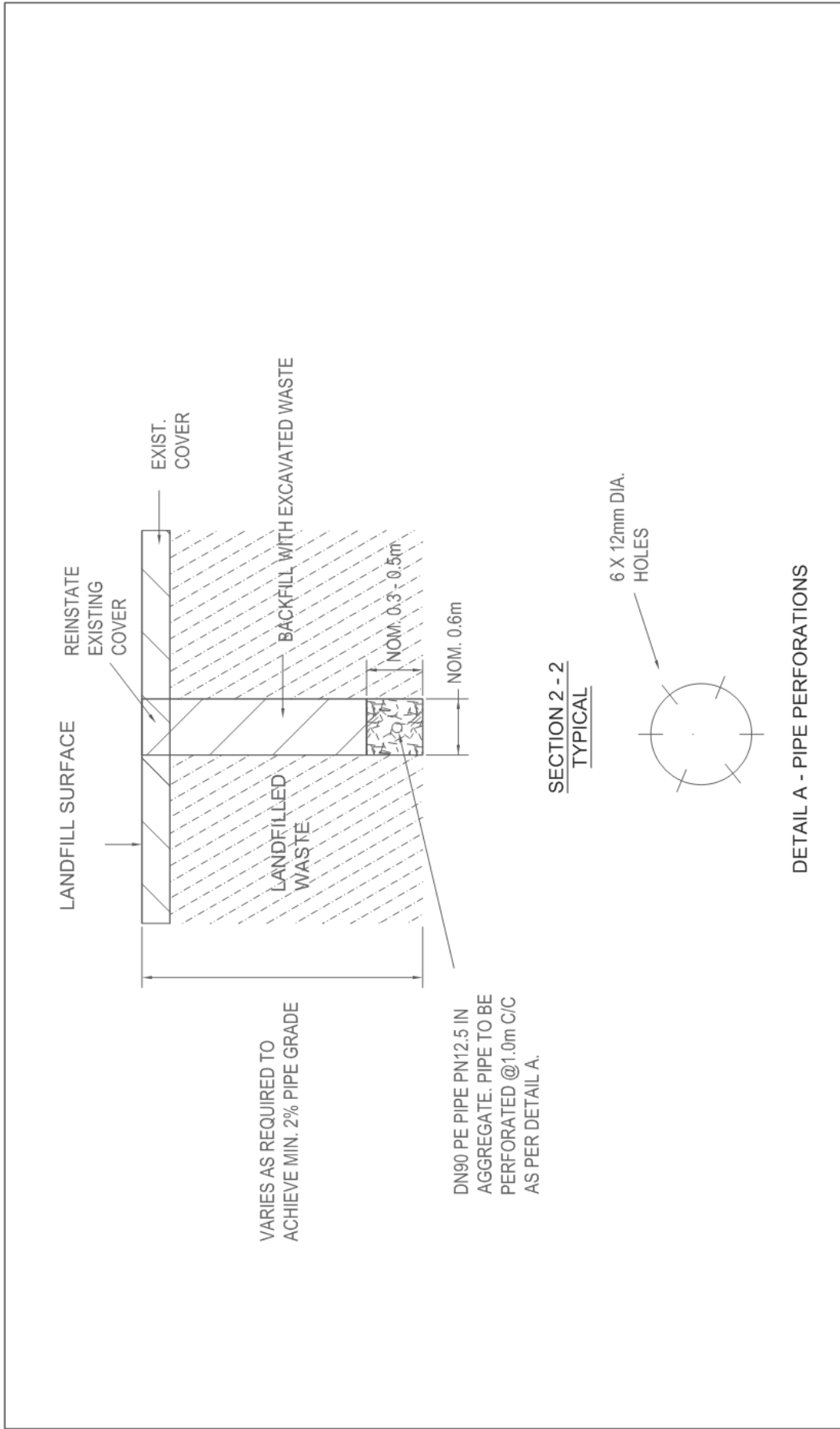
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SK010 approved (PD)



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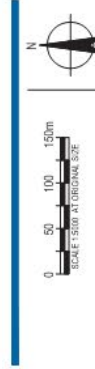


DETAIL A - PIPE PERFORATIONS

REV	DATE	DESIGNED	CHECKED	PROJECTION	DATUM	PROJECT	ITEM	SHEET
A	30/11/17	B.LAU	S.DEVER	MGA ZONE 56	GDA 1994	AREA 4A LANDFILL CELL	LFG HORIZONTAL COLLECTION SYSTEM CONCEPT SECTION 2-2 -LIFT 1	3
REV								A

LEGEND

- FINAL LANDFORM CONTOURS
- CELL DEVELOPMENT FOR FUTURE LANDFILLING
- ACTIVE LANDFILL CELL
- INTERMEDIATE COVER
- FINAL CAP AND REVEGETATION
- PROPOSED HIGH LEVEL DIVERSION DRAIN
- SURFACE WATER DRAIN
- EXCAVATED MATERIAL STOCKPILE
- LOT BOUNDARIES
- ON SITE SEWER DISCHARGE PIPELINE
- UNDERGROUND SEWER DISCHARGE PIPELINE
- STOCKPILE AREA
- LEACHATE DRAINAGE PIPE
- LARGE VEHICLE FACILITY
- SMALL VEHICLE FACILITY
- BUY BACK CENTRE



**KIMBRIKI RESOURCE RECOVERY CENTRE
MASTER PLAN - STAGING PLANS**

FINAL LANDFORM



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Job Number | 21-22107
Revision | F
Date | JUNE 2017 **Figure 12**



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Prepared by: [Name]

10/01/2017 11:02 AM



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Mr Luke Perry
Acting Manager Development Assessments
Northern Beaches Council

By email: luke.perry@northernbeaches.nsw.gov.au

8th February 2019

**RE: External Assessment of Modification Application No. MOD2018/0472,
Lot 2 Mona Vale Road, Terrey Hills (Kimbriki)**

Dear Mr Perry,

1. BACKGROUND AND SCOPE

This report is provided by Keystone Ecological pursuant to our engagement to undertake an external assessment of the ecological documentation associated with the above application for modification to Development Consent No. DA 96/371 that has been granted for the establishment and continued operation of Kimbriki Recycling and Waste Centre.

The Kimbriki Waste Management Facility is a declared Major Project and has been the subject of a series of assessments within which offset areas have been formally set aside to compensate for the removal of biodiversity and habitats for its creation, operation and expansion. This modification to the current consent is for the establishment of another landfill cell in Area 4A, which is located around the north western edge of the existing landfill.

Specifically, this report provides the following:

1. Review of the ecological assessment documents
 - a. Assessment of Forest She-Oaks prepared by Ecotone (dated 2012), and Biosis (dated 2 February 2016);
 - b. Flora and Fauna Assessment prepared by Biosis (dated 9 June 2017);
 - c. Biodiversity Development Assessment Report (or BDAR) prepared by Niche Environment and Heritage (dated 26 July 2018);
 - d. Biodiversity Management Plan (or BMP) prepared by Niche Environment and Heritage (dated 26 July 2018); and
 - e. Waterways Impact Statement (or WIS) prepared by Niche Environment and Heritage (dated August 2018).
2. Assessment of the proposal against Council's Development Control Plan
3. Draft Conditions of Consent

2. DOCUMENT REVIEW

The reports have been assessed against the following criteria:

- Legislative context – whether the report addresses the applicable legislation and in an appropriate manner;
- Information base – whether the report has been informed by the correct databases, and relied on field data collected according to the required standard;
- Technical accuracy – whether technical matters (such as definition of Plant Community Types) are correct;
- Impact assessment – whether the relevant tests are correctly applied; and
- Reporting standard – whether the report is clear and complete.

2.1 **Assessment of Forest She-Oaks prepared by Ecotone (dated 2012), and Biosis (dated 2 February 2016)**

The need for particular attention to be paid to a patch of She-Oaks arose from an assessment in the early 1990s that noted the presence of some very large, old trees in Area 4A. Trees of that age and size have the potential to provide important habitat for fauna (such as food for the threatened Glossy Black-Cockatoo), as well as having high biodiversity value in their own right. These large trees have now gone (most likely due to natural attrition), and the area is instead represented by a dense stand of regenerating saplings across 0.25 hectares.

The assessment reports did not address any particular legislative authority, the opinions based instead on general discussions of the conservation value of the patch of trees.

Both of the assessments provided by Ecotone and Biosis concluded that the patch no longer provides any notable biodiversity values. In their later BDAR assessment, Niche Environment and Heritage further concluded that the biodiversity value of the patch is restricted to its potential to mature in the long term, and eventually provide foraging resources for the Glossy Black-Cockatoo.

Conclusion: The assessment is valid and supported.

2.2 **Flora and Fauna Assessment prepared by Biosis (dated 9 June 2017)**

This report has a number of deficiencies.

It addressed the area 4A landfill expansion, assessing the impacts of the loss of 2.02 hectares of native vegetation which included areas otherwise noted under the previous consent as “restricted activity areas”.

The work was undertaken prior to the commencement of the *Biodiversity Conservation Act 2016*, and so was assessed under the prior planning provisions. In that regard, it referred in error to the *Native Vegetation Act 2003* as at the time of writing of the report, the *Local Land Services Act 2013* was in force in its place. However, this is a minor criticism as the site is not affected by that legislation.

There were no specific data provided to support the assertion that SEPP 44 Koala Habitat Protection did not apply due to the absence of sufficient food trees.

The report noted that an unidentified raptor was seen hovering over the site and that it had the potential to be one of a number of threatened species. A highly valuable and accessible database of bird sightings provided by experienced citizen scientists (eBird, available at <https://ebird.org/australia/map>) was not consulted to aid in the resolution of this potentially important sighting.

Field data were not collected in accordance with best practice, with no targeted survey for threatened species that had a high likelihood to occur on site, such as *Cercartetus nanus* Eastern Pygmy-possum, *Pimelea curviflora* subsp. *curviflora*, and *Tetratheca glandulosa*.

The methodology relied upon to determine PCT 1250 and PCT 905 as best fit for the vegetation on site was not described. Further, the section referred to in that regard related to licencing, and not vegetation analysis.

Not all species requiring an Assessment of Significance were so addressed, particularly two species of microbats (*Miniopterus orianae oceanensis* Eastern Bentwing-bat and *Miniopterus australis* Little Bentwing-bat) that were recorded during survey, and other species that have potential habitat on site (particularly *Pimelea curviflora* subsp. *curviflora* and *Tetratheca glandulosa*).

The report did not quantify what additional offset obligation that may have arisen as a result of the additional landfill cell. Additionally, the proposed conservation management actions were not consistent with the existing offset obligations detailed in previous consents, nor did it comply with the DCP objectives.

It was claimed that vegetation quadrats were collected in accordance with BioBanking Assessment Methodology, but the floristic data did not reflect that assertion. The report also failed to number the waterways on Figure 4, thus making it impossible to discern which waterways contained what environmental values.

Conclusion: The assessment is non-compliant in a number of important areas, and only the data collected should be relied upon.

2.3 Biodiversity Development Assessment Report (or BDAR) prepared by Niche Environment and Heritage (dated 26 July 2018)

Niche Environment and Heritage provided an impact assessment that addressed *inter alia* the shortcomings of the Biosis report. Importantly, by July 2018, the *Biodiversity Conservation Act 2016* had commenced. Despite the redefinition of the footprint so that 1.32 hectares of native vegetation would be directly impacted, this area exceeds the primary clearing threshold and so a BDAR was required. The BDAR was prepared by accredited assessors.

The Niche report addressed a number of the Biosis deficiencies, namely:

-
- Additional targeted survey was undertaken for threatened species considered to have a high likelihood to occur;
 - A BDAR negates the need for Tests of Significance (equivalent to the Assessment of Significance under the old planning provisions);
 - In line with the requirements of the Biodiversity Assessment Method (2017), three plots were sampled in order to assess the vegetation integrity scores of each PCT;
 - The methodology for determining the PCTs was described and was acceptable;
 - The additional offset obligations arising from the proposal were quantified and 5 options to resolve these obligations were explored; and
 - The smaller clearing footprint, observation of the Restricted Activity Area, and the additional biodiversity offset mechanisms all together provided opportunities to satisfy the DCP objectives.

The report claims that legal advice has confirmed that the *Biodiversity Conservation Act 2016* has statutory priority over the DCP, but does not provide that advice. Nevertheless, given the constraints to further on site offsetting and the critical need for the landfill to be extended into Area 4A, the proposed suite of measures to avoid and minimise impacts on site together with off-site offsets are considered sufficient to satisfy the objectives of the DCP.

The BAM details the minimum information requirements for a BDAR, detailed in Appendix 10, at Tables 25 and 26.

The Niche report is judged against those criteria and tabulated overleaf. Overall, the BDAR is compliant with these requirements with only the following omissions:

- Orientation of sampling plots not shown in figures or indicated by provision of data.
- Location of 50m transect and 1m quadrats not indicated.
- Floristic data provided for each sample plot in an unusual format that is not user-friendly.
- Sample sheets were not provided and there was no explanation for their absence (such as collection of field data in an electronic format).
- No map was provided of the final footprint or details regarding the operational footprint.
- There was no list provided of associated digital files.
- There was no indication regarding the submission status of the proposal in the calculator.

These are generally minor omissions that do not compromise any of the findings. They can be readily addressed in an addendum.

It is noted that 5 options for discharging the biodiversity offset obligation were explored in the BDAR. In my opinion, the retirement of that obligation through a payment into the Biodiversity Conservation Fund is the preferred option. The calculations of the quantum of such an obligation was provided in the BDAR, as required. However, it is noted that prices of credits in the Biodiversity Offsets Payment Calculator are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.

Conclusion: The BDAR to be updated as required prior to its acceptance, per the Conditions of Consent.

Report Section	Information	BDAR compliance	Maps and data	BDAR compliance
Introduction	Introduction to the biodiversity assessment including: <ul style="list-style-type: none"> • identification of development site footprint, including: <ul style="list-style-type: none"> ◦ operational footprint ◦ construction footprint • indicating clearing associated with temporary construction facilities and infrastructure 	Yes	<ul style="list-style-type: none"> • Site Map (as described in Section 4.2) 	Yes
	<ul style="list-style-type: none"> • general description of development site 	Yes	<ul style="list-style-type: none"> • Location Map (as described in Section 4.2) 	Yes
	<ul style="list-style-type: none"> • sources of information used in the assessment, including reports and spatial data 	Yes	<ul style="list-style-type: none"> • Digital shape files for all maps and spatial data 	Unknown
Landscape features	Identification of landscape features at the development/biodiversity stewardship site, including: <ul style="list-style-type: none"> • IBRA bioregions and subregions, NSW landscape region and area (ha) 	Yes	<ul style="list-style-type: none"> • IBRA bioregions and subregions (as described in Paragraphs 4.2.1.3–4.2.1.4) 	Yes
	<ul style="list-style-type: none"> • native vegetation extent in the buffer area 	Yes	<ul style="list-style-type: none"> • NSW landscape regions (as described in Paragraph 4.2.1.5) 	Yes
	<ul style="list-style-type: none"> • cleared areas 	Yes		
	<ul style="list-style-type: none"> • evidence to support differences between mapped vegetation extent and aerial imagery 	NA	<ul style="list-style-type: none"> • Rivers and streams (as described in Paragraph 4.2.1.6) 	Yes
	<ul style="list-style-type: none"> • rivers and streams classified according to stream order 	Yes	<ul style="list-style-type: none"> • Wetlands (as described in Paragraph 4.2.1.7) 	Yes

Report Section	Information	BDAR compliance		Maps and data	BDAR compliance
Native vegetation	<ul style="list-style-type: none"> wetlands within, adjacent to and downstream of the site 	Yes		<ul style="list-style-type: none"> Connectivity of different areas of habitat (as described in Paragraphs 4.2.1.8–4.2.1.11) 	Yes
	<ul style="list-style-type: none"> connectivity features 	Yes			
	<ul style="list-style-type: none"> areas of geological significance and soil hazard features 	Yes		<ul style="list-style-type: none"> Areas of geological significance and soil hazard features (as described in Paragraphs 4.2.1.12–4.2.1.15) 	Yes
	<ul style="list-style-type: none"> site context components, including: <ul style="list-style-type: none"> identification of method applied (i.e. linear or site-based) percent native vegetation cover in the landscape 	Yes		<ul style="list-style-type: none"> Native vegetation extent (as described in Subsection 4.3.2) 	Yes
	Identify native vegetation extent within the development site, including cleared areas and evidence to support differences between mapped vegetation extent and aerial imagery. Describe PCTs within the development/biodiversity stewardship site, including:				
	<ul style="list-style-type: none"> vegetation class 	Yes		<ul style="list-style-type: none"> Map of native vegetation extent within the development site (as described in Section 5.1) 	Yes
	<ul style="list-style-type: none"> vegetation type 	Yes			
	<ul style="list-style-type: none"> area (ha) for each vegetation type 	Yes			
	<ul style="list-style-type: none"> species relied upon for identification of vegetation type and relative abundance 	Yes		<ul style="list-style-type: none"> Map of PCTs within the development site (as described in Section 5.2) 	Yes
	<ul style="list-style-type: none"> justification of evidence used to identify a PCT (as outlined in Paragraph 5.2.1.12) 	Yes		<ul style="list-style-type: none"> Map of plot locations relative to PCTs 	Yes, but without detail regarding the locations

Report Section	Information	BDAR compliance	Maps and data	BDAR compliance of 50m transects and 1m quadrats
	<ul style="list-style-type: none"> TEC status (as outlined in Paragraphs 5.2.1.14–5.2.1.15) 	Yes	<ul style="list-style-type: none"> Map of TECs 	NA
	<ul style="list-style-type: none"> estimate of percent cleared value of PCT (as outlined in Paragraph 5.2.1.16) 	Yes	<ul style="list-style-type: none"> Plot field data (MS Excel format) 	Unknown
	Perform a vegetation integrity assessment of the development site, including:		<ul style="list-style-type: none"> Plot field data sheets 	No
	<ul style="list-style-type: none"> mapping vegetation zones (Subsection 5.3.1) 	Yes		
	<ul style="list-style-type: none"> patch size (development site and biodiversity stewardship site) 	Yes		
	<ul style="list-style-type: none"> assessing vegetation integrity using benchmark data (Subsection 5.3.3) 	Yes		
	<ul style="list-style-type: none"> survey effort as described in Subsection 5.3.4 (number of plots) 	Yes	<ul style="list-style-type: none"> Patch size of intact native vegetation (as described in Subsection 5.3.2) 	Yes
	<ul style="list-style-type: none"> determining the vegetation integrity score (Appendix 6): <ul style="list-style-type: none"> composition condition score structure condition score function condition score vegetation integrity score 	Yes		
	Where use of local data is proposed:	Yes		
	<ul style="list-style-type: none"> identify relevant vegetation type 	NA		
	<ul style="list-style-type: none"> identify source of information for local benchmark data 	NA		
	<ul style="list-style-type: none"> justify use of local data in preference to database values. 	NA	<ul style="list-style-type: none"> Table of current vegetation integrity scores for each vegetation zone within the development site. 	Yes

Report Section	Information	BDAR compliance	Maps and data	BDAR compliance
Threatened species	Identify ecosystem credit species associated with PCTs on both the development site and biodiversity stewardship site as outlined in Section 6.2, including:			
	• list of species derived	Yes		
	• justification for exclusion of any ecosystem credit species predicted above	NA (none excluded)	<ul style="list-style-type: none"> Table of habitats or habitat components and their sensitivity classes 	Partially compliant No detail regarding sensitivity classes
	Identify species credit species on both the development site and the biodiversity stewardship site as outlined in Sections 6.3 to 6.5, including:			
	• list of candidate species	Yes	<ul style="list-style-type: none"> Table detailing the list of species credit species and presence status on site as determined by targeted survey, indicating also where presence was assumed and/or where presence was determined by expert report 	Yes
	• justification for inclusions and exclusions based on habitat features	Yes		
	• indication of presence based on targeted survey or expert report	Yes (targeted survey)		
	• details of targeted survey technique, effort, timing and weather	Yes		
	• species polygons	Yes (but undifferentiated)	<ul style="list-style-type: none"> Species credit species polygons (as described in Paragraph 6.4.1.33) 	Yes (but undifferentiated)
	• biodiversity risk weighting for the species	Yes		
	• threatened species survey	Yes		
	• additional requirements for wind farm developments	NA		

Report Section	Information	BDAR compliance		Maps and data	BDAR compliance
		Where use of local data is proposed:			
	<ul style="list-style-type: none"> identify relevant species 	NA		<ul style="list-style-type: none"> Table detailing species and habitat feature/component associated with species and its abundance on site (as described in Paragraph 6.4.1.34) 	Yes
	<ul style="list-style-type: none"> identify aspect of species data 	NA			
	<ul style="list-style-type: none"> identify source of information for local data 	NA			
	<ul style="list-style-type: none"> justify use of local data in preference to database values. 	NA			
	Where expert reports are used in place of targeted survey:	NA			
	<ul style="list-style-type: none"> identify the relevant species 	NA		<ul style="list-style-type: none"> Table detailing biodiversity risk weighting for species on site (as described in Section 6.6) 	Yes
	<ul style="list-style-type: none"> justify the use of an expert report 	NA			
	<ul style="list-style-type: none"> indicate and justify the likelihood of presence of the species and information considered in making this assessment 	NA			
	<ul style="list-style-type: none"> estimate the number of individuals or area of habitat (whichever unit of measurement applies to the species/individual) for the development site or biodiversity stewardship site, including a description of how the estimate was made 	NA		<ul style="list-style-type: none"> For wind farm developments: maps of habitual flight paths for nomadic and migratory species likely to fly over the site and maps of likely habitat for threatened aerial species resident on the site 	NA
	<ul style="list-style-type: none"> identify the expert and provide evidence of their expert credentials 	NA			
Avoid and minimise impacts	Demonstration of efforts to avoid and minimise impact on biodiversity values in accordance with Chapter 8	Yes Although avoidance is not possible given the nature of the proposal		<ul style="list-style-type: none"> Table of measures to be implemented before, during and after construction to avoid and minimise the impacts of the project, including 	Yes

Report Section	Information	BDAR compliance	Maps and data action, outcome, timing and responsibility	BDAR compliance
Impact summary	Assessment of direct and indirect impacts unable to be avoided at the development site in accordance with Sections 9.1 and 9.2. The assessment would include but not be limited to: type, frequency, intensity, duration and consequence of impact.	Yes	<ul style="list-style-type: none"> Map of final project footprint, including construction and operation 	No
	For major projects: details of the adaptive management strategy proposed to monitor and respond to impacts on biodiversity values that are uncertain (Section 9.4).	Yes	<ul style="list-style-type: none"> Maps demonstrating indirect impact zones where applicable 	Yes
	Identification and an assessment of the impacts which are potential serious and irreversible impacts, in accordance with Subsections 10.2.2 for impacts on CEECs and 10.2.3 for threatened species.	Yes	<ul style="list-style-type: none"> Map showing the location of serious and irreversible impacts 	NA
	Identification of impacts requiring offset in accordance with Section 10.3.	Yes	<ul style="list-style-type: none"> Map of impacts requiring offset 	Yes
	Identification of impacts not requiring offset in accordance with Paragraph 10.3.2.2.	Yes	<ul style="list-style-type: none"> Map of impacts not requiring offset 	Yes
	Identification of areas not requiring assessment in accordance with Section 10.4	Yes	<ul style="list-style-type: none"> Map of areas not requiring assessment 	NA
	Ecosystem credits and species credits that measure the impact of the development on biodiversity values, including:		<ul style="list-style-type: none"> Table of PCTs requiring offset and the number of ecosystem credits required 	Yes

Report Section	Information	BDAR compliance	Maps and data	BDAR compliance
	<ul style="list-style-type: none"> future vegetation integrity score for each vegetation zone at the development site (Equations 17 and 18 in Appendix 6) 	Yes	<ul style="list-style-type: none"> Table of threatened species requiring offset and the number of species credits required 	Yes
	<ul style="list-style-type: none"> change in vegetation integrity score (Subsection 9.1.3) 	Yes		
	<ul style="list-style-type: none"> number of required ecosystem credits for the impact of development on each vegetation zone at a development site (Subsection 11.2.3) 	Yes	<ul style="list-style-type: none"> Submitted proposal in the Credit Calculator 	Unknown
	<ul style="list-style-type: none"> number of required species credits for each threatened species that is impacted on by development (Subsection 11.2.4). 	Yes		
Biodiversity credit report	Credit classes for ecosystem credits and species credits at the development site.	Yes	<ul style="list-style-type: none"> Table of credit class and matching credit profile 	Yes

2.4 Biodiversity Management Plan (or BMP) prepared by Niche Environment and Heritage (dated 26 July 2018)

The BMP provided details the necessary controls that will ameliorate on site impacts of works as much as possible and is generally endorsed. However, it is deficient in two ways:

- It does not include details regarding nest box installation, monitoring and maintenance (as was recommended in the BDAR); and
- It does not provide a plan that clearly delineates or details the construction footprint.

Conclusion: The BMP to be updated as required prior to its acceptance, per the Conditions of Consent.

2.5 Waterways Impact Statement (or WIS) prepared by Niche Environment and Heritage (dated August 2018)

The WIS has been prepared in accordance with Council requirements.

The proposal will result in the total loss of small sections of the heads of 7 streams. While this is undesirable, it is unavoidable, and all possible controls to prevent downslope impacts are to be implemented. These are detailed in the BMP as well as the Stormwater Management Plan.

Any and all relevant in engineering plans and controls (including Construction Management Plans) are to strictly observe the necessary controls.

Relevant offset obligations for loss of these areas are also provided in the BDAR package.

Conclusion: The WIS is valid and supported.

3. DCP COMPLIANCE

The compliance or otherwise of the proposal with the Warringah DCP 2011 was addressed in the biodiversity documents, but particularly in the Niche BMP in section 1.3.

The original criticism of the proposal was that it did not meet the DCP objectives as it relied on areas already managed for conservation (the adjacent JJ Melbourne Hills Memorial Reserve) and / or as biodiversity offsets (areas offset on the Kimbriki site for development of earlier components of the facility).

Both of these criticisms are addressed by the following:

- definition of a smaller footprint, therefore providing the ability to ameliorate impacts in vegetation between reserved and offset lands and the construction footprint; and
- the observation of formal offset obligations as detailed in the BDAR that was subsequently provided.

Conclusion: The proposal is satisfactory when assessed under the requirements of the DCP.

4. SEPP 44 – Koala Habitat Protection

The Biosis report noted the presence of *Eucalyptus punctata* Grey Gum in 2 of their 3 BioBanking sample plots and on site generally. It was asserted that this species was not numerous enough in accordance with the SEPP to constitute Koala habitat, although no specific data were provided in support of this conclusion. Niche sampled 3 BAM plots, seemingly in different locations, and noted no eucalypts at all. Also, the site photographs do not show the presence of any eucalypts.

Moreover, the scientific descriptions of PCT 1250 and PCT 905 published by OEH on the Bionet Vegetation Classification do not include any tree species known as Koala food trees.

Thus it is accepted that the vegetation on site is unlikely to represent Koala habitat per the definitions in SEPP 44.

Conclusion: No further assessment required pursuant to this SEPP.

5. DRAFT CONDITIONS OF CONSENT

The following draft Conditions of Consent are provided, based partly on the model conditions prepared by OEH, and adapted to conform to the standards of Northern Beaches Council. The numbering needs to be adjusted for incorporation into the Consent Conditions.

CONDITIONS TO BE COMPLIED WITH PRIOR TO ISSUING OF CONSTRUCTION CERTIFICATE

1. **Biodiversity Development Assessment Report (BDAR)**

Prior to the issue of Construction Certificate, an amended BDAR is to be submitted that addresses the following:

- Show in a figure or provide information that explains the orientation of sampling plots, including the 50 m transect and the 1 m² litter quadrats;
- Tabulate floristic data from the BAM quadrats in standard format of species by plot;
- Provide sampling sheets showing raw data collected at each BAM plot or provide explanation for their absence;
- Provide a map(s) / figure(s) showing the extent of the final footprint and details of the operational footprint; and
- Provide a list of associated digital files created for the BDAR.

2. **Ecosystem Credits Required to be Retired**

Prior to the issue of Construction Certificate, the class and number of Ecosystem Credits in Table 1 must be retired to offset impacts of the development.

Table 1

Impacted Plant Community Type	Number of Ecosystem Credits	IBRA sub-region
PCT 905	5	Pittwater Sub Region

Lilly Pilly - Coachwood warm temperate rainforest on moist sheltered slopes and gullies, Sydney Basin Bioregion and South East Corner Bioregion		From a location within 100km of the subject site
PCT 1250 Sydney Peppermint - Smooth-barked Apple - Red Bloodwood shrubby open forest on slopes of moist sandstone gullies, eastern Sydney Basin Bioregion	19	Pittwater Sub Region From a location within 100km of the subject site

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of this condition must be provided to the consent authority prior to issue of construction certification.

Reason: To offset impacts upon native vegetation.

3. Species Credits Required to be Retired

Prior to the issue of Construction Certificate, the class and number of Species Credits in Table 2 must be retired to offset impacts of the development.

Table 2

Impacted Species	Number of Species Credits	IBRA sub-region
<i>Calyptorhynchus lathami</i> Glossy Black-Cockatoo	32	Any IBRA sub-region in NSW
<i>Cercartetus nanus</i> Eastern Pygmy-possum	32	Any IBRA sub-region in NSW
<i>Ninox connivens</i> Barking Owl	32	Any IBRA sub-region in NSW
<i>Ninox strenua</i> Powerful Owl	32	Any IBRA sub-region in NSW
<i>Petaurus norfolcensis</i> Squirrel Glider	32	Any IBRA sub-region in NSW
<i>Tyto novaehollandiae</i> Masked Owl	32	Any IBRA sub-region in NSW
<i>Tyto tenebricosa</i> Sooty Owl	48	Any IBRA sub-region in NSW

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of this condition must be provided to the consent authority prior to issue of construction certification.

Reason: To offset impacts upon native species.

4. Biodiversity Management Plan (BMP)

The BMP may form part of a Construction Environmental Management Plan.

The BMP must identify the development site as per the BDAR and approved plans.

The BMP must identify areas of land that are to be retained as outlined in the BDAR.

Construction impacts must be restricted to the development site and must not encroach into areas of retained native vegetation and habitat. All materials stockpiles, vehicle parking, machinery storage and other temporary facilities must be located within the areas for which biodiversity impacts were assessed in the BDAR.

The BMP must identify all measures proposed in the BDAR to mitigate and manage impacts on biodiversity, including performance measures for each commitment.

Prior to the issue of Construction Certificate, the BMP must be amended to the satisfaction of the consent authority and include the following omissions:

- Nest box plan regarding the numbers and types to be installed, the protocols for installation, monitoring, and maintenance; and
- Map / figure that clearly delineates and details the construction footprint.

Reason: To ameliorate impact and protect biodiversity.

5. Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland protection measures are carried out according to the conditions of consent.

The Project Ecologist will provide certification that conditions relating to the approved and Biodiversity Management Plan are carried out. The Project Ecologist will ensure that all conditions relating to the biodiversity management of the site are fully implemented.

The Project Ecologist must have one of the following memberships/accreditation,

- Practising member of the NSW Ecological Consultants Association OR
- Accredited Ecological Consultant by the NSW Ecological Consultants Association OR
- Certified Environmental Practitioner of the Environment Institute of Australia and New Zealand.

Reason: To ensure bushland management.

6. Implementation of Biodiversity Management Plan

Except where prescribed otherwise in the conditions of consent, all requirements in the approved Biodiversity Management Plan are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the Project Ecologist and submitted to the consent authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management.

7. Delineation Works Zone

Prior to the commencement of any onsite works or commencement of vegetation clearance/modification, the extent of the works area must be surveyed and marked on ground.

The clearing of vegetation for the works is to be confined within the works area boundaries.

Details demonstrating compliance are to be submitted to the consent authority prior to issue of the Construction Certificate.

Reason: Bushland Protection.

CONDITIONS TO BE COMPLIED WITH DURING CLEARING AND CONSTRUCTION WORKS

8. Implementation of Biodiversity Management Plan

Except where prescribed otherwise in the conditions of consent, all requirements in the approved Biodiversity Management Plan are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the Project Ecologist and submitted to the consent authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management.

9. Fauna and Tree Hollow re-location

During any vegetation clearance for construction works the Project Ecologist is to be present to re-locate any displaced fauna that may be disturbed during this activity.

Tree hollows are to be salvaged from trees within the development area and placed within retained vegetation. This is to be done by a qualified and experienced Arborist, under the direction of the Project Ecologist.

Details prepared by the project ecologist in writing demonstrating compliance are to be submitted to the consent authority.

Reason: Fauna and habitat protection.

10. Installation of Nest Boxes and artificial hollows

Nest boxes suitable for microbats, possums and birds are to be installed in accordance with the approved Biodiversity Management Plan

A certificate demonstrating compliance must be prepared by the Project Ecologist and submitted to the consent authority prior to any commencement. The geographic location of all nest boxes is to be provided to Council.

Reason: Fauna Habitat Replacement.

11. Tree Hollow Inspection

All tree hollows proposed for clearing are to be inspected by the Project Ecologist prior to removal. Inspection of tree hollows is to be facilitated by a qualified and experienced tree climber or Arborist with the use of an elevated work platform where necessary.

Details prepared by the project ecologist in writing demonstrating compliance is to be submitted to the consent authority prior to commencement of tree removals.

Reason: Fauna and habitat protection.

12. Relocation of Logs and Coarse Woody Debris

Hollow logs and branches are to be salvaged from cleared trees and reused as fauna habitat within the retained areas.

Details are to be prepared by the project ecologist in writing demonstrating compliance and submitted to the consent authority.

Reason: Fauna Habitat enrichment.

13. Weed Removal and Management

No weeds are to be imported on to the site.

All invasive and priority weeds on the site are to be removed and managed continuously, in accordance with the Biosecurity Act 2015.

Details demonstrating the removal and management of weeds are to be prepared by the project ecologist in writing and submitted to the consent authority prior to occupation certificate.

Reason: Weed management and biosecurity.

14. Certification of ongoing work

A Bush Regeneration contract is to be entered into to ensure that works required by the approved Biodiversity Management Plan are adequately completed. The bush regeneration company is to provide certification that of contract engagement and commencement of works to the consent authority prior to occupation certificate.

Reason: Bushland Revegetation and Rehabilitation.

15. Certification of Biodiversity Management and ongoing work

The Project Ecologist is to certify that unless otherwise prescribed by the conditions of consent, all actions in the approved Biodiversity Management Plan have been undertaken fully and where relevant completed and that an appropriate program of revegetation and maintenance has been entered into to comply with requirements of the Plan.

Certification in writing is to be provided by the Project Ecologist to the consent authority prior to occupation certificate.

Reason: Vegetation / Biodiversity Management.

6. CONCLUSION

The proposal is part of important infrastructure and as it is nearing its maximum footprint, it is recognised that on-site conservation measures are progressively limited. The application of the additional offset obligations arising from the application of the *Biodiversity Conservation Act 2016* and implementation of a revised Biodiversity Management Plan are considered sufficient to address these concerns.

I trust that this report is of assistance to you and please do not hesitate to contact me if further information or explanation is required.

Yours sincerely,



Elizabeth Ashby

**Principal Consultant
Keystone Ecological**

ITEM 3.3**DA2018/1727 – MARKET LANE, MANLY - ALTERATIONS AND ADDITIONS TO AN EXISTING COMMUNITY FACILITY (MANLY LIBRARY)****REPORTING OFFICER****Rodney Piggott****TRIM FILE REF****2019/082564****ATTACHMENTS**

- 1 Assessment Report**
- 2 Plans**

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is the Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2018/1727 for alterations and Additions to an existing Community Facility (Manly Library) at Lot 2849 DP 8444427, Market Lane, Manly subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1727
Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 2849 DP 822227, 0 Market Lane MANLY NSW 2095
Proposed Development:	Alterations and Additions to an existing Community Facility (Manly Library)
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Northern Beaches Council
Applicant:	Leanne Martin
Application lodged:	22/10/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Community facility
Notified:	10/11/2018 to 24/11/2018
Advertised:	10/11/2018
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 19,512.00

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest

- groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

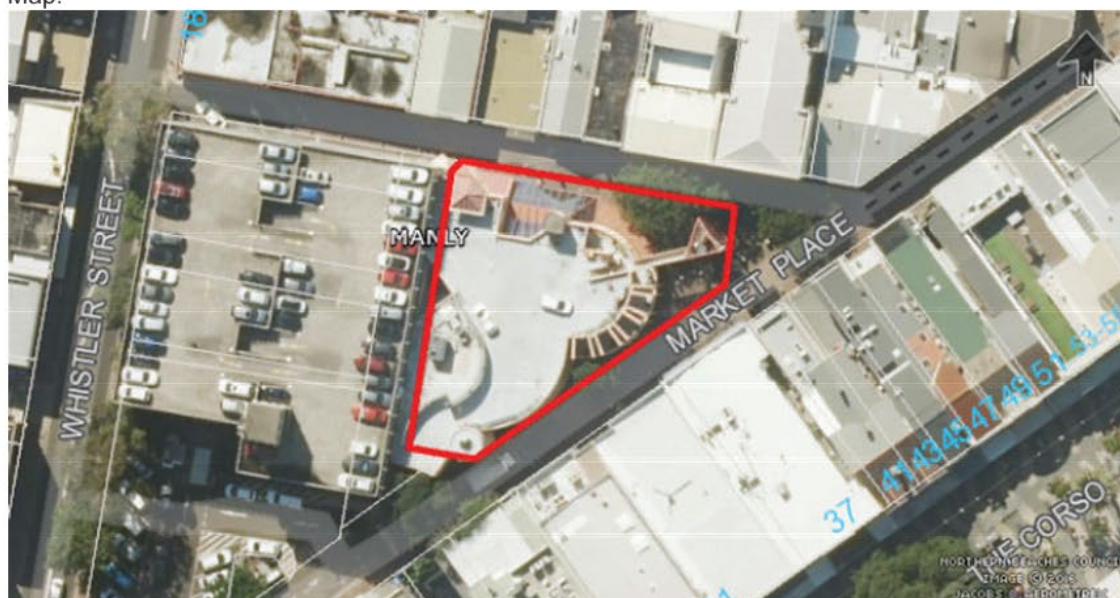
SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.1.3 Townscape (Local and Neighbourhood Centres)

SITE DESCRIPTION

Property Description:	Lot 2849 DP 822227 , 0 Market Lane MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern of Market Lane.</p> <p>The site is irregular in shape with a frontage of 55m along Market Lane. The site has a surveyed area of 1107m².</p> <p>The site is located within the B2 Local Centre zone and accommodates a community facility (Manly Library).</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>The area is characterised by mixed use development with typically retail and food and drink premises and residential accommodation on the floors above.</p>

Map:



SITE HISTORY

The land has been used as a community facility for an extended period of time. A search of Council's records has revealed the following relevant history:

DA404/2006- Alterations and Additions to the existing Manly Library Building including new third (3rd) floor and mezzanine level (Approved 8 July 2008).

DA116/2011- Extension of the existing Arts, Crafts and Farmers Markets along Market Lane and Market Place (Approved by MIAP 18 August 2011)

PROPOSED DEVELOPMENT IN DETAIL

The application proposes a mural to the existing southern wall of Manly Library within Market Lane, Manly.

The proposed mural extends east approximately 13.5m from the south western corner of the library.

The mural is proposed from existing ground level to the top southern wall, 12.7m above ground level.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the</p>

Section 4.15 Matters for Consideration'	Comments
	<p>consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	No objections to proposal mural on wall of Manly Library Building and no recommended special condition/s.
Strategic and Place Planning (Heritage Officer)	<p>Council's Heritage Advisor provided the following comment in regards to the proposal:</p> <p><i>'The site is not a heritage item, but in relative proximity of The Corso area. There were no reactions from the public to the proposal.</i></p> <p><i>Given the above, I would have no objections to this proposal.'</i></p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 64 - Advertising and Signage

State Environmental Planning Policy No. 64- Advertising and Signage applies to all signage that:

- (a) can be displayed with or without development consent under another environmental planning instrument that applies to the signage, and
- (b) is visible from any public place or public reserve,

The policy defines **signage** under clause 4 as:

"signage means all signs, notices, devices, representations and advertisements that advertise or promote any goods services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage and includes:

- (a) building identification signs, and
- (b) business identification signs, and
- (c) advertisements to which Part 3 applies,

but does not include traffic signs or traffic control facilities."

This development proposes an art mural along the existing southern external wall of a Council Building (Manly Library) in Market Lane, Manly. The proposed mural does not advertise any goods or services and as such is not considered to be signage as per the definition above. Therefore, the State Environmental Planning Policy does not apply to this application.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Compliance Assessment

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.9 Foreshore scenic protection area	Yes
6.13 Design excellence	Yes
Schedule 5 Environmental heritage	Yes

Manly Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
5.1.1 General Character	Yes	Yes
5.1.2 The Corso	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.1.3 Townscape (Local and Neighbourhood Centres)

Merit consideration:

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

Objective 4) To ensure that all parking provision is designed and sited to respond to and respect the prevailing townscape.

Comment:

No changes to parking are proposed.

Objective 5) To assist in maintaining the character of the locality.

Comment:

The proposed mural will contribute to the desired character of Market Lane, Manly as an extension to Manly Corso and overall Manly Town centre.

Objective 6) To recognise the importance of pedestrian movements and townscape design in the strengthening and promotion of retail centres.

Comment:

The proposed mural is to be located on a blank wall on the southern side of the library building. The mural will be visually prominent to pedestrians within the Manly Town Centre and in particular along Market Lane. The mural will add visual interest to an otherwise blank wall and contribute to the Market Lane streetscape.

Objective 7) To minimise negative visual impact, in particular at the arterial road entry points into the Council area and the former Manly Council area, so as to promote townscape qualities.

Comment:

The proposed mural will not be readily viewable from any arterial road or vehicle entry to the town centre.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1727 for Alterations and Additions to an existing Community Facility (Manly Library) on land at Lot 2849 DP 822227, 0 Market Lane, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
South East Elevation/ Revision A	September 2018	MB
Site Plan	Not applicable	Not applicable.
Schedule of Colours	31 August 2018	Kayapa Creative Studio

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

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

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Sydney water	Development Referral - Alterations & Additions to Manly Library	29 November 2018

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's.

3. Prescribed Conditions

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

subdivision work or demolition work is being carried out:

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

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

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

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative Requirement

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out

- v) For any work/s that is to be demolished

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition

work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

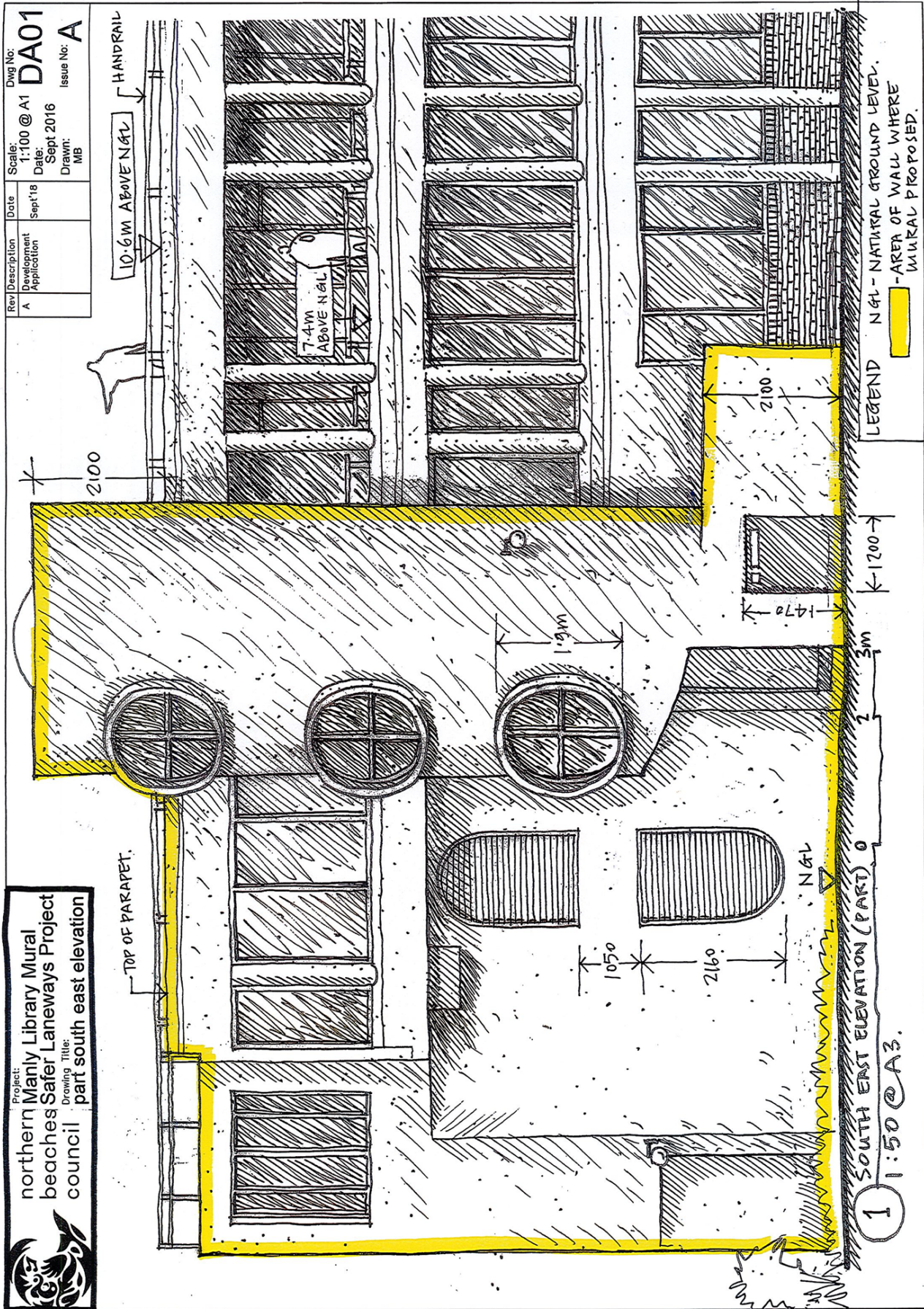
CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. **Compliance with Standards**

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

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

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



SITE PLAN

