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 4 MARCH 2020

Beginning at 1.00pm for the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Peter Biscoe	Chair
Steve Kennedy	Urban Design Expert
Marcus Sainsbury	Environmental Expert
Nick Lawther	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 4 March 2020 in the Council Chambers, Civic Centre, Dee Why Commencing at 1.00pm

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2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 19 FEBRUARY 2020

RECOMMENDATION

That the Panel note that the Minutes of the Northern Beaches Local Planning Panel held 19 February 2020 were adopted by the Chairperson and have been posted on Council's website.

3.0 DEVELOPMENT APPLICATIONS

ITEM 3.1	**DA2019/1021 - WEST ESPLANADE, MANLY - ALTERATIONS AND ADDITIONS TO AN EXISTING CAFE AND SIGNAGE**
AUTHORISING MANAGER	**MATTHEW EDMONDS**
TRIM FILE REF	**2020/114026**
ATTACHMENTS	**1 ⇩Assessment Report**
	2 ⇩Site, Floor and Elevation 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. DA2019/1021 for alterations and additions to an existing cafe and signage at Lot 2 DP 1019352 & Lot 7340 DP 1144101, West Esplanade, Manly subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1021

Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 2 DP 1019352 & Lot 7340 DP 11441010, West Esplanade MANLY NSW 2095
Proposed Development:	Alterations and additions to an existing cafe and signage
Zoning:	RE1 Public Recreation, W2 Environmental Protection
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Roads & Maritime Services NSW Government - Minister Administering the Crown Land Act 1989
Applicant:	Tracey O'Sullivan

Application Lodged:	16/09/2019
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	21/12/2019 to 10/02/2020
Advertised:	21/12/2019
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	$ 59,500.00

EXECUTIVE SUMMARY

The proposal seeks consent for alterations and additions to an existing cafe and signage. As the Reserve Trust Managers for the site (Lot 7340 DP 1144101), Northern Beaches Council has a conflict of interest in determining this application. As such, the application is referred to the Northern Beaches Local Planning Panel for determination.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the alterations and additions to an existing cafe and signage. In particular the works include:

- Internal reconfiguration to include a new commercial kitchen, service area, seating and office;
- Replacement of existing bi-fold doors at the front with new aluminium bi-fold doors;
- Seating - Outdoor seating within lease area for 24 patrons, with landscaping in movable planter boxes;
- Indoor seating for 24 patrons;
- Back-lit LED business identification sign anchored vertically to the northern elevation of the external wall; and
- Proposed hours of operation 7am to 10pm.

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

Assessment - Foreshore and Waterways Planning and Development Advisory Committee
Manly Local Environmental Plan 2013 - Zone RE1 Public Recreation
Manly Local Environmental Plan 2013 - 4.3A Special height provisions
Manly Local Environmental Plan 2013 - 5.10 Heritage conservation
Manly Local Environmental Plan 2013 - 6.10 Limited development on foreshore area
Manly Development Control Plan - 3.1.3 Townscape (Local and Neighbourhood Centres)
Manly Development Control Plan - 3.4.2 Privacy and Security
Manly Development Control Plan - 3.6 Accessibility
Manly Development Control Plan - 3.9 Mechanical Plant Equipment
Manly Development Control Plan - 4.4.3 Signage

SITE DESCRIPTION

Property Description:	Lot 2 DP 1019352 , 0 West Esplanade MANLY NSW 2095
Detailed Site Description:	The site consists of two (2) allotments, being Lot 7340 in DP 1144101 and Lot 2 DP 1019352. Lot 7340 in DP 1144101 consists of area above Mean High Water Mark (MHWM) which is known as Lauderdale Avenue, Fairlight and includes the public reserves and foreshore areas between Manly Wharf towards North Harbour Reserve in Balgowlah. This land holding is irregular in shape with an approximate area of 5.6 Hectares (55376.0 m²).

	Lot 2 DP 1019352 consists of the area below MHWM, which is known as West Esplanade Manly and includes Manly Cove Pavilion and Manly Surf n Slide. This land holding is also irregular in shape with an approximate area of 1622.0 m². The site is located within the RE1 Public Recreation zone for the portion of the site above MHWM and within the W2 Environmental Protection zone for the portion of the site below MHWM. The site is situated on the eastern end of a building complex known as Manly Pavilion. This portion of the site is presently occupied by 'Manly Surf n Slide' and accommodates a cafe premises known as 'Sliderz Cafe'. To the rear is a ticketing office where the associated water slides and pool are also located. Sliderz Cafe is within a single storey rendered building that is attached to a two storey rendered building. The site is located partly within the State Heritage Register curtilage of item I249 "Manly Cove Pavilion" and local heritage item I250 "Manly Cove Amenities Block", and listed within Schedule 5 of the Manly Local Environment Plan 2013. **Landowners Consent** With regard to Lot 7340 in DP 1144101, email correspondence was received by Crown Lands on the 24th October 2019 indicating that consent is taken to have been given for lease/licence holders in relation to any development applications relating to a range of development that would include the proposed works, pursuant to Section 2.23 of the Crown Land Management Act 2016. Landowners consent was provided by Roads and Maritime Services on 13 September 2019 for the proposed works on Lot 2 in DP 1019352. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by a water park known as 'Manly Surf n Slide' located to the rear (west) of the cafe premises. Manly Cove Pavilion and Manly Sea Life Sanctuary (now closed) is located to the south. To the north is the Manly Cove Amenities Block, and Manly Art Gallery and Museum.

Map:



SITE HISTORY

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

3 October 2002

Development Application No. 118/02 for a refreshment kiosk and ticketing booth was granted consent on 3 October 2002.

16 October 2002

Section 96 (1A) of Development Application No. 118/02 for modification of approved plans was granted consent on 16 October 2002.

22 January 2003

Construction Certificate No. 2003/13 was issued for the works approved with Development Application No. 118/02.

APPLICATION HISTORY

16 September 2019

The subject development application received by Council.

20 September 2019 - 21 October 2019

Email correspondence between Development Assessment and Council's Property, Commercial & Tourist Assets division concerning landowners consent requirements.

14 October 2019

Notification letters sent.

21 October 2019

Photo evidence of the notification sign being appropriately placed on site received by Council.

22 October 2019

Phone and email correspondence from the Development Assessment Officer to the Applicant identifying that Land Owners consent from Crown Lands (Department of Planning, Industry and Environment) would be required.

24 October 2019

Email correspondence provided by Crown Lands detailing that consent is taken to have been given for lease/licence holders in relation to any development applications relating to a range of development that would include the proposed works, pursuant to Section 2.23 of the Crown Land Management Act 2016.

25 October 2019

Site inspection undertaken by the Development Assessment Officer. Applicant present on site.

1 November 2019

Email sent by the Development Assessment Officer to Foreshores and Waterways Planning and Development Advisory Committee requesting an update on referral response.

14 November 2019

Referral comments received by Council's Heritage Advisor detailing that part of the site was within the State Heritage Register curtilage of Manly Cove Pavilion, and therefore would require the approval of Heritage NSW.

14 November - 18 November 2019

Email correspondence between the Development Assessment Officer and Applicant detailing that the application would require an integrated referral to Heritage NSW in accordance with Section 57 (1) of the Heritage Act 1977 as well as advertisement for 28 days in accordance with the Environmental Planning & Assessment Regulations 2000.

28 November 2019

Referral response received from the Foreshore and Waterways Planning and Development Advisory Committee.

29 November 2019

Letter issued by Council to the Applicant detailing that amendments to the development application form, submitted plans (signage) as well as additional fees for the Heritage NSW integrated referral and advertisement of the application.

6 December 2019

Additional fees paid by the Applicant.

11 December 2019

Additional information in the form of amended plans and an amended development application received by Council and accepted.

21 December 2019

Re-notification of the application as advertised development.

23 December 2019

Photo evidence of the notification sign being appropriately placed on site received by Council.

22 January 2020 - 17 February 2020

Email correspondence between the Development Assessment Officer and the Senior Heritage Assessment Officer at Heritage NSW regarding the proposal.

10 February 2020

Submission period closes.

17 February 2020

Heritage NSW provides General Terms of Approval.

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)(iiia) – 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)	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. 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. Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. 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.

	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. Clause 98 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. 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.
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	(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. (ii) **Social Impact** The proposed development wwill not have a detrimental social impact in the locality considering the character of the proposal. (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.
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.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been reviewed and there are are no objections to granting consent subject to standard Consent conditions.

	Note: Whilst the development may not fully address all requirements of the BCA, any matters arising may be determined at Construction Certificate stage where required for BCA (Part E - Essential Services).
Environmental Health (Industrial)	**General Comments** Further to the Environmental Health response dated 25 September 2019, we have been requested to comment on the operating hours of the proposed upgrade to the existing cafe facility. Information provided states: • operating hours are to remain the same as existing consent - 7 am to 10 pm. • relevant development controls allow "Hours of operation- Restaurants and Food Outlets etc-normal maximum hours from 5am to 1am." Environmental Health is not aware of any existing/previous noise complaints, it's likely that noise will be projected towards the Harbour. Based on the information provided Environmental Health recommends Approval - no conditions. **Recommendation** APPROVAL - no conditions
Environmental Health (Food Premises, Skin Pen.)	**General Comments** The proposal in summary is refurbishment of a previous similar cafe. No objection subject to conditions. **Recommendation** APPROVAL - subject to conditions
NECC (Bushland and Biodiversity)	**General Comments** The following biodiversity provisions apply to the site: - NSW Biodiversity Conservation Act 2016 - SEPP (Coastal Management) Coastal Environment Area - Manly LEP Clause 6.5 (Terrestrial Biodiversity) The proposed development is located within 100m of known breeding habitat for individuals associated with the endangered population of Little Penguins at Manly, as declared under Schedule 1 of the NSW Biodiversity Conservation Act 2016 (BC Act). As such, a test of significance ('five-part test') for impacts to Little Penguins is required to be prepared in accordance with Section 7.3 of the BC Act. The submitted plans and documentation indicate that works will be limited to the existing development footprint. Given that proposed works are generally internal, this assessment has been undertaken by Council's Bushland & Biodiversity staff. The test of significance concludes that, subject to recommended mitigation measures, the proposal can be undertaken without resulting in a significant impact to the endangered population of Little Penguins.

Test of Significance for Impacts to Little Penguins ('five-part test')
Section 7.3 Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats:
(1) The following is to be taken into account for the purposes of determining whether a proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats:

(a) in the case of a threatened species, whether the proposed development or activity is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction,
Response: the proposed development is generally located within the existing building footprint and is therefore unlikely to impact upon the life cycle of any Little Penguins which may attempt to breed within habitat below and in proximity to the subject site. Construction access is to be limited to the Manly Scenic Walkway.

(b) in the case of an endangered ecological community or critically endangered ecological community, whether the proposed development or activity:
(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or
(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,

Response: no endangered ecological communities or critically endangered ecological communities (listed under the BC Act) have been identified within the subject site.

(c) in relation to the habitat of a threatened species or ecological community:
(i) the extent to which habitat is likely to be removed or modified as a result of the proposed development or activity, and
(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed development or activity, and
(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species or ecological community in the locality,
Response: no penguin habitat is proposed to be removed, modified, fragmented or isolated as a result of the development.

(d) whether the proposed development or activity is likely to have an adverse effect on any declared area of outstanding biodiversity value (either directly or indirectly),
Response: The proposed development is not within any declared area of outstanding biodiversity value. Works will be limited to within the existing building footprint and will not be within known penguin habitat.

(e) whether the proposed development or activity is or is part of a key threatening process or is likely to increase the impact of a key threatening process.
Response: The proposed development will be limited to works within the existing building footprint and will therefore minimise disturbance to known penguin habitat and penguins potentially attempting to breed, moult and loiter within the vicinity of the subject site.

NECC (Coast and Catchments)	The application has been assessed in consideration of the *Coastal Management Act 2016*, State Environmental Planning Policy (Coastal Management) 2018, Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP. The application has also been assessed using Northern Beaches SREP assessment template. ***Coastal Management Act 2016*** The subject site has been identified as being within the coastal zone and therefore *Coastal Management Act 2016* is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the *Coastal Management Act 2016.* **State Environmental Planning Policy (Coastal Management) 2018** As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development. The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clauses 13 (coastal environment area) and 14 (coastal use area) do not apply as the site is also located within the SREP area. Hence, only Clause 15 of the CM SEPP apply for this DA. Comment: On internal assessment the DA satisfies requirements under Clause 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018. **Sydney Regional Environment Plan (Sydney Harbour Catchment), 2005** The subject site is located within W2 (Environmental Protection). As assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Colco Consulting Pty Ltd dated 12 August 2019 and Council accepts the assessment. It is determined that the objectives and assessment criteria of the zone have been met. **Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005** <u>Landscape character Assessment</u> The subject site is located within the Landscape Character Type 8 On internal assessment/ As assessed in the submitted Statement of

	Environmental Effects (SEE) report prepared by Colco Consulting Pty Ltd dated 12 August 2019 and Council accepts the assessment, it is determined that the proposed development within the landscape satisfy the relevant criteria. **Manly LEP 2013 and Manly DCP** No issues identified.
NECC (Development Engineering)	The application proposed internal changes of the existing building. Development Engineer has no objection to the application.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed development application generally complies with the flood controls in the LEP and DCP.
Parks, reserves, beaches, foreshore	No issues with the proposal, a working on reserves permit will be required prior to issue of the construction certificate.
Property Management and Commercial	The proposal is for alterations and additions to an existing cafe on West Esplanade, Manly. The outdoor dining is located on Crown land within the existing leasehold area and as such Property have no issues with the proposal as submitted.
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS Discussion of reason for referral This application has been referred to heritage as it is listed as a heritage item, partly covered by a State heritage listed item - I249 and partly covered by a local heritage listed Item - I250 both at West Esplanade, Manly, and listed within Schedule 5 of Manly Local Environmental Plan 2013. Details of heritage items affected Details of these heritage items contained within the Manly Heritage Inventory are: <u>Statement of Significance:</u> **Item I250 "Manly Cove Amenities Block" -** Public toilet block significant for its association with the Manly Pavilion and its complementary simplified Inter War Spanish Mission style. **Item I249 "Manly Cove Pavilion" -** The Manly Cove Pavilion is a rare surviving relic of the private pleasure-grounds and recreation resorts that were once common in the Sydney region in the late nineteenth and early twentieth centuries and which were, in their day, the focus of public recreation activity. It demonstrates the typical features and characteristics of architecture of the type and is important locally as a substantial remnant of the once extensive recreation facilities established by the Port Jackson and Manly Steamship Company that were a feature of Manly Cove and key elements in the history of the development of the suburb. <u>Physical Description:</u> **Item I250 "Manly Cove Amenities Block" -** Single storey freestanding rendered brick building containing public toilets for men and women. Features a hipped, multicoloured terracotta tile roof with gable vents, fimber

framed double hung obscure glass windows, external frieze of blue and cream glazed tiles with wave and water lily motifs, glazed terracotta tiles and panels decorating the facade. The entries to the areas for each gender, are defined by small timber pergolas carried on 4 doric columns. Internally, there are original cream interior wall tiles and beige terrazzo cubicles.

Item I249 "Manly Cove Pavilion" - The Manly Cove Pavilion on the West Esplanade was built in 1932-33 by the Port Jackson and Manly Steamship Company and opened in October 1933. Largely intact exterior retaining the ambience of the interwar Mediterranean style; white painted rendered brick, decorative ceramic tile insets and arched colonnade.(Anglin 1990:1047) Ferro-concrete two storey tiled roof pavilion built on pier. Colonnade to ground floor. Capitals to columns have fish, shell and acanthus leaf decoration; original wrought iron balustrading between columns beside water. Pavilion walls have decorative tile inlays using burnt orange and ultramarine ceramic tiles. A Greek key motif pattern is surmounted by semi-circular tiles which is in turn surmounted by ceramic decoration in scrolls and by urns. There is a strong Spanish influence throughout. The toilet block is of the same period. Special elements include the tile inlay bearing the letter "M", the floral motif in cornice decoration, original tiling to walls and the timber pagoda-style entry.(Blackmore, Ashton, Higginbotham, Rich, Burton, Maitland, Pike1986)

Other relevant heritage listings		
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
Australian Heritage Register	No	
NSW State Heritage Register	Yes	
National Trust of Aust (NSW) Register	No	
RAIA Register of 20th Century Buildings of Significance	No	
Other	No	

Consideration of Application

The proposal is for alterations and additions to the existing Café in West Esplanade, Manly. The cafe is adjacent to the water slides which is next to the Manly Pavilion - State heritage listed item. The proposal relates to the cafe area only which is located at the northern part of the Manly Pavilion. The proposal includes internal changes and replacement of existing external bi-fold doors and a new signage to the northern wall of the existing cafe.
It is considered that the proposal is acceptable on heritage grounds subject to the following:

- Signage to be consistent with the Clauses *4.4.3.2 Signage on Heritage listed items and in Conservation Areas* and other controls outlined in Section 4.3.3 of Manly DCP 2013, additional details to be provided for approval of the heritage advisor.
- Colours and finishes related to the new bi-fold doors replacing the

existing, to be provided for approval.
- Details of proposed new glazing graphics replacing the existing to be provided for approval.

Please note, the proposal is partly covered by a State heritage item and therefore it may require approval of the Heritage NSW.

Updated referral response; 15 January 2020.

Heritage has examined the revised drawings which are demonstrating compliance with the conditions, therefore the proposal is supported on heritage grounds.

Consider against the provisions of CL5.10 of MLEP.

Is a Conservation Management Plan (CMP) Required? No
Has a CMP been provided? No
Is a Heritage Impact Statement required? Yes
Has a Heritage Impact Statement been provided? Yes

Further Comments

COMPLETED BY: Oya Guner, Heritage Advisor

DATE: 15 January 2020

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.
Nominated Integrated Development – NSW Office of Environment and Heritage	General terms of approval were issued by Heritage NSW on 17 February 2020, and have been included in the draft determination, attached.

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 commercial 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 commercial land use.

SEPP 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The application seeks for one (1) vertical projecting wall sign that is to have concealed LED lighting. While this arrangement has been supported by Council's Heritage Officer, the Heritage Council of New South Wales has advised for this sign to be *'sympathetic to the appearance and interpretation of the Bathers Pavilion'.* Subject to compliance the conditions outlined within the General Terms of Approval and noting the existing signage arrangement of surrounding premises including 'Manly Surf n Slide', the resultant signage arrangement is seen to be compatible with the desired future character of area.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	As discussed above, an advisory note from the Heritage Council of New South Wales recommends *'that due to the visual association with Manly Cove Pavilion, a more sympathetic signage detail should be considered in place of the contemporary illuminated'.* Consideration has been given that compliance with the condition could result in greater consistency with outdoor advertising of the Manly Cove Pavilion.	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The cafe premises falls partially within the State Heritage Register (SHR) curtilage of Manly Cove Pavilion.The Heritage Council of New South Wales did advise that the proposed sign is technically located outside the SHR curtilage. In order to ensure the proposal does not detract from the visual quality of the heritage buildings associated with Manly Cove Pavilion, compliance with General Terms of Approval is warranted. The proposal is identified within 100m of a known breeding habitat for the endangered population of Little Penguins. A number of biodiversity provisions therefore apply. Council's Natural Environment Officer has reviewed and supported the proposal, subject to compliance with conditions. It is therefore considered that the proposal does not detract from the relevant areas identified.	YES
3. Views and vistas	The proposed signage is located under an existing	YES

Does the proposal obscure or compromise important views?	awning of a single storey building that is located at the base of an escarpment. It is therefore considered that the proposal would not obscure or compromise on views or vistas.	
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage is located under an existing awning of a single storey building that is located at the base of an escarpment. It is therefore considered that the proposal would not dominate the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not impinge on the viewing rights of other advertisers.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Subject to compliance with the General Terms of Approval, the proposed scale, proportion and form of the proposed signage is considered appropriate the context of this part of Manly Cove and the surrounding land uses.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage is limited to a white painted sign with laser cut lettering that is seen to provide visual interest. While the signage does not utilise bright or contrasting colours, it is recognised that the General Terms of Approval does advise that a more sympathetic signage detail could be considered to ensure the signage contributes towards the overall hertiage setting of the area.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The existing cafe is currently without formal signage. Through limiting signage to one (1) vertical projecting wall sign, the proposal is seen minimise visual clutter.	YES
Does the proposal screen unsightliness?	The proposed signage does contribute towards screening out the entrance towards a bin storage area, and therefore can be considered that the proposal does screen unsightliness.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No. As discussed above, the proposed signage is located under an existing awning of a single storey building that is located at the base of an escarpment and below the tree canopy.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Subject to compliance with the General Terms of Approval, the proposed scale, proportion and form of the resultant signage is expected to be compatible with characteristics of the heritage context of the area.	YES
Does the proposal respect important features of the site or building, or both?	As discussed above, subject to compliance with General Terms of Approval, the proposed signage arrangement is expected to be in keeping with the heritage significance of the area, particularly, the Manly Cove Pavilion.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal demonstrates innovation and imagination in relation to site and building through a coherent signage and colour arrangement.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on	The proposal signage is a contemporary design incorporates lazer cut lettering and concealed LED lighting.	YES

which it is to be displayed?		
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The physical separation to neighbouring residential accomodation along West Esplanade and the location of signage being below awnings, facing east, ensures that the illumination will not result in any unacceptable impacts on the surrounding safety or amenity.	YES
Can the intensity of the illumination be adjusted, if necessary?	Yes. Custom LED signage are generally capable of being dimmable if necessary.	YES
Is the illumination subject to a curfew?	No, however the hours of operation are proposed to be 7am - 10pm Monday to Sunday.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	No. The proposed signage is not seen to reduce the safety of the area for pedestrians or bicyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No. The proposed signage is not seen to reduce the safety for pedestrians or children.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistentwith the provisions of the SEPP and its underlying objectives.

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.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposed works are located partially within the W2 Environment Protection Zone under the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The objectives of this zone are as follows:

(a) to protect the natural and cultural values of waters in this zone,
(b) to prevent damage or the possibility of longer term detrimental impacts to the natural and cultural values of waters in this zone and adjoining foreshores,
(c) to give preference to enhancing and rehabilitating the natural and cultural values of waters in this zone and adjoining foreshores,

(d) to provide for the long-term management of the natural and cultural values of waters in this zone and adjoining foreshores.

Comment:
The proposed internal building alterations and use of a premises are of a scale and extent that would ensure consistency with these objectives, subject to conditions.

The subject property is partially located within the Sydney Harbour Catchment therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP.

In accordance with the consent authority's statuatory obligation as required under the SREP, the application was referred to the Foreshores and Waterways Planning and Development Advisory Committee (the Committee). A referral response was received by Council on the 28th November 2019. The Committee considered the proposed development to be a 'Category 2 matter' and raised no specific issues in relation to the proposed development.

Land Use Permissibility under the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposed development is land-based development under the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 and in accordance with clause 5 Council is the consent authority.

The proposal which relates to a *food and drink premises* is not listed as a permissible use within clause 18 and as a result an assessment pursuant to clause 18(2) is necessary to consider the permissibility of the development.

Clause 18(2) states the following:

"(2) Despite subclause (1), development not referred to in the Table to this clause may be carried out with development consent, but only if the consent authority is satisfied that the development:
(a) is not inconsistent with the aims of this plan or the objectives of the zone in which it is proposed to be carried out, and
(b) is not inconsistent with any other environmental planning instrument that applies to the land, and
(c) will not otherwise have any adverse impacts."

Comment:

With regard to the above, the assessment of the proposal seeks to maintain its existing operations as a cafe. A restaurant or cafe are listed within the definition of a 'food and drink premises'. The cafe operation is considered acceptable given it is consistent with surrounding land uses such as the restaurant at 'Manly Pavilion', and by maintaining consistency with the zone objectives detailed within clause 17. As such the development is permissible with development consent.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and

ecological environment,

(b) coastal environmental values and natural coastal processes,

(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,

(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,

(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,

(f) Aboriginal cultural heritage, practices and places,

(g) the use of the surf zone.

Comment:

This clause does not apply to land within the Foreshores and Waterways Area within the meaning of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

(2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*

(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

This clause does not apply to land within the Foreshores and Waterways Area within the meaning of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

14 Development on land within the coastal use area

(1)

(a) has considered whether the proposed development is likely to cause an adverse impact on the following:
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
(iv) Aboriginal cultural heritage, practices and places,
(v) cultural and built environment heritage, and

(b) is satisfied that:
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

This clause does not apply to land within the Foreshores and Waterways Area within the meaning of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

15 Development in coastal zone generally—development not to increase risk of coastal hazards

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

Comment:

Council's Coast and Catchments Division has provided comments indicating that the proposed development satisfies the requirements under Clause 15 of the SEPP (Coastal Management) 2018. In this regard, the proposed development is not considered likely to cause increased risk of coastal hazards on the subject site or other land.

As such, it is considered that the application does/does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Special height provisions	The height of a building on a lot identified as “Special height provisions” on the Height of Building Map must not exceed the height of the highest point of the road adjoining the centre point of the lot boundary that adjoins the road that is the frontage to that lot.	4.3m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3A Special height provisions	Yes
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
6.2 Earthworks	Yes
6.8 Landslide risk	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

Zone RE1 Public Recreation

The proposal seeks to continue operations as a cafe/restaurant. Both restaurants and cafes are listed as being permitted with consent in a RE1 Public Recreation zone.

4.3A Special height provisions

The requirements of this clause detail that the height of a building on a lot identified as “Special height provisions” on the Height of Building Map must not exceed the height of the highest point of the road adjoining the centre point of the lot boundary that adjoins the road that is the frontage to that lot.

The proposed works are substantially for internal reconfiguration to the existing cafe and as a result does not exceed the existing roof ridge RL 7.06. The adjoining road being Commonwealth Parade is between the RL of 12.00 and 14.00. As such, the proposal will continue to maintain public views to Sydney Harbour from street level of Commonwealth Parade.

5.10 Heritage conservation

The site is located partly within the State Heritage Register curtilage of item I249 "Manly Cove Pavilion" and local heritage item I250 "Manly Cove Amenities Block" that are listed within Schedule 5 of the Manly Local Environment Plan 2013.

In accordance with cluase 5.10(4) of the Manly LEP 2013, the consent authority must consider the effect of the proposed development of the heritage significance of the item or area concerned prior to granting consent to the proposal. In this regard, the proposal has been considered by Council's Heritage Officer who is satisfied that the proposal is acceptable without conditions. Detailed commentary from Council's Heritage Officer is provided in the 'Referrals' section of this report.

As the site is also identified as an item of State heritage significance on the State Heritage Register, the application has been referred to Heritage NSW. In this regard, general terms of approval were issued by Heritage NSW on 17 February 2020, and have been included in the draft determination attached.

6.10 Limited development on foreshore area

The proposal is for alterations to an existing building that is wholly in the foreshore area and is considered to satisfy the relevant requirements of this clause.

Manly Development Control Plan

Built Form Controls
As the site is located within the RE1 Public Recreation zone and the W2 Environmental Protection zone, the proposal is not subject to the development controls listed under Clause 4.1, Clause 4.2 and Clause 4.3. As detailed earlier in this report, the proposed works are substantially for internal reconfiguration to the existing cafe. Works to the external fabric of the building are limited to the replacement of existing bi-fold doors and the installation of a business identification sign. Further, Council's Property Commercial & Tourist Assets division have provided comments indicating the proposal is acceptable and that the proposed outdoor dining is located on Crown land within the existing leasehold area.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3 General Principles of Development	Yes	Yes
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	No	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes

3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.6 Energy efficiency/conservation requirements for non-residential developments	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.6 Accessibility	No	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.4 Other Development (all LEP Zones)	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.3 Signage	No	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes
5.4.3 Flood Prone Land	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

3.1.3 Townscape (Local and Neighbourhood Centres)

The existing premises is inconsistent with the intent for the ground floor level of a premises to be generally level to the footpath. In order to access internal areas of the cafe there are two (2) steps and currently no ramp access. Council's Building Assessment (Fire and Disability upgrades) division have reviewed the proposal and raised no objections subject to standard conditions being imposed for Building Code of Australia (BCA) requirements to be determined at Construction Certificate stage. Further discussion concerning accessibility can be seen further in this report.

3.4.2 Privacy and Security

Consideration has been given that the proposed development complies with relevant acoustic privacy requirements identified under this clause. Council's Environmental Health division have also raised no objections to the hours of operation with regards to noise and amenity impacts for surrounding residential properties, subject to compliance with conditions. The cafe premises is not identified as currently holding a liquor licence and is not considered to be a 'late night venue'.

3.6 Accessibility

In order to address the aim to provide equitable, dignified and non-discriminatory access for all member of the community, consideration has been given to examine the access arrangement for the proposed development. As detailed previously within this report, for people to enter the internal areas of the cafe there are two (2) steps and no

ramp access. Council's Building Assessment (Fire and Disability upgrades) division have reviewed the proposal and raised no objections to the proposed access arrangement subject to standard conditions being imposed for relevant BCA requirements to be determined at Construction Certificate stage. It should be noted that the BCA operates on a performance based basis which allows flexibility when dealing with heritage buildings, which may be applicable in this instance.

Subject to compliance with relevant conditions, the proposal is considered to comply with the relevant objectives of this clause and is supported on merit.

3.9 Mechanical Plant Equipment

While the proposal seeks to retain the existing mechanical kitchen exhaust, it should be noted that Council's Environmental Health division have recommended a condition to ensure that any installed or altered mechanical exhaust is to be compliant with relevant Australian Standards. The existing mechanical kitchen exhaust is also located at a distance greater than 40m away from neighbouring properties to minimise potential amenity impacts for residents.

4.4.3 Signage

Description of non-compliance:

The application seeks for one (1) vertical projecting wall sign that is to have concealed LED lighting. The sign is to be 300mm in width and 1.425m in height. The sign projects 400mm from the northern elevation/wall of which it is attached, and is between 700mm-2.125m above the existing ground level. The proposed sign is therefore technically non-compliant with the requirement of this clause that specifies that the lowest part of the sign above ground level is to be 2.6m and not more than 3.7m. Based on the location of the proposed sign, consideration has been given, that it is not likely to interfere or impact on pedestrians or pathways. As discussed earlier within this report, the proposed signage has been considered to meet the relevant assessment criteria of the State Environmental Planning Policy No 64 - Advertising and Signage. The proposed signage arrangement has also been assessed and supported by Council's Heritage Advisor, against the requirements outlined under Clause 4.4.3.2 (Signage on Heritage listed items and in Conservation Areas) of the Manly DCP.

Merit consideration:

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

Objective 1) To ensure that advertising does not detract from the scenic beauty and amenity of the Municipality; harmonises with its surroundings and the buildings to which they are attached.

Comment:

Through limiting the size and number of signs as well as limiting the extent of colours and finishes, consideration has been given that the proposed arrangement will not detract from the scenic beauty and amenity of the area. Further, the compliance with the General Terms of Approval provided by the Heritage Council of New South Wales will help to ensure that the signage is in harmony with the appearance and context of surrounding buildings such as the Manly Cove Pavilion.

Objective 2) To minimise the visual impact by encouraging fewer more effective signs that may otherwise degrade the existing and likely future quality of residential environments or result in excessive, unnecessary signage, visual clutter and confusion in local and neighbourhood centres.

Comment:

Through limiting signage for the café to one (1) vertical projecting wall sign, the proposal is seen minimise visual clutter caused by a proliferation of signs.

Objective 3) To permit building and business identification signs which communicate the facilities (including tourist facilities), amenities, goods and services in local and neighbourhood centres which do not interfere with the streetscape or amenity of residents.

Comment:

The proposed signage that is to be laser cut with the name of the café 'Sliderz' communicates the business as being a food and drink premises while also indicating the close association between 'Manly Surf n Slide' which is currently run by the same operators.

Objective 4) Signs should enhance the distinctive urban character and scenic amenity of the Municipality and contribute to the atmosphere of the streets in local and neighbourhood centres and should be designed in sympathy with both the building to which it is attached and any adjoining buildings, taking into account the architectural styles and finishes of buildings in local and neighbourhood centres.

Comment:

The proposal including the signage arrangement is seen to reactivate the atmosphere of the area, following the closure of neighbouring business associated in tourism such as Manly Sea Life Sanctuary in 2018. Through limiting the extent and finishes associated with the signage, the proposal is seen to help enhance the distinctive urban character and scenic amenity of the area.

Objective 5) To prevent signage from impacting on the presentation of the heritage item or area to the general public on heritage items and conservation areas.

Comment:

As discussed earlier within this report, the development is subject to compliance with the conditions outlined within the General Terms of Approval issued by the Heritage Council of New South Wales. Consideration is given subject to compliance with these conditions that the resultant signage arrangement will not negatively impact upon the heritage significance of heritage listed buildings such as the Manly Cove Pavilion.

Objective 6) To ensure all signage is of high standards of graphic and textural content.

Comment:

The submitted plans provided with the application demonstrates that the sign is of a high standard of graphic and textural content through incorporating such details as concealed LED lighting that is set behind laser cut out lettering with the name of the café 'Sliderz'.

Objective 7) To encourage co-ordinated advertising in the Industrial Zone by the use of appropriately sized street numbers and complex names, and the use of directory boards to identify multiple unit complexes, so as to reduce adverse impact on the streetscape and confusion to traffic.

Comment:

The subject site is not located within an Industrial Zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of this clause and is therefore 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.

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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2019/1021 for Alterations and additions to an existing cafe and signage on land at Lot 2 DP 1019352, West Esplanade, MANLY, Lot 7340 DP 1144101, West Esplanade, 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**
DA 1051, Issue A (Site Plan/Site Analysis)	02.08.19	Rich Carr Architects Pty Ltd
DA 1101, Issue A (Ground Floor Plan)	02.08.19	Rich Carr Architects Pty Ltd
DA 1102, Issue A (Proposed Roof Plan)	02.08.19	Rich Carr Architects Pty Ltd
DA 1201, Issue A (Sections)	02.08.19	Rich Carr Architects Pty Ltd
DA 1301, Issue B (Elevations)	11.12.19	Rich Carr Architects Pty Ltd
DA 1501, Issue B (Signage Details)	11.12.19	Rich Carr Architects Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
Heritage Impact Statement	22 August 2019	Rich Carr Architects Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	**Dated**	**Prepared By**
DA 1801, Issue A (Waste Management Plan)	02.08.19	Rich Carr Architects Pty Ltd
Northern Beaches Council Waste Management Plan	08.0819	Tracey O'Sullivan

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 Hertiage NSW Requirements**
The development must be carried out in compliance with the general terms of approval issued by Heritage NSW on 17 February 2020, as follows:

a. External Finishes

Details of the proposed replacement of the existing glazing film signage are to be provided demonstrating that they will be sympathetic to the heritage values of the Manly Cove Pavilion with a section 60 application.

Reason: So that the finishes are sympathetic to the Interwar Mediterranean design.

Advisory note: It is recommended that due to the visual association with Manly Cove Pavilion, a more sympathetic signage detail should be considered in place of the contemporary illuminated blade sign so that it is similar to existing signage and sympathetic to the appearance and interpretation of the Bathers Pavilion.

b. Site Protection

Significant built elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric is not damaged or removed.

Reason: To ensure significant fabric is protected during construction.

c. Specialist Tradespersons

All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.

d. Compliance

If requested, the applicant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

e. Section 60 Application

An application under section 60 of the Heritage Act 1977 must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

3. **Approved Land Use**
Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a food and drink premises

A food and drink premises is defined as a:

"premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—
(a) a restaurant or cafe,
(b) take away food and drink premises,
(c) a pub,
(d) a small bar.
Note.

Food and drink premises are a type of retail premises—see the definition of that term in this Dictionary."
(development is defined by the Manly Local Environment Plan 2013 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. **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.

5. **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

6. **Security Bond**

A bond (determined from cost of works) of $1,500 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

7. **Working on Reserves Permit**

Works (undertaken by principal contractors working without Council supervision) on land under Council's care control and management require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks, Reserves and Foreshores business unit.

Reason: Public Safety and the protection of Council infrastructure.

8. **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.

9. **Protection of Penguin Habitat (Foreshore and Intertidal Area)**
The foreshore and intertidal area below and to the rear of the subject site are to be fully protected for the duration of the works. There shall be no machinery use, storage of construction materials/waste, dumping, or clearing of vegetation, soil, rock or rubble within these areas. A statement confirming compliance with this conditions is to be prepared by the Site Manager and provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent impacts to known penguin habitat and any penguins which may be breeding, moulting, or loafing in this area.

10. **Protection of Penguin Habitat (Construction Access)**
No works or construction access are permitted within the foreshore or intertidal zone below and to the rear of the subject site. All construction access is to be via existing formed access to the east and north of the subject site. A written statement of compliance with this condition is to be prepared by the Site Manager and provided to the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: To prevent disturbance and impact to known penguin habitat and any penguins which may be breeding, moulting or loafing along the foreshore or intertidal zone.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

11. **Removing, Handling and Disposing of Asbestos**
Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:
- Work Health and Safety Act
- Work Health and Safety Regulation
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005.
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

12. **Demolition Works - Asbestos**
Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

13. **Waste Management During Development**
The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

14. **Construction Hours – Manly LEP Clause 6.5**
Construction hours are to be adhered to, with no construction vehicles or heavy machinery used outside the hours of 7:00am and 5:00pm.

Reason: Noise and vibration can disturb local native fauna (including threatened species) and prevent access to their natural habitats.

15. **Slurry and Concrete to be Removed – Penguin Habitat**
All slurry or spilt concrete associated with works (including drilling) is to be contained at the source and within the construction area. Spilt concrete is to be removed before it dries. Slurry and spilt concrete are to be removed offsite.

Reason: To prevent construction-related impacts to known penguin habitat.

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

16. **Registration of Food Business**
The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

17. **Kitchen Design, construction and fit out of food premises certification**
Prior to the issuing of any interim / final occupation certificate, if required or occupation and commencement of trading certification is to be provided from a suitably qualified person that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises in all respects.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Council as appropriate.

Reason: To ensure that the kitchen complies with the design requirements.

18. **Mechanical Ventilation certification if altered/replaced**
Where a mechanic exhaust in installed/altered then prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the mechanical ventilation system complies with the design requirements.

19. **No new artificial lighting**
No new artificial lighting is to be directed toward or illuminate the rocky foreshore behind the cafe at any time during or post-construction. Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of a Occupation Certificate.

Reason: To prevent additional light pollution impacts on known Little Penguin habitat.

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

20. **Dead or Injured Wildlife – Manly LEP Clause 6.5**
If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

21. **Hours of Operation**
The hours of operation are to be restricted to:

- Monday to Friday – 7am to 10pm
- Saturday – 7am to 10pm
- Sunday and Public Holidays – 7am to 10pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

22. **Smoke and Odour**
The business operation shall not cause any visible smoke or odour nuisance at any time. Where necessary this may involve a review of any cooking processes or menu items as appropriate to comply.

Reason: To avoid any smoke or odour issue to any neighbouring premises.

23. **Patron Numbers**
The total patron capacity is not to exceed 48 patrons, being 24 patrons indoors and 24 patrons outside.

Reason: Information to ensure that the amenity of the surrounding locality is maintained.

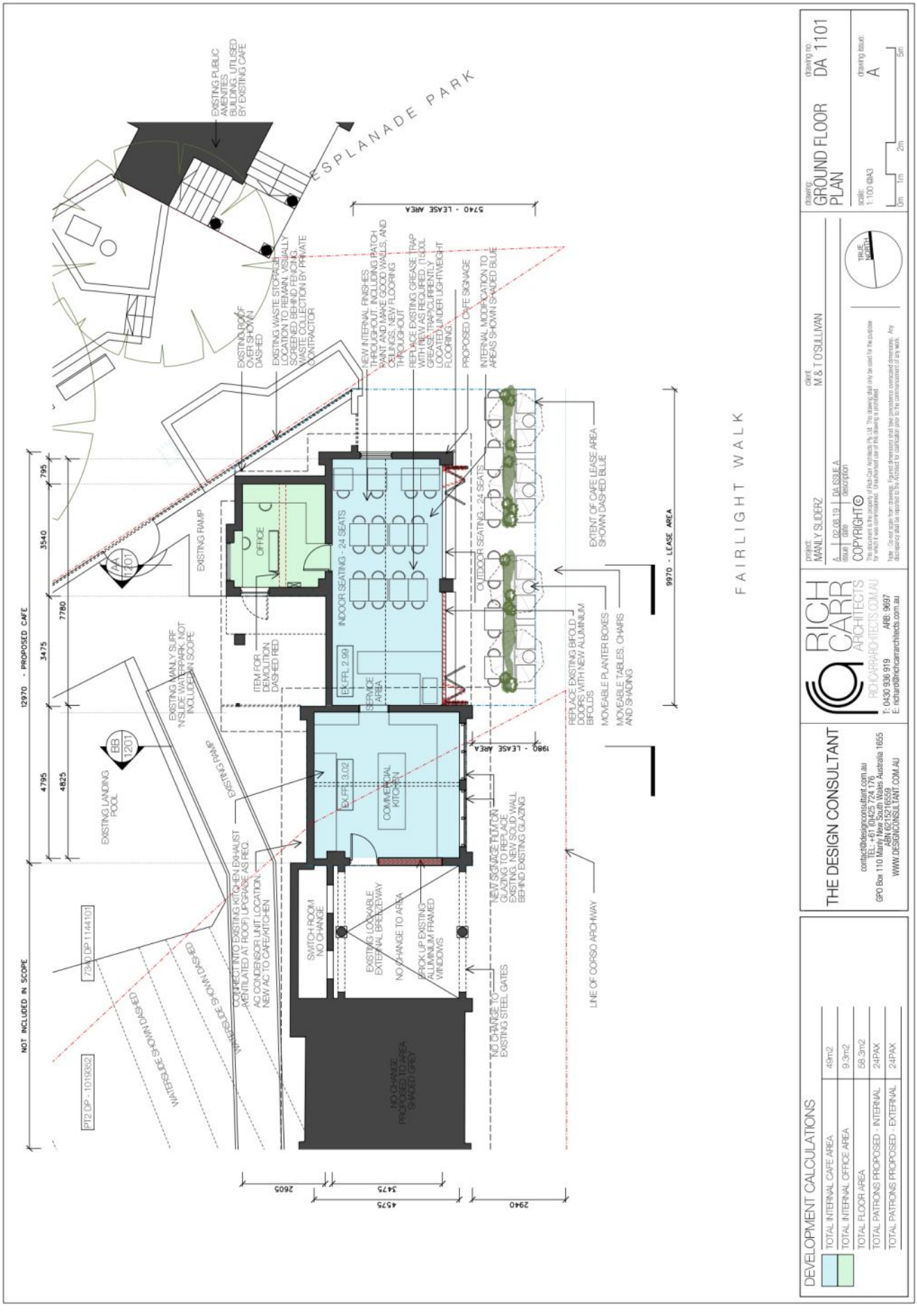
24. **Commercial Waste Collection**
Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

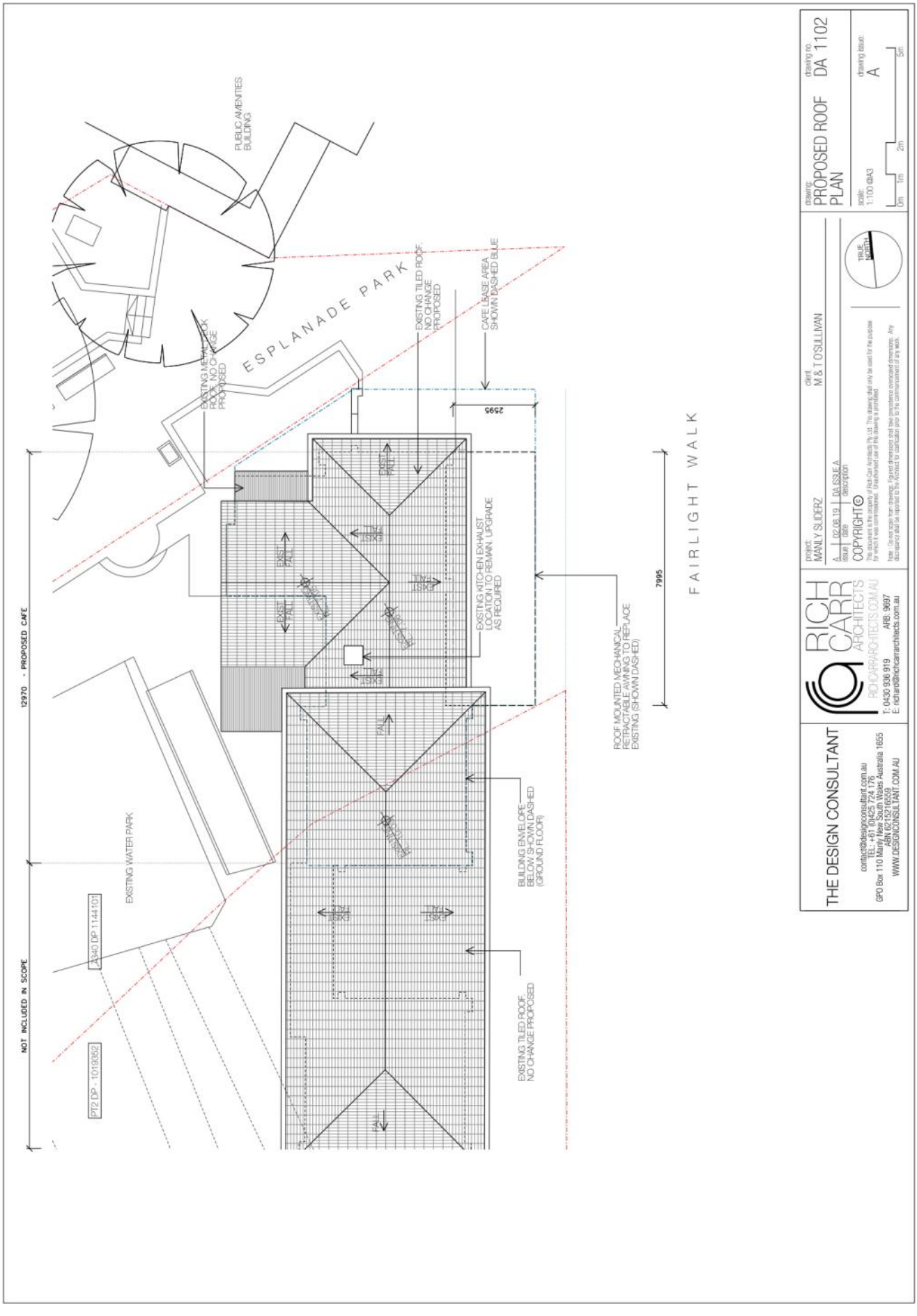
Reason: To protect the acoustic amenity of surrounding properties.

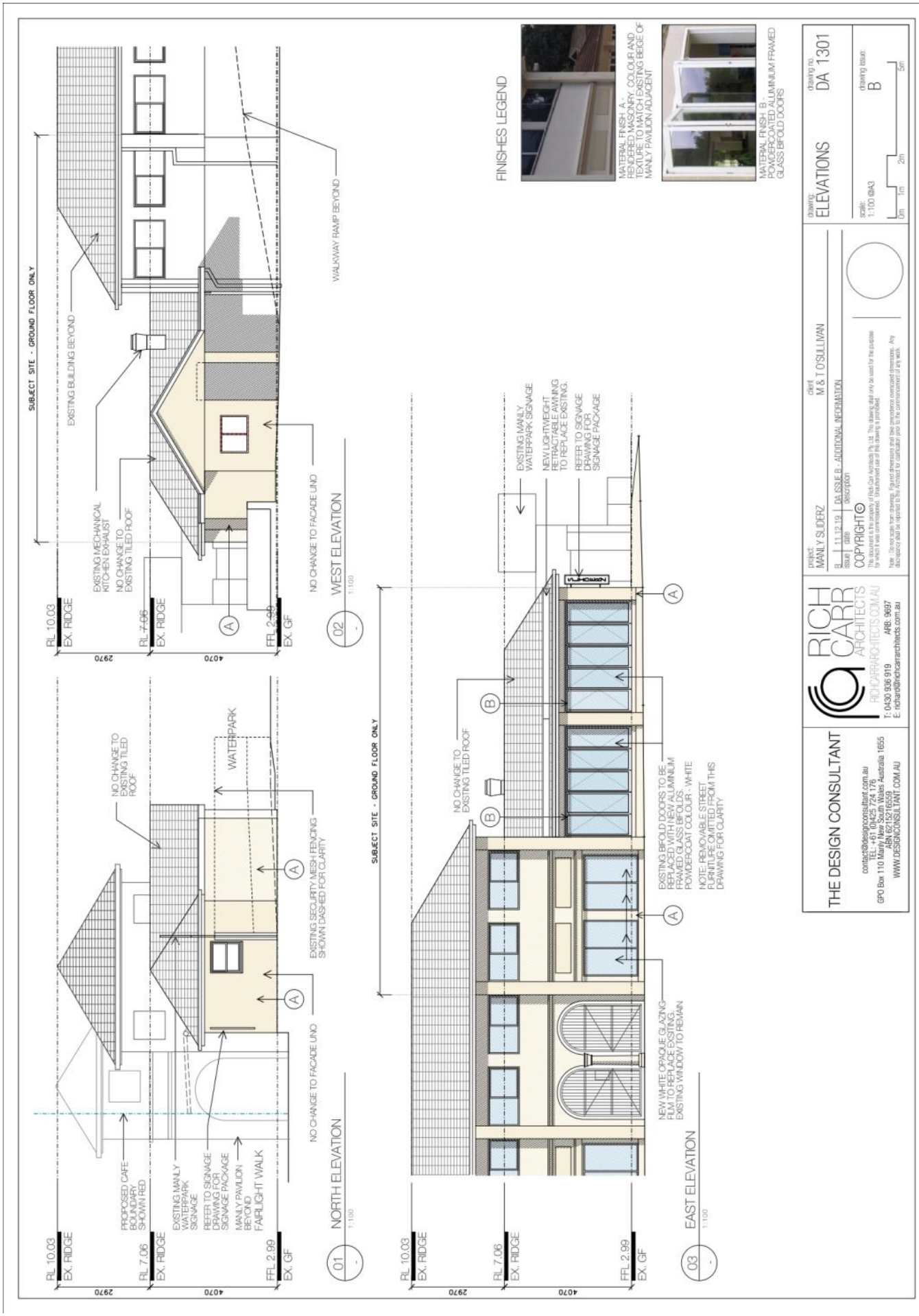
25. **Delivery of Products**
Products must not be delivered to this premises between the hours of 10pm and 6am on any day.

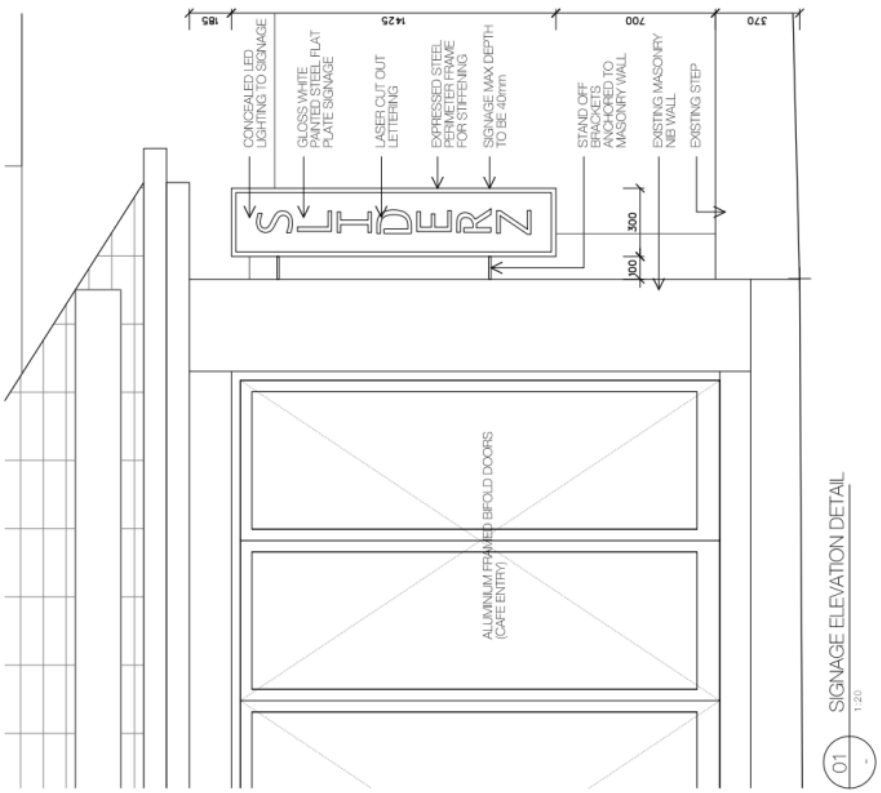
Reason: To protect the acoustic amenity of surrounding properties.


MULTI-RESIDENTIAL HOUSING
PREVAILING BREEZE
WINTER SUN PATH
SUMMER SUN PATH
PREVAILING WINDS
COMMONWEALTH PARADE
EXISTING PUBLIC AMENITIES BUILDING USED BY PREVIOUS CAFE FOR TOILET FACILITIES
SUBJECT SITE SHADED BLUE MANLY SLIDERZ
7340 DP 1144101
EXISTING WATER TANK
PTD DP 1019362
MANLY PAVILION
STAIRS TO FAIRLIGHT WALK
FAIRLIGHT WALK
LOT BOUNDARIES SHOWN DASHED RED
EXISTING LEASE AREA SHOWN DASHED BLUE
MANLY ART GALLERY
FAIRLIGHT WALK
IMAGE 04
MANLY AQUARIUM
MANLY COVE
PREVAILING WINDS
01
02
03
04
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client: M & T O'SULLIVAN
A | 02.09.19 | DA ISSUE A
issue | date | description
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TRUE NORTH
drawing: SITE PLAN/SITE ANALYSIS
drawing no. DA 1051
scale: 1:500 @A3
drawing issue: A
0m 1m 2m 5m
01 VIEW LOOKING SOUTHWEST TOWARDS SUBJECT SITE
02 VIEW LOOKING NORTHWEST TOWARDS SUBJECT SITE
03 VIEW LOOKING SOUTHEAST TOWARDS SUBJECT SITE
04 VIEW LOOKING EAST TOWARDS SUBJECT SITE


ESPLANADE PARK
FAIRLIGHT WALK
EXISTING PUBLIC AMENITIES BUILDING, UTILISED BY EXISTING CAFE
EXISTING ROOF OVER SHOWN DASHED
EXISTING WASTE STORAGE LOCATION TO REMAIN, VISUALLY SCREENED BEHIND FENCING. WASTE COLLECTION BY PRIVATE CONTRACTOR
NEW INTERNAL FINISHES THROUGHOUT, INCLUDING PATCH AND MAKE GOOD WALLS, AND CEILINGS, NEW FLOORING THROUGHOUT
REPLACE EXISTING GREASE TRAP WITH NEW AS REQUIRED. TO GREASE TRAP CURRENTLY LOCATED UNDER LIGHTWEIGHT FLOORING
PROPOSED CAFE SIGNAGE
INTERNAL MODIFICATION TO AREAS SHOWN SHADED BLUE
EXTENT OF CAFE LEASE AREA SHOWN DASHED BLUE
REPLACE EXISTING BIFOLD DOORS WITH NEW ALUMINIUM BIFOLDS
MOVEABLE PLANTER BOXES
MOVEABLE TABLES, CHAIRS AND SHADING
LINE OF COURSO ARCHWAY
NO CHANGE TO EXISTING STEEL GATES
NEW SIGNAGE PLUTON GLAZING TO REPLACE EXISTING, NEW SOLID WALL BEHIND EXISTING GLAZING
BROK UP EXISTING ALUMINIUM FRAMED WINDOWS
EXISTING LOCKABLE EXTERNAL BREEZEWAY
NO CHANGE TO AREA
SWITCH ROOM NO CHANGE
COMMERCIAL KITCHEN
EX FFL 3.02
SERVICE AREA
EX FFL 2.99
INDOOR SEATING - 24 SEATS
OUTDOOR SEATING - 24 SEATS
OFFICE
EXISTING RAMP
EXISTING LANDING POOL
EXISTING MANLY SURF N'SLIDE WATERPARK, NOT INCLUDED IN SCOPE
ITEM FOR DEMOLITION DASHED RED
CONNECT INTO EXISTING KITCHEN EXHAUST VENTILATED AT ROOF. UPGRADE AS REQ.
AC CONDENSOR UNIT LOCATION. NEW AC TO CAFE/KITCHEN
WATERSLIDE SHOWN DASHED
NOT INCLUDED IN SCOPE
PT2 DP - 1019352
7340 DP 1144101
12970 - PROPOSED CAFE
9970 - LEASE AREA
5740 - LEASE AREA
1980 - LEASE AREA
795
3540
7780
3475
4795
4825
2605
3475
4575
2940
AA 1201
BB 1201
DEVELOPMENT CALCULATIONS
TOTAL INTERNAL CAFE AREA 49m2
TOTAL INTERNAL OFFICE AREA 9.3m2
TOTAL FLOOR AREA 58.3m2
TOTAL PATRONS PROPOSED - INTERNAL 24PAX
TOTAL PATRONS PROPOSED - EXTERNAL 24PAX
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client: M & T O'SULLIVAN
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drawing: GROUND FLOOR PLAN
drawing no. DA 1101
drawing issue: A
scale: 1:100 @A3
0m 1m 2m 5m
TRUE NORTH


PUBLIC AMENITIES BUILDING
ESPLANADE PARK
EXISTING TILED ROOF NO CHANGE PROPOSED
CAFE USAGE AREA SHOWN DASHED BLUE
EXISTING METAL DECK ROOF NO CHANGE PROPOSED
2595
EXISTING KITCHEN EXHAUST LOCATION TO REMAIN, UPGRADE AS REQUIRED
ROOF MOUNTED MECHANICAL RETRACTABLE AWNING TO REPLACE EXISTING (SHOWN DASHED)
7995
FAIRLIGHT WALK
12970 - PROPOSED CAFE
NOT INCLUDED IN SCOPE
EXISTING WATER PARK
A340 DP 1144101
PT2 DP - 1019362
BUILDING ENVELOPE BELOW SHOWN DASHED (GROUND FLOOR)
EXISTING TILED ROOF NO CHANGE PROPOSED
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project: MANLY SLIDERZ
A 02.09.19 DA ISSUE A
issue date description
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drawing: PROPOSED ROOF PLAN
drawing no: DA 1102
drawing issue: A
scale: 1:100 @A3
0m 1m 2m 5m


SUBJECT SITE - GROUND FLOOR ONLY
EXISTING BUILDING BEYOND
EXISTING MECHANICAL KITCHEN EXHAUST
NO CHANGE TO EXISTING TILED ROOF
WALKWAY RAMP BEYOND
NO CHANGE TO FACADE U/NO
RL 10.03
EX. RIDGE
RL 7.06
EX. RIDGE
FFL 2.99
EX. GF
2970
4070
02 WEST ELEVATION
1:100
PROPOSED CAFE BOUNDARY SHOWN RED
EXISTING MANLY WATERPARK SIGNAGE
REFER TO SIGNAGE DRAWING FOR SIGNAGE PACKAGE
MANLY PAVILION BEYOND
FAIRLIGHT WALK
WATERPARK
EXISTING SECURITY MESH FENCING SHOWN DASHED FOR CLARITY
01 NORTH ELEVATION
1:100
EXISTING MANLY WATERPARK SIGNAGE
NEW LIGHTWEIGHT RETRACTABLE AWNING TO REPLACE EXISTING.
EXISTING BIFOLD DOORS TO BE REPLACED WITH NEW ALUMINIUM FRAMED GLASS BIFOLD DOORS POWDERCOAT COLOUR : WHITE
NOTE: REMOVABLE STREET FURNITURE OMITTED FROM THIS DRAWING FOR CLARITY
NEW WHITE OPAQUE GLAZING PLANT TO REPLACE EXISTING EXISTING WINDOW TO REMAIN
03 EAST ELEVATION
1:100
FINISHES LEGEND
MATERIAL FINISH A : RENDERED MASONRY, COLOUR AND TEXTURE TO MATCH EXISTING BEIGE OF MANLY PAVILION ADJACENT
MATERIAL FINISH B : POWDERCOATED ALUMINIUM FRAMED GLASS BIFOLD DOORS
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drawing: ELEVATIONS
drawing no. DA 1301
scale: 1:100 @A3
drawing issue: B
0m 1m 2m 5m



01 SIGNAGE ELEVATION DETAIL
1:20

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issue | date | description

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drawing: SIGNAGE DETAILS
drawing no: DA 1501
scale: 1:100 @A3
drawing issue: B
0m 1m 2m 5m

ITEM 3.2	**MOD2019/0531 - 24 BONA CRESCENT, MORNING BAY - MODIFICATION OF DEVELOPMENT CONSENT DA2018/1548 GRANTED FOR ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A BOAT SHED AND JETTY**
AUTHORISING MANAGER	**RODNEY PIGGOTT**
TRIM FILE REF	**2020/114053**
ATTACHMENTS	**1 ⇩Assessment Report**
	2 ⇩Site Plan

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is a modification of a determination made by a local planning panel.

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. MOD2019/0531 for modification of Development Consent DA2018/1548 granted for alterations and additions to a dwelling house including a boat shed and jetty at Lot 8 DP 21880, 24 Bona Crescent, Morning Bay subject to the conditions and for the reasons set out in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2019/0531

Responsible Officer:	Adam Urbancic
Land to be developed (Address):	Lot 8 DP 21880, 24 Bona Crescent MORNING BAY NSW 2105
Proposed Development:	Modification of Development Consent DA2018/1548 granted for alterations and additions to a dwelling house including a boat shed and jetty
Zoning:	E3 Environmental Management
Development Permissible:	Yes - Zone E3 Environmental Management Yes - Zone W1 Natural Waterways
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Wendy Jane Chambers
Applicant:	Wendy Jane Chambers

Application Lodged:	31/10/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	11/11/2019 to 25/11/2019
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

The modification application seeks consent for modifications to development consent DA2018/1548 granted for alterations and additions to a dwelling house including a boat shed and jetty. Specifically, the application seeks consent for as-built changes to the stormwater drainage system and the deletion of Deferred Commencement Condition 1, which required stairs to be incorporated into the boat shed loading deck for public foreshore access.

As a result of the public exhibition process, no submissions were received for the application.

The application has been referred to the Northern Beaches Local Planning Panel for determination as

the application seeks to delete Deferred Commencement Condition 1, which was placed by the Panel as part of the original development consent.

The deferred commencement condition was satisfied and an operational consent issued on 29 July 2019. Accordingly the deferred commencement condition is no longer part of the operational consent so cannot be modified. To accommodate the amendments Condition 3A will be included to update the modified plans and a condition added to ensure the stairs are deleted from the proposal.

Based on the detailed assessment contained within this report, it is recommended that the application be approved, subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The modification application seeks consent for modifications to development consent DA2018/1548 granted for the alterations and additions to a dwelling house including a boat shed and jetty, specifically the following:

- deletion of Deferred Commencement Condition 1, as copied below:

  Deferred Commencement Condition 1
  Amended plans are to be submitted to provide for the following:

  The proposed loading deck on the north-eastern elevation of the proposed boat shed is to include stairs on the north-western and south-eastern sides to enable public foreshore access.

  This access:

  - *is to provide safe public access along the foreshore*
  - *is to be maintained at all times.*
  - *should comply with all relevant standards and codes*

- as-built changes to the stormwater drainage system to replace the extended pipeline under the jetty structure with a rip-rap revetment located under the boat shed.

The deferred commencement condition was satisfied and an operational consent issued on 29 July 2019. Accordingly the deferred commencement condition is no longer part of the operational consent so cannot be modified. To accommodate the amendments Condition 3A will be included to update the modified plans and Condition 3B be added to ensure the stairs are deleted from the proposal.

The applicant proposes that public foreshore access be facilitated underneath the jetty structure.

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

Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area
Pittwater 21 Development Control Plan - A1.7 Considerations before consent is granted

SITE DESCRIPTION

Property Description:	Lot 8 DP 21880 , 24 Bona Crescent MORNING BAY NSW 2105
Detailed Site Description:	The subject site consists of one (1) allotment located on the south-western side of Morning Bay. The site is irregular in shape with a frontage of 20.21m to the Pittwater waterway and an average depth of 51.45m to Mean High Water Mark (MHWM) by title. The site has a surveyed area of 1,030m². The site is located within the E3 Environmental Management zone and accommodates a partially constructed dwelling house approved under development application DA2018/0022. The land located seaward of MHWM is located within the W1 Natural Waterways zone and accommodates a jetty and a partially constructed boat shed approved under DA2018/1548. The site has an overall slope of 28.63% and falls 14.62m from the rear of the site to the point of MHWM by title. The site was heavily vegetated with native tree canopy, but has been subject to vegetation clearing, with some native canopy trees retained surrounding the approved building footprint. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by dwelling houses of varying architectural styles within a natural bushland setting. The Ku-ring-gai Chase National Park adjoins the rear of the site. The Pittwater waterway contains existing jetties and berthing areas servicing the adjoining and surrounding residential properties in Morning

	Bay.

Map:



SITE HISTORY

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

20 June 2018
Development Application DA2018/0022 for the construction of dwelling house and waterfront structures was granted consent. Due to insufficient information for assessment, the proposed waterfront structures were removed through a condition of consent.

15 May 2019
Development Application DA2018/1548 for alterations and additions to a dwelling house including a boat shed and jetty was granted deferred commencement consent by the Northern Beaches Local Planning Panel.

29 July 2019
Documentation to satisfy the deferred commencement requirements of Development Application DA2018/1548 was accepted and the consent was activated.

13 January 2020
An inspection of the subject site was undertaken. At the time of the inspection (approx. 11am), there was a high tide (approx. 1.9m) and access could not be obtained underneath the jetty structure. An email was subsequently sent to the applicant requesting further information regarding the impact of tidal changes on the proposed access arrangement. A written response was provided to Council on 13 February 2020.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

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

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2018/1548, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	**Comments**
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	**Yes** The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as modified, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2018/1548.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan 2014, Pittwater 21 Development Control Plan, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

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

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

Section 4.15 'Matters for Consideration'	**Comments**
Section 4.15 (1) (a)(i) – Provisions of any 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	Pittwater 21 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 Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	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 in the original consent. 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. Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to foreshore access at higher tides. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent. 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. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the

Section 4.15 'Matters for Consideration'	Comments
	Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent. 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.
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	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report (prepared by Wayne Tucker of Building Code & Bushfire Hazard Pty Limited, dated 6 December 2017) was submitted with the original development application, along with a cover letter (prepared by Stuart McMonnies of Building Code & Bushfire Hazard Solutions Pty Limited, dated 23 August 2018) confirming that the original report was still valid. The report stated that the bushfire attack level of the site is "Flame Zone" and the report recommended an alternative solution to comply with Planning for Bush Fire Protection.

The original development application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS were included as part of the conditions of consent of the development application and remain applicable to the modified development.

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.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	No objection to approval, no modification is required.
NECC (Riparian Lands and Creeks)	This modification application has been reviewed under Pittwater DCP B5.11 and the Coastal SEPP 2018 - Coastal Environment Zone. With the proposed outlet located under the boatshed, the revision to the design is acceptable as visual impacts will be minimised. A condition applies that requires a small alteration to the sizing of the rip rap on the revetment to include some variety in sizing so the revetment will have an improved ability to withstand wave action and high flows.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The modified 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 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 (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.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

12 Development on land within the coastal vulnerability area

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

(a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and

(b) the proposed development:

(i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and

(ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and

(iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and

(c) measures are in

place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Comment:
There is currently no adopted Coastal Vulnerability Area Map under SEPP Coastal Management (2018), however, Council's Principal Officer - Coast & Estuary reviewed the original development application in light of the requirements of Clause 12 and was satisfied that the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land. Due to the minor nature of the changes proposed under this modification application, it is considered that the modified development is consistent with the original assessment.

13 Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

- *(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- *(b) coastal environmental values and natural coastal processes,*
- *(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- *(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- *(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- *(f) Aboriginal cultural heritage, practices and places,*
- *(g) the use of the surf zone.*

Comment:
The modified development is unlikely to cause an adverse impact to the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, coastal environmental

values and natural coastal processes, the water quality of the marine estate, or to marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms. The modified development is also unlikely to cause an adverse impact to the existing public open space and safe access to and along the foreshore for members of the public based on the access available underneath the jetty structure at low and mid tides. The modified development does not further worsen access for persons with a disability. The subject site has not been identified to contain any Aboriginal cultural heritage, practices or places, however, a condition was placed with the original development consent to ensure that if any Aboriginal engravings or relics are unearthed as part of the development, works will cease immediately and the relevant authorities will be notified. Furthermore, the modified development is unlikely to cause an adverse impact on the use of the surf zone.

(2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*

(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:
As detailed above, the modified development has been designed, sited and will be managed to avoid an adverse impact on the cultural and environmental aspects referred to in Subclause 1.

14 Development on land within the coastal use area

(1)

(a) has considered whether the proposed development is likely to cause an adverse impact on the following:
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
(iv) Aboriginal cultural heritage, practices and places,
(v) cultural and built environment heritage, and

(b) is satisfied that:
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:
The modified development will maintain the existing, safe access to and along the foreshore at low and mid tides, and will not cause any overshadowing, wind funnelling or loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands, will be preserved. As mentioned above, the subject site has not been identified to contain any Aboriginal

cultural heritage, practices or places, however, a condition was placed with the original development consent to ensure that if any Aboriginal engravings or relics are unearthed as part of the development, works will cease immediately and the relevant authorities will be notified. The modified development will also not have an adverse impact on the cultural and built environmental heritage. As such, it is considered that the modified development has been designed, sited and will be managed to avoid an adverse impact on the aforementioned cultural and environmental aspects. Furthermore, the modified development is consistent with the surrounding coastal and built environment, which consists primarily of low-density residential dwelling houses serviced by jetties, and is of an appropriate bulk, scale and size.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

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

Comment:
The land has not been identified as being affected by any coastal hazards and the modified development is not likely to cause increased risk of coastal hazards on other land.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Zone E3 : Yes Zone W1 : Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone E3 : Yes Zone W1 : Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

7.8 Limited development on foreshore area

Pursuant to Subclause 3 of this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the development will contribute to achieving the objectives for the zone in which the land is located, and

Comment:
The modified development achieves the objectives of both the E3 Environmental Management and W1 Natural Waterways zones.

(b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and

Comment:
The modified development reduces the visual impact of the jetty structure based on the removal of the stairs and the stormwater pipeline, resulting in a development which is more compatible with the surrounding area when viewed from both the waterway and adjacent foreshore areas.

(c) the development will not cause environmental harm such as:
(i) pollution or siltation of the waterway, or
(ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habi
(iii) an adverse effect on drainage patterns, or
(iv) the removal or disturbance of remnant riparian vegetation, and

Comment:
Council's Water Management Officer has reviewed the revised stormwater design and is satisfied that the modified development will not cause environmental harm, as listed above.

(d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and

Comment:
The modified development deletes the requirement for stairs, with alternate access provided underneath the jetty structure, and changes the stormwater disposal system, which will not cause congestion or generate conflict between people using open space areas or the waterway.

(e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and

Comment:
As the proposed stairs are only accessible when walking along the sand bank at low and mid tide, the same time at which access can be facilitated underneath the jetty structure, opportunities to provide continuous public access along the foreshore and to the waterway will not be further compromised by the deletion of the stairs.

(f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and

Comment:
The modified development will maintain the natural and aesthetic significance of the subject site and

the surrounding land.

(g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and

Comment:
The modified development does not seek to alter or rebuild an existing building wholly or partly in the foreshore area, therefore, this subclause is not relevant.

(h) sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.

Comment:
The modified development has been referred to Council's Water Management Officer who has considered the impacts of climate change on the modified development.

Furthermore, subclause 4 requires the consent authority to consider whether and to what extent the development would encourage the following:

(a) continuous public access to and along the foreshore through or adjacent to the proposed development,
(b) public access to link with existing or proposed open space,
(c) public access to be secured by appropriate covenants,agreements or other instruments registered on the title to land,
(d) public access to be located above mean high water mark,
(e) the reinforcing of the foreshore character and respect for existing environmental conditions.

Comment:
The modified development facilitates continuous public access below Mean High Water Mark along the sand bank of the foreshore underneath the jetty structure at low and mid tides. The incorporation of the stairs to the boat shed loading deck would not enhance access as the stairs would be inaccessible at higher tides.

It is therefore considered that the modified development meets the requirements of this clause and can therefore be supported.

Pittwater 21 Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.8 Lower Western Foreshores and Scotland Island Locality	Yes	Yes
A4.15 Waterways Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D8.13 Stormwater overflow	Yes	Yes

Detailed Assessment

A1.7 Considerations before consent is granted

Deferred Commencement Condition 1 was placed by the Northern Beaches Local Planning Panel in lieu of recommended Condition 14 which also required stairs to be incorporated into the boat shed loading deck as part of the development consent prior to the issue of a Construction Certificate.

The recommended condition 14 was as follows:

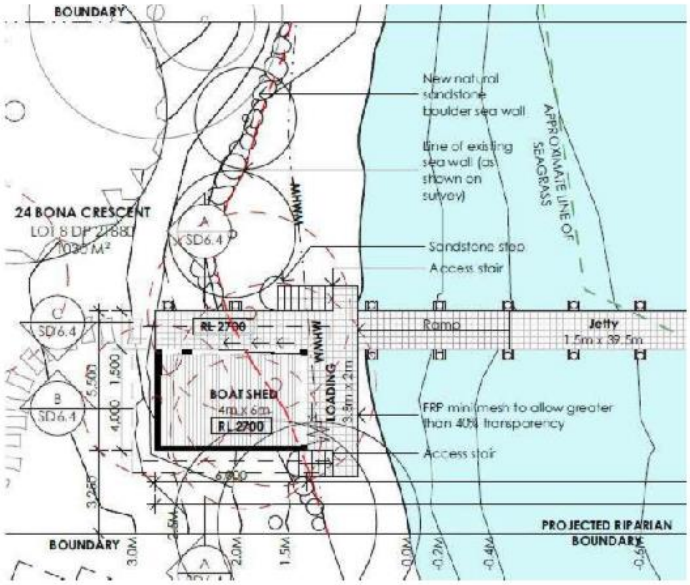
Amendments to the Approved Plans
The proposed loading deck on the north-eastern elevation of the proposed boat shed is to include stairs on the north-western and south-eastern sides to enable public foreshore access. This access is to be maintained at all times

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

Reason: To ensure that the proposed development enables continuous public foreshore access.

The requirement for stairs to be incorporated into the boat shed loading deck was recommended to ensure that continuous public access along the foreshore area and to the waterway could be facilitated in line with the requirements of State Environmental Planning Policy (Coastal Management) 2018 and Clause 7.8 Limited development on foreshore area of the Pittwater Local Environmental Plan 2014, and also to resolve the concerns of the objectors in relation to public foreshore access.

As part of the deferred commencement process, the applicant submitted plans to satisfy the requirements of the conditions. The original design was to run the stairs perpendicular to the shoreline on the north-eastern and south-eastern sides of the boat shed loading deck (Figure 1), however, a review of this arrangement found that access would be impeded by the retaining wall and would also require access over private land, which could not be legally facilitated without the creation of a covenant. Council was not satisfied, therefore, that the requirements of Deferred Commencement Condition 1 were met with the original stair design. In order to address these issues, the applicant submitted an amended design with stairs running parallel to the shoreline (Figure 2). Upon review, Council was satisfied that this arrangement met the requirements of Deferred Commencement Condition 1, whilst also resolving the issues with the original design, and therefore issued an operational consent based on the revised stair design.



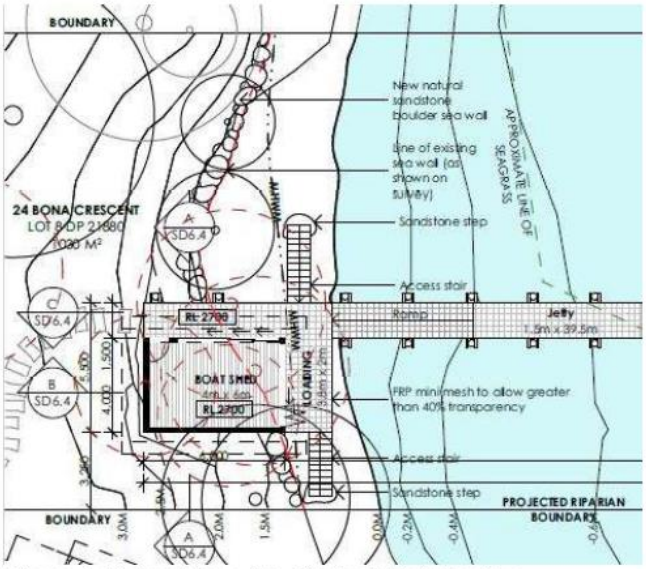


Figure 1: Extract from the Original Stair Design.

Figure 2: Extract from the Approved Stair Design.

As detailed within this report, an assessment of the modified development against the requirements of the relevant policies and controls, as well as additional information provided by the applicant as part of this modification application in relation to the facilitation of public foreshore access underneath the jetty structure, has found that public foreshore access can be facilitated under the jetty structure at low and mid tides across the sand bank on Crown Land, with a clearance of 2.2m underneath the structure (as depicted in Figure 3). The removal of the stormwater pipeline underneath the jettty structure also facilitates a higher level of access across the sand bank. At higher tides, access cannot be facilitated under the jetty structure (as depicted in Figure 4), however, the approved stairs would also not be accessible at this time. Access along the foreshore at higher tides would also not be possible in the immediate vicinity of the subject site without trespassing on private land, therefore, any alternate access arrangement at high tide for the subject site would likely also be inaccessible.

It is therefore recommended that the requirement for stairs be deleted, with public foreshore access facilitated underneath the jetty structure.

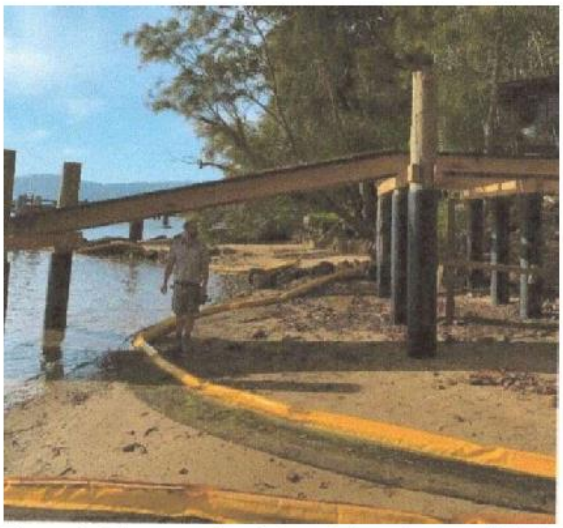


Figure 3: Photograph of the subject site at mid tide (Approx. 1.3m).



Figure 4: Photograph of the subject site at high tide (Approx. 1.9m).

The deferred commencement condition was satisfied and an operational consent issued on 29 July 2019. Accordingly the deferred commencement condition is no longer part of the operational consent so cannot be modified. To accommodate the amendments Condition 3A will be included to update the modified plans and Condition 3B be added to ensure the stairs are deleted from the proposal.

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

Northern Beaches Section 7.12 Contributions Plan 2019

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater 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 Northern Beaches Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2019/0531 for Modification of Development Consent DA2018/1548 granted for alterations and additions to a dwelling house including a boat shed and jetty on land at Lot 8 DP 21880,24 Bona Crescent, MORNING BAY, subject to the conditions printed below:

A. Add Condition No.3A 'Modification of Consent - Approved Plans and supporting Documentation' to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	**Dated**	**Prepared By**
CC1.01 Site Plan, Rev D	11/10/2019	Casey Brown Architecture

Engineering Plans		
Drawing No.	**Dated**	**Prepared By**
Job No. 170905, Page 1, Riprap Detail	08/10/2019	Northern Beaches Consulting Engineers Pty Ltd
Job No. 170905, Page 2, Riprap Section Detail	08/10/2019	Northern Beaches Consulting Engineers Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

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

B. Add Condition No.3B 'Deletion of jetty stairs" to read as follows:

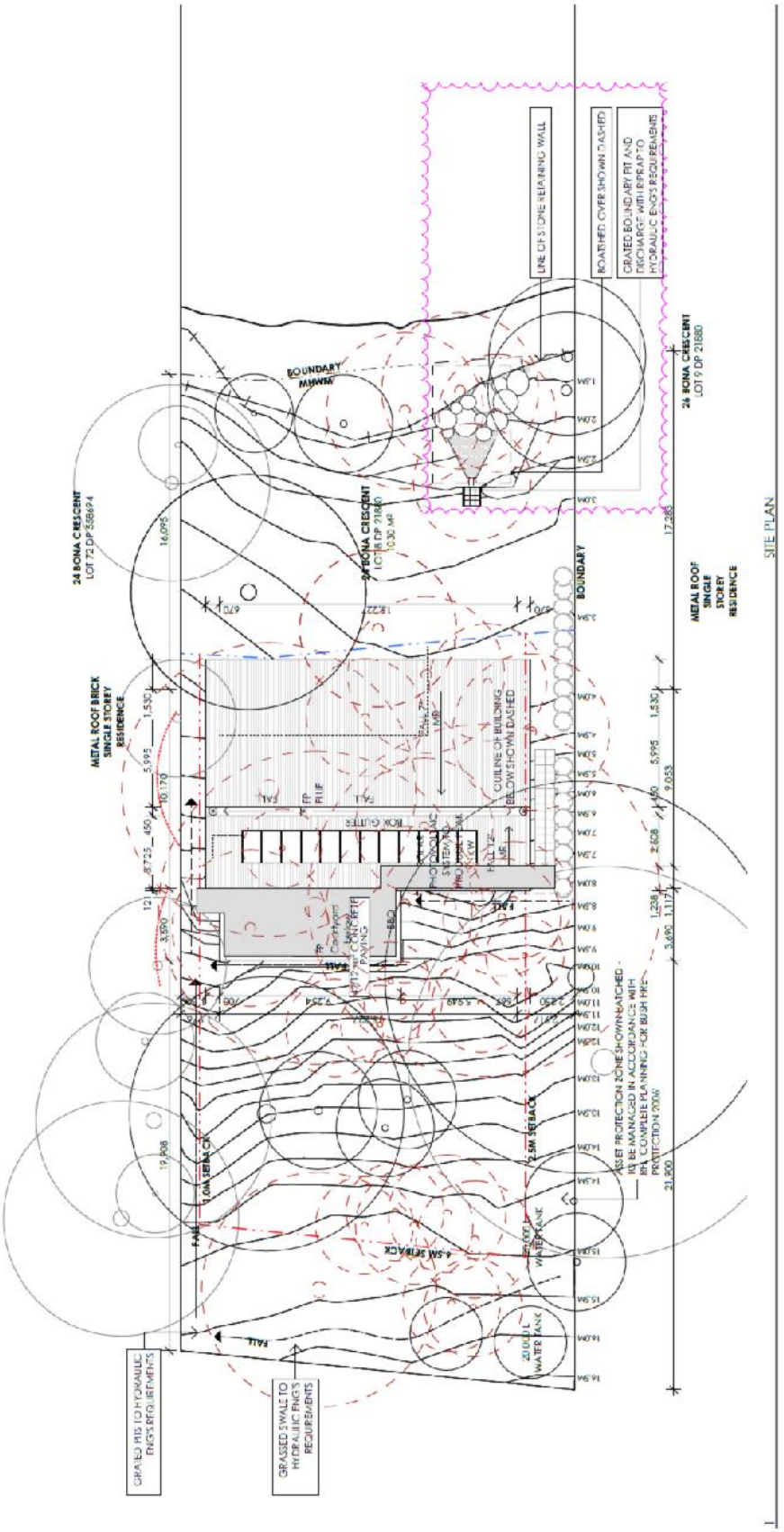
The stairs leading up to and over the jetty are to be deleted.

Reason: To ensure the plans reflect the modified proposal.

C. Add Condition No. 15A 'Stormwater Outlet Revetment' under the heading 'Conditions to be Satisfied Prior to the Issue of the Construction Certificate' to read as follows:

The rock armour (Rip rap) used to construct the revetment must meet the following size specifications and be laid in an interlocking pattern:
D90 = 250mm
D50 = 100mm
D10 = 40mm

Reason: Improve stability of the revetment to high flows and wave action.


SITE PLAN
24 BONA CRESCENT
LOT 72 DP 588674
26 BONA CRESCENT
LOT 9 DP 21880
BONA CRESCENT
LOT 8 DP 21880
1030 M²
BOUNDARY
MHWM
BOUNDARY
METAL ROOF BRICK SINGLE STOREY RESIDENCE
METAL ROOF SINGLE STOREY RESIDENCE
LINE OF STONE RETAINING WALL
BOATSHED OVER SHOWN DASHED
GRATED BOUNDARY PIT AND DISCHARGE WITH RIP RAP TO HYDRAULIC ENGS REQUIREMENTS
OUTLINE OF BUILDING BELOW SHOWN DASHED
ROCK OUTLET
PROPOSED ONSITE WASTEWATER MANAGEMENT SYSTEM TO HYDRAULIC ENGINEERS DESIGN
HOT WATER SYSTEM
FIRE HYDRANT
FIRE HOSE REEL
Cantilever Deck Over Rock Outcrop
PAVING
BBQ
RAIN
FALL
6.5M SETBACK
4.5M SETBACK
ASSET PROTECTION ZONES SHOWN HATCHED - TO BE MANAGED IN ACCORDANCE WITH RFS GUIDELINE PLANNING FOR BUSH FIRE PROTECTION 2006
20,000L WATER TANK
GRATED PITS TO HYDRAULIC ENGS REQUIREMENTS
GRASSED SWALE TO HYDRAULIC ENGS REQUIREMENTS

ITEM 3.3	**DA2019/1116 - 32 OLD BARRENJOEY ROAD, AVALON BEACH - USE OF LOWER LEVEL OF EXISTING BUILDING AS A COMMUNITY FACILITY**
AUTHORISING MANAGER	**RODNEY PIGGOTT**
TRIM FILE REF	**2020/114067**
ATTACHMENTS	**1 ⇩Assessment Report**
	2 ⇩Site and Floor 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. DA2019/1116 for use of lower level of existing building as a community facility at Lot 1 DP 511908, 32 Old Barrenjoey Road, Avalon Beach subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1116

Responsible Officer:	Planning Consultant (Natalie Nolan)
Land to be developed (Address):	Lot 1 DP 511908, 32 Old Barrenjoey Road AVALON BEACH NSW 2107
Proposed Development:	Use of lower level of existing building as a community facility
Zoning:	Pittwater LEP2014 - Land zoned RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Development Determination Panel
Land and Environment Court Action:	No
Owner:	Northern Beaches Council
Applicant:	Stephen March – Northern Beaches Council

Application Lodged:	10/10/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Public Recreation
Notified:	28/10/2019 to 11/11/2019
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	$0.00

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks approval for the change use of the existing undercroft area of the building for use as a creative arts space. There will be two (2) studio spaces with a larger flexible teaching space that will be able to accommodate up to ten (10) students. A Heritage Exemption Application under Pittwater LEP dated 2 October 2019 has been granted for some building works. This application seeks some alteration to the teaching space windows and doors which were not part of the Heritage Exemption Application.

EXECUTIVE SUMMARY

Based on a detailed assessment of the proposal against the applicable planning controls, it is assessed that the proposal is suitable and appropriate development for the subject site.

The proposed development demonstrates compliance with the objectives of the relevant controls of the PLEP 2014 and PDCP 21.

A heritage exemption for works on the ground floor of the building including internal reconfiguration and changes to windows and doors was previously issued. There are however some amendments to the physical works proposed under this application which differ from the heritage exemption. Conditions have been recommended by Council's Heritage Officer in this regard.

One (1) submission was received which raised a number of concerns with the proposed change of use. These have been dealt with in detail in this report.

The application has been assessed against the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), Environmental Planning and Assessment Regulations 2000 (EP&A Regulations 2000), relevant Environmental Planning Instruments (EPIs), Local Government Act 1993 and Council policies. The outcome of this assessment is detailed within this report.

Given all considerations, submissions, variations and analysis of the proposal, it is recommended that the proposed development be approved subject to recommended conditions attached to this report.

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

The assessment issues are summarised below:

Pittwater Local Environmental Plan – Clause 5.10 Heritage Conservation

SITE DESCRIPTION

Property Description:	Lot 1 DP 511908, 32 Old Barrenjoey Road AVALON BEACH NSW 2107
Detailed Site Description:	The subject site consists of one allotment of land located on the eastern side of Barrenjoey Road. The site is an irregular shaped allotment with an area of approximately 1.3ha. The site comprises an 18 hole golf

	course and associated buildings The main clubhouse building is located towards the northern edge of the site adjacent to the Barrenjoey Road frontage. The clubhouse is identified in Schedule 5 of the Pittwater LEP 2014 as a local heritage item along with the former kiosk and greenkeepers cottage. The works relating to this Development Application are within the envelope of the existing clubhouse building. The site is serviced by a carpark immediately to the northwest of the club house. This carpark provides parking for 42 cars, plus 2 accessible spaces and a delivery/loading zone. **Detailed Description of Adjoining/Surrounding Development** The character of the immediate locality is characterized by a mix of single detached housing, medium density housing and the Avalon Beach retail precinct.

Map:



SITE HISTORY

The Golf Club House, Greenskeeper's Cottage and former kiosk form a group of historically significant items which represent the early development of leisure and tourism facilities in Avalon and is associated with the locally historic phase of Holiday and Recreation development between 1920 and 1950. A Heritage Exemption was previously issued (on 2 October 2019) for the following:

- Installation of new doors and windows to the existing buggy store.
- Relocation of air conditioning units.
- Internal reconfiguration and new fixtures and fittings throughout.
- Removal of cool room.
- Renovation of existing bathroom.

The Heritage Exemption did not authorise the change of use of the building for an artist studio and teaching space which has resulted in this development application. Additional minor window and door alterations were also not included in the Heritage Exemption.

In July 2017, Council resolved to allocate $1 million from the Merger Savings Fund to establish a Creative Space in the northern part of the Local Government Area. Following extensive community consultation and investigation by Council's Community, Arts & Culture team, the undercroft area of Avalon Golf Course was selected as being an appropriate location for the location of a creative space. This was endorsed by Council at its meeting of 26 February 2019.

The following provides a timeline of applications related to the site:

- JH2/0019/95 – Development Consent for earthworks and landscaping was approved on 27 February 1995.
- JH2/0070/95 – Development Consent for upgrading between 8th Green and 9th Tee was approved on 22 May 1995.
- JH2/0249/95 – Development consent for earthworks including 3 mounds on existing fairway and landscaping works was approved by Council on 11 December 1995.
- JH2/0023/96 – Development consent for upgrading of existing fairways (No. 2 and 7) and greens (No. 9) was approved on 14 April 1996.
- N0254/98 – Development consent for alterations to the existing golf course was approved on 24 November 1998.
- N0219/03 – Development consent for alterations/additions to the existing clubhouse were approved on 16 November 2004.

Avalon Golf Course Plan of Management

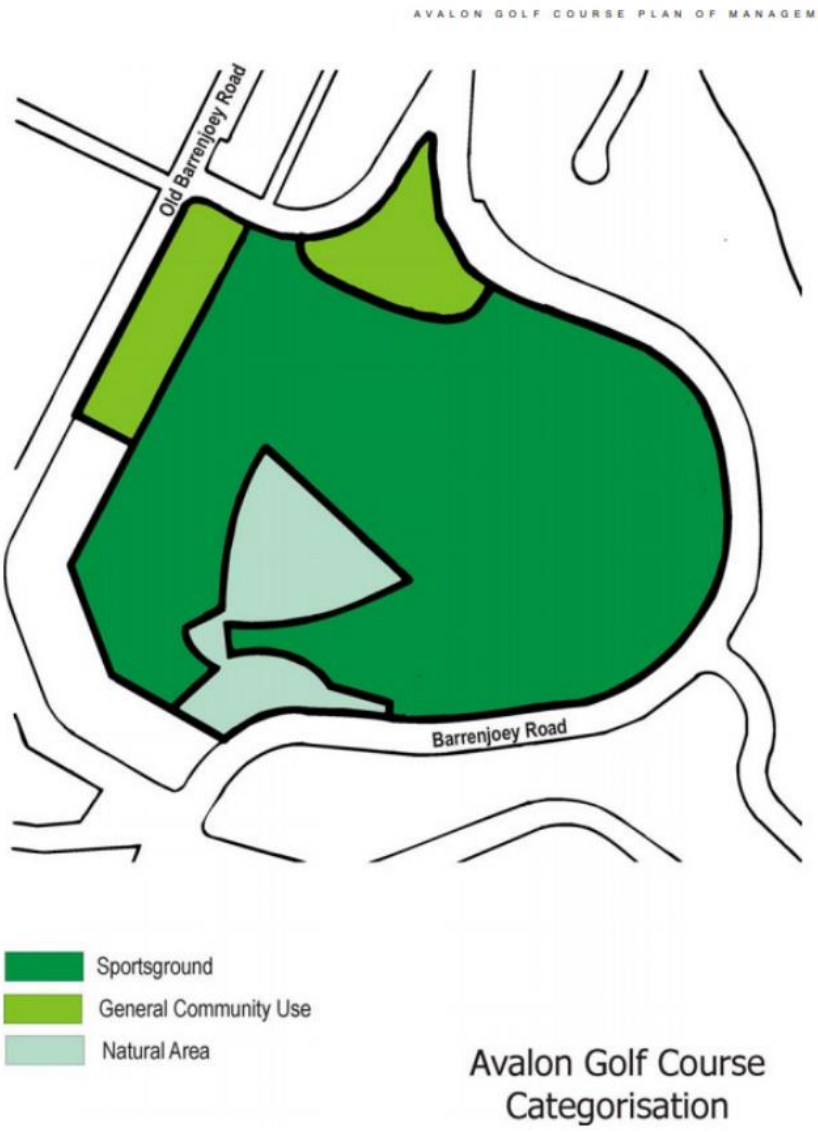
The Avalon Golf Course Plan of Management was prepared to satisfy the Local Government Act 1993, as amended 1998, and provide a framework for its long-term management adopted on 12 May 2003.

Local Government Act 1993

Land that is the subject of a plan of management prepared under the Local Government Act must be categorised. As shown in Figure 1, categories are:

- 'Sportsground' for all playing areas, the car park and facilities, as the primary use is for *"active recreation involving organised sports or the playing of outdoor games'*.
- 'Natural area bushland' for all other areas as these areas play an important role in the area's ecology and contain important stands of remnant vegetation. Future revegetation will increase these natural values.
- 'General Community Use' for the park on Old Barrenjoey Road, the buildings on the site and the carpark areas.

See Figure 1 below:-



"Core objectives for General Community Use category

To promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and the wider public:

a) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and
b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities."
In addition to the above under the heading **3.2.3 Current and future use** within the Plan of Management it states: -

"It is considered that the primary use of the site should not change, so that Avalon Golf Course, including all land and buildings within the site, shall continue to be used primarily as a public golf course, for the

playing of golf, whether social or competitive. This purpose shall also include activities normally associated with a public golf course, namely, course maintenance, parking, selling of food and beverages, provision of golf equipment and services, and basic amenities.

A secondary purpose shall be as a place for holding social and community gatherings, including weddings, ceremonies, small public meetings, provided these do not interfere with the primary purpose of the golf course, adversely affect the heritage significance of the clubhouse, or lead to adverse effects on nearby residents or patrons. (It is considered that this extended community use of the clubhouse could supplement revenue from the course and help fund course and building maintenance.)"

Given the above it is considered that the proposed use of lower level of existing building as a community facility is consistent with the Avalon Golf Course Plan of Management.

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	Pittwater 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)(iiia) – 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)	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. Clauses 54 and 109 of the EP&A Regulation 2000. There was no request for additional information. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clause 98 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.

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	**(i) Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater Development Control Plan section in this report. **(ii) Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. **(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.
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.

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 initial public exhibition process Council is in receipt of 1 submission from:

Name:	Address:
Mr Paul Coonan – Royal Avalon Golf Course Preservation Association Inc	23 Central Road, Avalon Beach

The issues were raised are addressed below:

- *Change rooms in the undercroft area form an integral part of the Heritage nature and design of the Clubhouse.*

  Comment:

  The proposal was assessed by Council's Heritage Officer which in summary provided:

  "Heritage has considered this submission and notes that while the proposal will remove some existing golfing related facilities, they are not heritage significant fabric and Heritage does not consider their removal on balance to impact upon the item or its significance. These facilities could also be reinstated at a later date if required.

It is further noted that as an adaptive reuse project, the artist studios and teaching space will also allow for a greater range of people to visit the heritage item by providing additional spaces for people to use. This is an improvement over the current situation where they are not well utilized. Allowing more people to access and use the heritage item will lead to a greater appreciation of the item and its significance.

Therefore, on balance heritage can support the proposal subject to the conditions discussed above."

It is considered that the proposed change of use is appropriate in this regard.

- *Change room facilities should be made available to golfers*

  Comment:

  The change room facilities at the lower ground floor level have not been utilized as change rooms for some time. However, it is noted that there are toilet facilities on the upper floor level and the existing male facilities on the lower floor will be converted to unisex facilities.

- *Zoning permissibility*

  Comment:

  The proposed use as a community facility is permitted with consent in the RE1 Public Recreation zone and meets the zone objectives. The use of the part of the building as a creative art space is compatible with the primary use of the golf club for outdoor recreation and will allow for this space to be used for ancillary development to meet the needs of the community. The creative art space will be utilized by local artists for solo or group exhibitions, one of workshops etc.

  The LEP defines community facility as follows:

  ***"community facility** means a building or place—*
  (a) owned or controlled by a public authority or non-profit community organisation, and
  (b) used for the physical, social, cultural or intellectual development or welfare of the community,
  but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation."

  The space will continue to be controlled by Northern Beaches Council as part of their 'Creative Art Space'. This will allow local artists and curators to hold exhibitions and workshops for the cultural development of the community.

  The proposed used is not defined as an 'educational establishment' as it will not provide for formal education, is not a school or tertiary institution.

REFERRALS

Internal Referral Body	*Comments*
Heritage	*"The proposal seeks consent for a change of use of the lower ground floor of the golf course into artist's studios and a teaching space. Heritage notes that it previously issued a heritage exemption for works on the ground floor of the building including internal reconfiguration and changes to windows and doors. It did not authorise the change of use of the building for an artist studio and teaching space which has resulted in this development application. There are however some amendments to the physical works proposed under this application which differ from the heritage exemption which Heritage will comment on.* *Heritage notes that the proposed new internal doors through the western sandstone wall (converting existing sash window openings) are to allow for all weather internal access without resorting to an external awning/pergola. An external awning/pergola was previously considered by Heritage to be a negative component obscuring the building and it did not approve it as part of the heritage exemption. Heritage can on balance accept the creation of internal access to avoid an external awning which would have a greater visual impact. The sandstone wall as currently presented should also be photographically recorded before the works begin.* *There have also been changes to the proposed windows in the buggy store area between the heritage exemption and the development application plans. Heritage notes these changes are relatively minor, but there are a few matters that need to be considered.* *One concern is raised with proposed windows W1 and W2. The proposed infill windows include a 900mm base of rendered and painted masonry block work. This added heavy base to the building will emphasise this extension which was originally intended to be a much lighter structure that did not compete with the original club house element. Heritage will require that these window treatments be revised to minimise the impact upon the heritage item and will condition the application accordingly.* *Doors D1 and D2 are currently proposed as solid timber doors. Once again this buggy store was intended as a light weight structure that would not compete with the original clubhouse building* *.* *Heritage will condition that these doors be amended to transparent glazed sash doors to preserve the lightweight character of the addition.* *Submissions* *One submission has been received during the exhibition period which objects to the proposal on heritage grounds. Heritage has considered this submission and notes that while the proposal will remove some existing golfing related facilities, they are not heritage significant fabric and Heritage does not consider their removal on balance to impact*

	upon the item or its significance. These facilities could also be reinstated at a later date if required. *It is further noted that as an adaptive reuse project, the artist studios and teaching space will also allow for a greater range of people to visit the heritage item by providing additional spaces for people to use. This is an improvement over the current situation where they are not well utilized. Allowing more people to access and use the heritage item will lead to a greater appreciation of the item and* its significance. *Therefore, on balance heritage can support the proposal subject to the conditions discussed above."*
Building Assessment	**Officer comments** *"The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.* *Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage."*
Development Engineer	*"The proposed development is for change of use only. There is no Development Engineering objection to the proposal with no conditions."*
Landscape	*"No objections are raised with regard to landscape issues, subject to conditions."*
Natural Environment (Biodiversity)	*"Council's Natural Environment - Biodiversity section raises no objections to the proposed development.* *This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP B4.2 Flora and fauna conservation category 1 and wildlife corridor and B4.4 Flora and fauna habitat enhancement category 2 and wildlife corridor.* *The proposal is for the alterations and additions to the club house including converting the undercroft area into an art studio. No native trees or vegetation are proposed to be impacted. The proposal is consistent with biodiversity controls."*
Waste	*Recommendation* *"Approval subject to conditions"*
Transport Network	*"I just wanted to check that there is no proposed changes affecting the existing parking, as the plan doesn't seem to show the 2 existing accessible parking spaces which is shown by trees on Site Plan Drawing No. DD 001 D.* *Otherwise I don't have any objections to the Application."* Planner Comments: There are no changes to the existing parking arrangements.

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.
NSW Police	The proposal was referred to NSW Police. 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

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 recreational and cultural land uses.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

Comment:
Not applicable to the site.

11 Development on land in proximity to coastal wetlands or littoral rainforest

Comment:
Not applicable to the site.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as "coastal vulnerability area" on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:
(a) if the proposed development comprises the erection of a building or works—the building or

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

Comment:
At the commencement of this Policy, no Coastal Vulnerability Area Map was adopted and therefore no coastal vulnerability area has been identified. Not applicable.

13 Development on land within the coastal environment area

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

Comment:
The proposed works are unlikely to cause an adverse impact upon the matters identified in this clause. The proposal is located wholly within the subject site and does not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes.

14 Development on land within the coastal use area

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

Comment:
The proposal is setback from the foreshore and will not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not adversely effected. In addition, the surrounding area consists of examples of similar developments.

No aboriginal heritage sites have been identified within the vicinity of the proposed development. The proposed works are not likely to cause an adverse impact upon the matters identified in this clause.

As such, it is considered that the application does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 Development in coastal zone generally—development not to increase risk of coastal Hazards

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

Comment:
The proposal is unlikely to cause increased risk of coastal hazards on that land or other land, due to its design, location and relevant reports indicating no unreasonable impacts.

Coastal Management Act 2016

The subject site identified as Coastal use area under the Coastal Management Act 2016. The management objectives for the coastal use area are as follows:

"(a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that:
(i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and
(ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and
(iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and
(iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and
(v) the use of the surf zone is considered,
(b) to accommodate both urbanised and natural stretches of coastline."

Comment: The proposal is setback from the foreshore and will not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not adversely effected.

SEPP (Building Sustainability Index: BASIX) 2004

BASIX does not apply to the proposed works.

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.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	No change	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.10 Heritage Conservation	Yes
7.1 Acid Sulfate Soils	Yes
7.6 Biodiversity	Yes
7.7 Geotechnical Hazards	Yes

Land Use Zone: RE1 Public Recreation.

Permissible or Prohibited:

Community facilities – Permitted with consent.

Pittwater 21 Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locaility	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.1 Heritage Conservation – Heritage Items	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes

B5 Water Management	Yes	Yes
B6.2 Internal Driveways	N/A	N/A
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	No	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C5.1 Landscaping	Yes	Yes
C5.2 Safety and Security	Yes	Yes
C5.4 View Sharing	Yes	Yes
C5.5 Accessibility	Yes	Yes
C5.7 Energy and Water Conservation	Yes	Yes
C5.8 Waste & Recycling Facilities	Yes	Yes
C5.10 Protection of Residential Amenity	Yes	Yes
C5.22 Environmental Sustainability	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.2 Character – Avalon Beach Village	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	N/A	N/A
D1.11 Building envelope	Yes	Yes
D1.13 Landscaped Area - General	Yes	Yes

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 and Pittwater 21 DCP and the objectives specified in S1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

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;
- Local Government Act 1993;

- Pittwater Local Environment Plan 2014;
- Pittwater 21 Development Control Plan; and
- Codes and Policies of Council.

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, other documentation supporting the application and the public submissions, and the conclusion is that the proposal does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties.

Suitable conditions will ensure that the heritage concerns are addressed.

Given all considerations, submissions, variations and analysis of the proposal, it is considered that subject to the recommended conditions, the proposed development should be approved.

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 DA2019/1116 for use of existing lower level clubhouse as a creative arts space and minor alterations (community facility) on land at Lot 1 DP 511908, 32 Old Barrenjoey Road, Avalon Beach, 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**
001 – Site Plan	03/10/19	Breakspear Architects
020 – Existing Ground	03/10/19	Breakspear Architects
030 – Demolition Plan - Ground	03/10/19	Breakspear Architects
100 – Proposed Plan – Ground	03/10/19	Breakspear Architects
110 – Proposed Plan – Ground	03/10/19	Breakspear Architects
500 – Proposed Bathroom and Joinery	03/10/19	Breakspear Architects
504 – Proposed Door and Window Schedule	03/10/19	Breakspear Architects
505 – Joinery	03/10/10	Breakspear Architects

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

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. 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

3. 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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) 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.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) 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.

(k) 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.

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all

relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(m) 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.

4. Compliance with Standards

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

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

(a) AS2601.2001 - Demolition of Structures**
(b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
(c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
(d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
(e) AS 4970 - 2009 'Protection of trees on development sites'**
(f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
(g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
(h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
(i) AS 2890.5 - 1993 Parking facilities - On-street parking**
(j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
(k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
(l) AS 1428.1 – 2009* Design for access and mobility - General requirements for access – New building work**
(m) AS 1428.2 – 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website www.hreoc.gov.au/disability rights /buildings/good.htm.
<www.hreoc.gov.au/disability%20rights%20/buildings/good.htm.>

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.)

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.

5. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a community facilty is defined as:

"community facility means a building or place—
(a) owned or controlled by a public authority or non-profit community organisation, and
(b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation."

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent

FEES / CHARGES / CONTRIBUTIONS

6. Security Bond

A bond (determined from cost of works) of $1,500 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.

7. Tree protection

(a) Existing trees which must be retained
  i) All trees unless exempt under relevant planning instruments or legislation
  ii) Trees located on adjoining land

(b) Tree protection

  i) No tree roots greater than 25mm 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 25mm 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 WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

8. Photographic Archival Record
A photographic archival recording of the property will need to be undertaken in accordance with the NSW Office of Environment and Heritage's 'Photographic Recording of Heritage Item Using Film or Digital Capture' (2006).

This recording will be provided to Council for archival purposes.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

9. Teaching Space Windows and Doors
The windows and doors to the proposed teaching space area are to be revised to Council's Heritage Officer's satisfaction.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To preserve the Heritage significance of the item

10. BCA Report
A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Accredited Certifier* will need to be submitted with the Construction Certificate application addressing the following:

The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to satisfy provisions of Sections C, D, E and F of the Building Code of Australia.

The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made by the proposed development are appropriate for its intended use to:
i) restrict the spread of fire from the building to other buildings nearby, and
ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and
iii) where appropriate, provide access for persons with a disability, and
iv) provide facilities and services appropriate for the development

*To be regarded as an "appropriately qualified accredited certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifying Authority with the Construction Certificate application.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety

11. Required Planting

Planting indicated on the approved plans is to comprise local native species only.

Reason: Local amenity.

12. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue
of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is
reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

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

14. Waste Management Plan

A Waste Management Plan shall be submitted prior to the issue of an Occupation Certificate detailing the on-going waste management of the premises.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

15. Garbage and Recycling Facilities

Provide a bin enclosure that is suitable for 3 x 240L bins. Screening is necessary for the public amenity
of the area.

Reason: To prevent pollution of the environment and to protect the amenity of the area.

16. Landscape completion certification

a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.
b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a

landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the approved landscape plan.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

ON GOING CONDITIONS

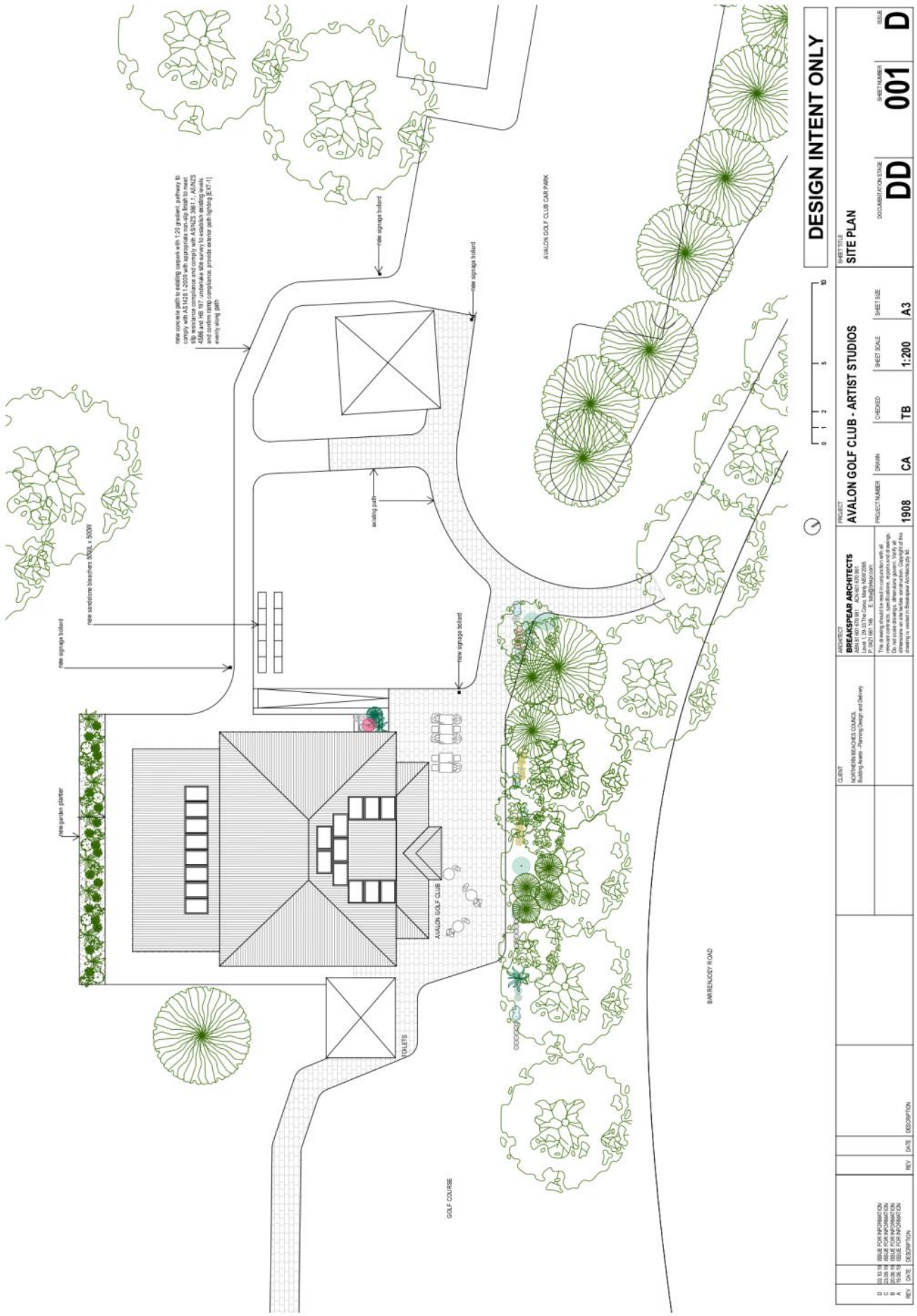
17. Hours of Operation

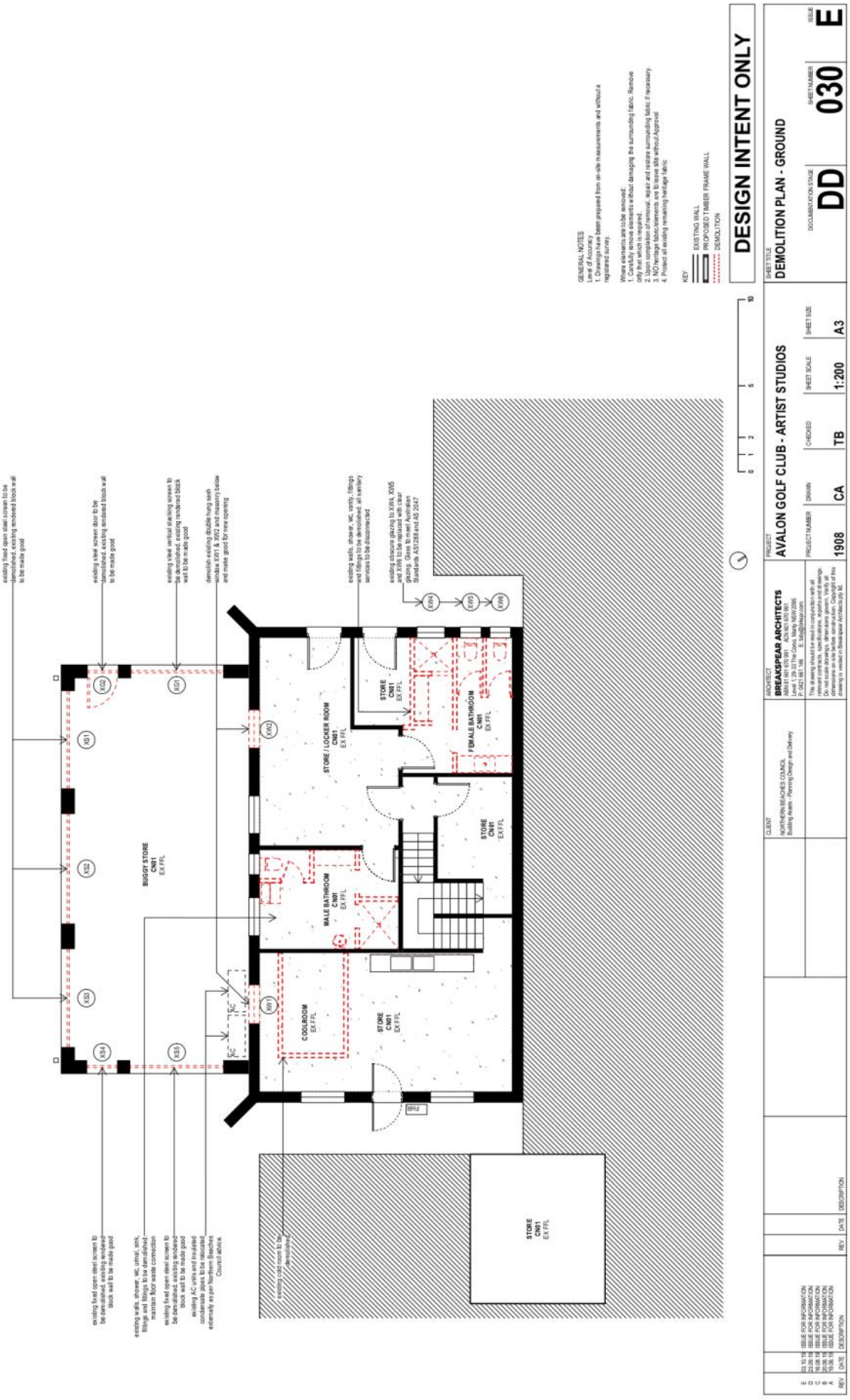
The hours of operation are to be restricted to:

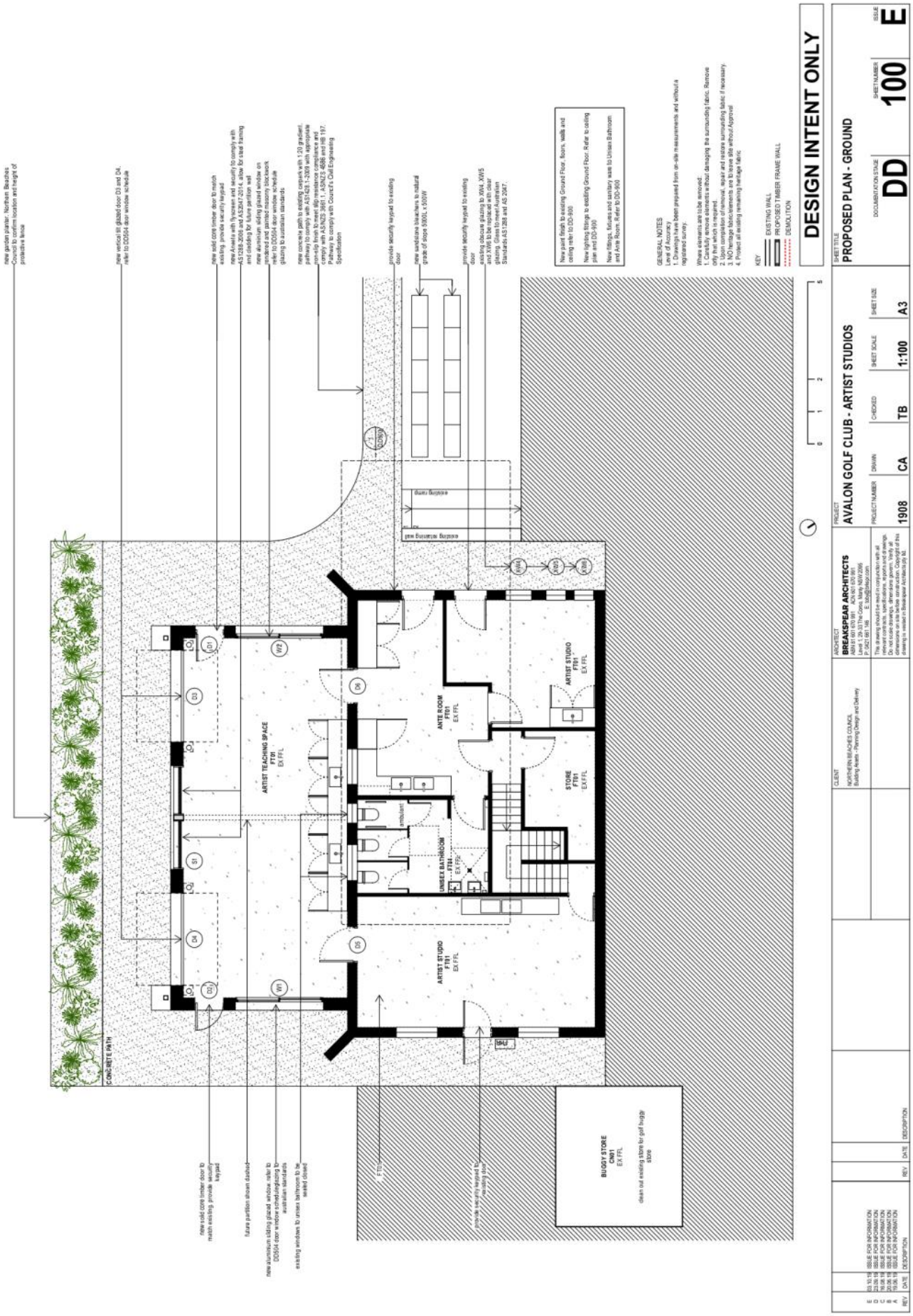
Monday to Sunday – 7am to 10pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.


DESIGN INTENT ONLY
SITE PLAN
AVALON GOLF CLUB - ARTIST STUDIOS
BREAKSPEAR ARCHITECTS
NORTHERN BEACHES COUNCIL
DD
001
D
1908
CA
TB
1:200
A3
new signage bollard
new sandstone bleachers 3000L x 500H
new garden planter
new concrete path to existing carpark with 1:20 gradient, pathway to comply with AS1428.1:2009 with appropriate non-slip finish to meet slip resistance compliance and comply with AS/NZS 3661.1 : AS/NZS 4586 and HB 197: undertake site survey to establish existing levels and confirm ramp compliance, provide exterior path lighting [EXT-1] evenly along path
existing path
AVALON GOLF CLUB CAR PARK
AVALON GOLF CLUB
TOILETS
GOLF COURSE
BARRENJOEY ROAD


DESIGN INTENT ONLY
SHEET TITLE
DEMOLITION PLAN - GROUND
DOCUMENTATION STAGE
DD
SHEET NUMBER
030
ISSUE
E
PROJECT
AVALON GOLF CLUB - ARTIST STUDIOS
PROJECT NUMBER
1908
DRAWN
CA
CHECKED
TB
SHEET SCALE
1:200
SHEET SIZE
A3
ARCHITECT
BREAKSPEAR ARCHITECTS
CLIENT
NORTHERN BEACHES COUNCIL
Building Assets - Planning Design and Delivery
GENERAL NOTES
KEY
EXISTING WALL
PROPOSED TIMBER FRAME WALL
DEMOLITION
BUGGY STORE
CN01
EX FFL
STORE / LOCKER ROOM
CN01
EX FFL
MALE BATHROOM
CN01
EX FFL
FEMALE BATHROOM
CN01
EX FFL
COOLROOM
EX FFL
STORE
CN01
EX FFL
STORE
CN01
EX FFL
STORE
CN01
EX FFL
STORE
CN01
EX FFL
existing fixed open steel screen to be demolished, existing rendered block wall to be made good
existing steel screen door to be demolished, existing rendered block wall to be made good
existing steel vertical slatching screen to be demolished, existing rendered block wall to be made good
demolish existing double hung sash window, & roof above, carefully remove and make good for new opening
existing walls, shower, wc, vanity, fittings and fittings to be demolished, all sanitary services to be disconnected
existing obscure glazing to XW4, XW5 and XW6 to be replaced with clear glazing to comply with AS1288 and AS 2047
existing walls, shower, wc, urinal, sink, fittings and fittings to be demolished
existing fixed open steel screen to be demolished, existing rendered block wall to be made good
existing A/C units and insulated condensate pipes to be relocated externally as per Northern Beaches Council advice
existing cast iron to be demolished
DESCRIPTION
DATE
REV


DESIGN INTENT ONLY
PROPOSED PLAN - GROUND
DD
100
E
AVALON GOLF CLUB - ARTIST STUDIOS
BREAKSPEAR ARCHITECTS
NORTHERN BEACHES COUNCIL
ARTIST TEACHING SPACE FT01 EX FFL
ANTE ROOM FT01 EX FFL
ARTIST STUDIO FT01 EX FFL
STORE FT01 EX FFL
UNISEX BATHROOM FT02 EX FFL
ARTIST STUDIO FT01 EX FFL
BUGGY STORE CN01 EX FFL
clean out existing store for golf buggy store
CONCRETE PATH
new garden planter. Northern Beaches Council to confirm location and height of protective fence
new vertical tilt glazed door D3 and D4. refer to DD504 door window schedule
new solid core timber door to match existing. provide security keypad
new Artwela with flyscreen and security to comply with AS1288-2006 and AS2047-2014. allow for steel framing and cladding for future partition wall
new aluminium sliding glazed window on existing external masonry wall. Refer to DD504 door window schedule glazing to australian standards
new concrete path to existing carpark with 1:20 gradient. new concrete path to comply with AS1428.1 2009 provide from B meet slip resistance compliance and comply with AS/NZS 3661.1, AS/NZS 4586 and HB 197. Pathway to comply with Council's Civil Engineering Specification
provide security keypad to existing door
new sandstone bleachers to natural grade of slope 930DL x 500W
provide security keypad to existing door
existing obscure glazing to WW4, XW5 and XW6 to be replaced with clear glazing. Glass to comply with Australian Standards AS1288 and AS 2047.
New paint finish to existing Ground Floor, floors, walls and ceiling refer to DD-900
New lighting fittings to existing Ground Floor. Refer to ceiling plan and DD-999
New fittings, fixtures and sanitary ware to Unisex Bathroom and Ante Room. Refer to DD-900
GENERAL NOTES
Level of Accuracy
1. Dimensions have been prepared from on-site measurements and without a registered survey.
Where elements are to be removed:
1. Carefully remove elements without damaging the surrounding fabric. Remove only those elements noted.
2. Upon completion of removal, repair and restore surrounding fabric if necessary.
3. NO heritage fabric/elements are to leave site without Approval
4. Protect all existing remaining heritage fabric
KEY
EXISTING WALL
PROPOSED TIMBER FRAME WALL
DEMOLITION
new roller shutter door to existing opening
new roller shutter door to existing opening
new roller shutter door to existing opening
new solid core timber door to match existing. provide security keypad
future partition shown dashed
new aluminium sliding glazed window. refer to DD504 door window schedule glazing to australian standards
existing windows to unisex bathroom to be sealed closed
provide security keypad to existing door
FT01
ISSUE FOR INFORMATION
ISSUE FOR INFORMATION
ISSUE FOR INFORMATION
ISSUE FOR INFORMATION
ISSUE FOR INFORMATION
ISSUE FOR INFORMATION
DESCRIPTION
DATE
REV

ITEM 3.4	**MOD2019/0325 - 76 WILLANDRA ROAD, NARRAWEENA - MODIFICATION OF DEVELOPMENT CONSENT DA2014/1180 GRANTED FOR THE CONSTRUCTION OF A BOARDING HOUSE**
AUTHORISING MANAGER	**STEVE FINDLAY**
TRIM FILE REF	**2020/114226**
ATTACHMENTS	**1 ⇩Assessment Report**
	2 ⇩Site Plan and Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is a modification of a determination made by a local planning panel.

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. Mod2019/0325 for modification of Development Consent DA2014/1180 granted for the construction of a boarding house at Lot 811 DP 752038, 76 Willandra Road, Narraweena for the reasons set out in the Assessment Report.

DEVELOPMENT ASSESSMENT REPORT

Assessment Officer:	Alex Keller
Address / Property	Lot 811 DP 752038, No.76 Willandra Road, Narraweena
Description:	Section 4.15 (AA) modification of consent to DA2014/1180 granted for the construction of a Boarding House
Modification Application No:	MOD2019/0325
Application Lodged:	8/7/2019
Plans Reference:	A001 to A302 dated 13/5/2019 drawn by *Vigor Master Pty Ltd*
Amended Plans:	Nil
Applicant:	Vigor Master Pty Ltd
Owner:	Weiru Niu
Locality:	B2 Oxford Falls Valley
Category:	Category 2 – Warringah Local Environmental Plan (LEP) 2000
Variations to Controls (Cl.20/Cl.18(3)):	Yes – Housing density (concurrence of *Department of Planning Industry & Environment* (DPIE) re: housing density)
Referred to DDP:	NO
Referred to NBLPP:	YES – 4 submissions & DA2014/1180 refused by the *Warringah Development Assessment Panel* and granted approval by the NSW Land & Environment Court.
Land and Environment Court Action:	None pending

SUMMARY

Submissions:	4
Submission Issues:	Incompatibility with State Environmental Planning Policy for Affordable Rental Housing, incompatibility with the Desired Future Character and low intensity and low impact, General Principles, flora and fauna impact, water quality, riparian land, suitability, incompatible with potential future zone.
Assessment Issues:	Desired Future Character, Housing Density, Building Bulk, Development on Sloping Land, Traffic and Access, Site Facilities and Carparking.
Recommendation:	Refusal
Attachments:	A4 Notification Plans

EXECUTIVE SUMMARY

The subject application seeks to modify consent (DA2014/1180), pursuant to Section 4.56 of the *Environmental Planning and Assessment Act* 1979 for a boarding house, to increase the number of accommodation rooms from 13 to 16, as well as ancillary changes to the interior and exterior of the building, additional carparking, and associated site works.

The proposal is referred to the Northern Beaches Local Planning Panel, as the DA was originally refused by the independent panel at the time, namely, the Warringah Development Assessment Panel, and the modification will further increase the variation to the housing density development standard by more than 10%. The application requires the concurrence of the Department of Planning Industry and Environment for the new variation to the housing density standard. However, the further variation is not supported based on the assessment.

A critical consideration to the modification proposal is the relationship between the housing density control and the 'existing holding' provisions under the Desired Future Character (DFC). In this case, the proposal is a 'new generation' style boarding house, but includes self-contained accommodation rooms (including a managers unit).The boarding house also has a shared kitchen / dining area and common rooms. Each bedroom is capable of being a self-contained domicile as determined in *SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66.*

Additionally, the modification proposal is considered to be inconsistent with the General Principles of Development Control with regard to building bulk, site facilities, traffic and access, development on sloping land and the provision carparking. Overall, the proposal is exacerbating the concerns raised in the original approval and does not demonstrate the characteristics of a 'low intensity low impact' use as required by the B2 Oxford Falls Locality statement.

Accordingly, the proposal is recommended for refusal.

LOCALITY PLAN (not to scale)



Subject Site:	Lot 811, DP 752038, No. 76 Willandra Road, Narraweena
Public Exhibition:	The subject application has been publicly exhibited in accordance with the *Environmental Planning and Assessment Regulation 2000*, *Warringah Local Environment Plan 2000* and *Warringah Development Control Plan 2011 – Part A.7 Notification*. As a result, the application was notified to eighteen (18) adjoining land owners and occupiers for a period of fourteen (14) calendar days commencing on 23/7/2019. A notification sign was also erected on the site for the same period. An advertising notice for the proposal was made in the *Manly Daily* newspaper on the 27/7/2019

SITE DESCRIPTION

The subject site is identified as Lot 811 in DP 752038 and is known as No.74 Willandra Road, Narraweena. The property is a rectangular shaped lot having a splayed frontage to Willandra Road. The site has a total site area of 32,150 sqm. The site is located on the western side of Willandra Road, between Alkira Circuit and Little Willandra Road, near the diversion of "Old Willandra Road".

The site has a depth of 330m east to west and width of 100m north to south, with an angled boundary to Willandra Road.

The property is a sloping allotment having a varying fall from the western side toward a steep gully (watercourse) 90m east of Willandra Road. The land then rises steeply to Willandra Road, where previous excavation works have created a series of terraced areas. Stormwater from the property drains the natural gully that is on the eastern half of the property. The existing state of the land is predominantly natural bushland, but 7,700sqm has been cleared for the construction of a dwelling house (approved in 2009 and later a boarding house in 2014) fronting Willandra Road. Access is gained from Willandra Road.

The subject property is not heritage listed, but may contain potential aboriginal relics or threatened species within the undisturbed bushland areas.

Land uses surrounding the subject site comprise of:

- Bushland, which adjoins the northern, western boundaries within private property.
- Crown Land adjoins the north-eastern corner of the site
- A Rural Fire Service building 120m south of the site.
- A boarding house (17 accommodation rooms) approved for Lot 810 adjoining the southern boundary.
- A retirement village which is located opposite the subject site on the eastern side of Willandra Road, and
- Residential land within the suburb of Narraweena supporting typically one and two storey detached style dwelling houses located to the east of Willandra Road.

SITE HISTORY

DA2009/1358	Development Application for the construction of a part three storey dwelling house was approved by Council on 18/5/2010. A Construction Certificate (CC2011/0020) was issued for this consent on 14/1/2011.
MOD2010/0160	Modification application - Section 96(1A) to modify DA2009/1358 was approved by Council on 20/9/2010.
DA2014/1180	Construction of Boarding House was refused by Council on 3/6/2015. In summary, the reasons for refusal were due to:

- Inconsistency with the DFC in relation to the natural landscape, vegetation disturbance and natural watercourse quality.
- Inconsistency with the General Principles of Development Control in relation to construction site, pollution, contamination, flora protection, watercourse and stormwater quality, landscaping areas, private open space, traffic and parking, site facilities and erosion control.
- Inconsistency with the objectives of the EP&A Act 1979 including matters of the public interest.
- Insufficient information to fully assess the application.
- Inconsistencies in the information submitted.

The applicant lodged a Class 1 Appeal with the NSW Land & Environment Court (Proceeding No.15/11109). Subject to amended plans and conditions a 'Section 34' Agreement was entered into and an approval of the boarding house was granted by the Court on 22/7/2016 (ref. No.2016/00159587). The consent was subject to a Deferred Commencement Condition that the site gain approval from Sydney Water for connection to the sewer mains.

The Deferred Commencement Condition was satisfied on 5/9/2018.

PROPOSED DEVELOPMENT

The modifications to the approved development seek to increase the occupancy of the Boarding House from 13 accommodation rooms to 16 accommodation rooms, by reconfiguring internal elements of the building and some minor external changes.

The resultant development will comprise:

- Sixteen (16) boarding rooms, comprising 15 x lodger rooms and inclusion of one (1) boarding room set-up for a live-in manager, that has a private terrace;
- Eight (8) parking spaces (including 1 disabled persons car space) and redesigned driveway formation;
- Four (4) motorbike spaces and four (4) bicycle spaces;
- External garbage bin holding room and truck loading bay;
- Inclusion of a lift;
- Addition of a second communal living and storage area on the first floor;
- Selected reconfiguration of the internal floor layout;
- Reduced roof height from RL57.03 to RL56.62;
- Ancillary external changes for landscaping and site works.

Ancillary works include:

- Connection to (existing) private sewer line mains;
- Landscaping, ancillary site works, including bushland clearing for bushfire safety;
- Footpath connection along Willandra Road.

Amendments to the Internal Layout of the Boarding House

The interior floor plan is now proposed to be configured as follows:

- **Ground Floor RL 46.60** – Basement carpark for two (2) cars, and four (4) bicycles, drive thru to external parking for 8 cars and 4 motorbikes, external communal terrace and clothes drying area, internal stairs and lift access, four (4) lodger rooms with secondary external access.
- **First Floor RL 49.4** - Six (6) lodger rooms, 4 private balconies, shared lounge room, storage area, internal lift and stair access.
- **First Floor RL52.6** – Five (5) lodger rooms and a Manager's, shared kitchen / lounge room, lift, stairs, bin room, laundry, 3 private balcony/terraces and 1 communal balcony.

- **Roof Ridge RL56.62** – Hipped roof form

All accommodation rooms have private kitchenette and ensuite facilities.

AMENDMENTS TO THE SUBJECT APPLICATION

No amendments have been made to the submitted modification plans.

STATUTORY CONTROLS

a) Environmental Planning and Assessment Act 1979 (EPA Act 1979); and
b) Environmental Planning and Assessment Regulations 2000. (EPA Regulation)
c) State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)
d) Warringah Local Environmental Plan 2000 (Warringah LEP 2000)
e) Northern Beaches Community Participation Plan (NBCPP) (formerly Warringah Development Control Plan 2011 (DCP 2011) - Part A.7 Notification
f) Warringah Section 94A Development Contributions Plan (S94A Plan)
g) State Environmental Planning Policy (Affordable Rental Housing) 2009* (SEPP ARH)

*Note: SEPP ARH does not strictly apply by virtue of Warringah LEP 2000 not having an "*equivalent zone*" as detailed within the SEPP.

PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the *Environmental Planning and Assessment Regulation 2000*, *Warringah Local Environmental Plan 2000* and *NBCPP*. As a result, the application was notified to eighteen (18) adjoining land owners and occupiers for a period of fourteen (14) calendar days commencing on 23/7/2019. A notification sign was also erected on the site for the same period.

An advertising notice for the proposal was made in the *Manly Daily* newspaper on the 27/7/2019.

A total of four (4) submissions were received in response to the notification. Submissions were received from the following:

Submission	Address
Friends of Narrabeen Lagoon	PO Box 845 Narrabeen
J Harris	313 Weemala Road Duffys Forest
C Harris	Lot 2671 Morgan Road Belrose
J Marlow	154 Woorarra Avenue Elanora Heights

The following issues were raised in the submissions and each has been addressed below:

1. **Issue:** ***"****A boarding house is incompatible with the State Environmental Planning Policy (Affordable Rental Housing) 2009."*

Comment:
The application has not been lodged pursuant to SEPP (Affordable Rental Housing) 2009 and since there is no "equivalent zone", the SEPP is not applicable. Therefore, this issue does not warrant refusal of the application. The modification proposal is however assessed as a "Category 2" "housing" development under the provisions of the Warringah LEP 2000.

2. **Issue:** ***"****A boarding house is not compatible with the desired future character of the locality or density requirements of Warringah LEP 2000".*

Comment:
The Desired Future Character (DFC) contains a number of requirements including those relating to "detached style", density standards, visual impacts, maintaining landforms and vegetation, colours

and textures, fencing and protecting the water quality of Narrabeen Lagoon to ensure *low impact, low intensity* development. These issues have been discussed in detail within this report under the heading "*Desired Future Character*". In summary, the modifications proposed are contrary to a number of key elements in the DFC.

Additionally, the DFC includes special criteria for land that comprises an "existing holding" to restrict housing density. The subject site is affected by the existing holding criteria in that Lot 811 in DP 752038 was a single holding as at 8 March 1974 – referred to on the relevant map as "Norro P/L". The modifications are not consistent with the housing density controls, in that they seek to further increase the variation, contrary to the desired future character statement. This issue warrants refusal of the application.

3. **Issue: "***The 'boarding house' is increasing the occupancy from 13 accommodation rooms to 16, including increased car parking which is an intensification of the use which is not consistent with "low intensity low impact."*

Comment
This issue has been addressed in detail under the heading "*Desired Future Character*" within this report. In summary, it is considered that the modification to increase the occupancy is an intensification of the site that is not supported. Concerns raised with respect to parking have been considered under the sections in this report dealing with Schedule 17 and Clause 74. With the exception of the modification involving the provision of no visitor spaces, the provision of 8 resident carparking spaces is satisfactory to service the boarding house occupants.

In summary, the variation is not justified due to inconsistency with the DFC and General Principles of Development Control under Warringah LEP 2000.

4. **Issue: "***The proposal is inconsistent with the General Principles of Development Control under Warringah LEP 2000, to ensure development does not create adverse impacts from erosion or sedimentation, pollutants, reduced quality of watercourse habitat and loss of unique environmental features.*

Comment:
The current development consent includes conditions to address environmental protection, such as water quality, erosion control, pollution control and related environmental issues, including proximity to Wheeler Creek, which drains to Narrabeen Lagoon. This issue is addressed in detail within this report under the relevant General Principles. In summary, Council's Natural Environment & Climate Change Unit (NEU) – Biodiversity, have not raised any concerns with the modification or have recommended additional environmental protection conditions.

Therefore, this issue is addressed by existing conditions of consent and does not warrant refusal of the modification application.

5. **Issue: "***The proposal will impact on flora and fauna of the site including bushland and habitat with extra clearing and should be restoring recent clearing".*

Comment:
Some bushland clearing has already been undertaken following the approval for the construction of a dwelling house under Consent No. DA2009/1358. Additional clearing has recently been undertaken for the construction of a *Sydney Water* sewer main connection, extended from Bolta Place, north-east of the site. However, this infrastructure work is separate to the current modification application. The requirement to connect to a *Sydney Water* sewer main formed part of the conditions of approval (deferred commencement) for the Boarding House under Consent No. DA2014/1180 issued by the NSW LEC.

The modification to the approved building, does not require any additional bushland clearing, therefore this issue is not considered to have determining weight.

6. **Issue: "***The proposal seeks to enlarge the development by modification beyond what Council previously considered was unacceptable*

Comment:
The Warringah Development Assessment Panel determined that the proposed Boarding House development under DA2014/1180 was not consistent with the planning controls under WLEP 2000 and the boarding house application was therefore refused. The enlargement and intensification of the land use, that was previously considered to be unacceptable with regard to the DFC and low intensity low impact, is similarly not supported for the reasons outlined in the recommendation of this report.

7. **Issue: "***The proposal will require additional bushland clearing for the bushfire protection APZ".*

Comment:
The modified proposal is accompanied by a Bushfire Protection Assessment (Ref. 18VM07B – July 2019), prepared by *Travers Bushfire & Ecology*. The application has been assessed by Council's NEU (Biodiversity) Section with respect to potential environmental impacts on the natural environment including flora, fauna and water courses. No additional clearing is required for the modified development, which will continue to rely upon the conditions provided by the NSW Rural Fire Service.

Council's NEU has raised no objection with respect to the proposed APZ area, water quality risks, ecological impacts or threatened species as they relate to the modified proposal.

8. **Issue:** *"The proposal is unsuitable for the site due to not being located near facilities or services"*

Comment:
The boarding house is located 1km away from local shops in Carrawa Road and 3.3km from the major centre of the Dee Why Town Centre. The location of the boarding house within a rural locality will create a higher dependency on private transport, since the site is also not on a main / major route for public transport which therefore limits transport options. While, the building will have adequate car parking facilities for lodgers, no provision is made for visitors and kerbside parking in front of the site is not convenient due to the narrow road formation. This issue is addressed in further detail under *Clause 74 Provision of carparking* within this report.

In summary, without adequate off street parking for visitors, the modification is not supported.

9. **Issue: "***The use of an outdoor barbeque facility also not suitable for the site due to bushfire risks."*

Comment:
The use of a formal outdoor barbeque area as an ancillary facility for the boarding house is unlikely to create any unreasonable impact. An outdoor table is shown on the plans however no BBQ facility (such as a purpose built BBQ gazebo) is shown on the proposed plans.

Therefore, this issue is not relevant to the modification application.

10. **Issue:** *"The proposal will cause increased erosion and siltation due the steep slope toward a creekline that has close proximity to Wheeler Creek"*

Comment:
The modification has been provided with concept erosion and sediment control plans that will form the basis of new works. These include detail regarding the "sediment fence" structure, dispersion structures and vehicle access sediment control points. No change to existing sediment controls / water quality protection conditions is required.

Therefore, this issue does not warrant refusal of the modification proposal.

MEDIATION

Has mediation been requested by the objectors?	No
Has the applicant agreed to mediation?	No
Has mediation been conducted?	No

LAND AND ENVIRONMENT COURT ACTION

There is no current Land and Environment Court action relating to the subject application.

REFERRALS

External Referrals	Referral Response / Comments
NSW Rural Fire Service *(NSW RFS)*	The site is identified as bushfire prone land. In accordance with Section 4.14 of the *Environmental Planning and Assessment Act, 1979* the original development application was referred to the *NSW Rural Fire Service* (NSW RFS). The modification will maintain the consent conditions provided by NSW RFS, including to compliance with *Planning for Bushfire Protection 2006*.
Ausgrid	The application was referred to *Ausgrid* service provider under clause 45(2) of *State Environmental Planning Policy (Infrastructure) 2007*. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no special service provider conditions are recommended.
Water NSW	In accordance with Section 91A of the *Environmental Planning and Assessment Act 1979,* the proposal was referred to Water NSW for General Terms of Approval (GTA) under Section 92 of the *Water Management Act 2000*. Water NSW provided GTA's on 18 January 2019 in relation to potential ground water impact relating to proposed excavation works.
Aboriginal Heritage Office	The site is identified as being in close proximity to, or having high potential for, aboriginal heritage relics on the land, and was therefore referred to the *Aboriginal Heritage Office* (AHO) supporting Northern Beaches Council. A referral response was provided on 11/12/2019 and no objection to approval is made subject to requirements that if any Aboriginal sites should be uncovered during earthworks, works should cease and Council, the Department of Planning, Industry and Environment (DPIE) and the Metropolitan Local Aboriginal Land Council contacted.
NSW Department of Planning Industry and Environment	Council cannot approve applications under Warringah LEP 2000 that seek a variation of greater than 10% to the housing density controls without the concurrence of the *NSW DPIE*. Detailed comments regarding concurrence requirements are provided later in this report under the heading "Other Matters for Consideration".

Internal Referrals	Referral Response / Comments
Strategic and Place Planning (Urban Design)	*"The proposed built form is essentially a 3 storey box with flat facades that lack articulations. It should be designed better to have the look of a single and double storey house which is the general character of the surrounding houses and developments. It fails the WLEP2000 Desired Future Character Statement (DFCS) test of "new detached style housing conforming with the housing density standards ... and low intensity, low impact uses...".* *The proposed excavation on the southern edge of the built form is about 5.5 metres which is considered excessive. This is not consistent with the requirement of the DFCS: "Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services". The building could be designed more sensitively to fit better into the slopping site and minimise land excavation."* Planning Comment The proposed modification application is not considered satisfactory in accordance with the above Urban Design comments.
Natural Environment and Climate Change Unit (NEU) – Bushland and Biodiversity	*"The proposed modification will not increase the building footprint or the required asset protection zone, and therefore will not result in an increase in biodiversity impacts or significantly affect threatened species, endangered ecological communities or their habitats. The previous conditions continue to apply"* Planning Comment NEU – Bushland and Biodiversity have raised no objection to approval of the modification application.
Landscape Officer	*"The proposed modification indicates additional works on already disturbed land. Consequently, no additional impacts from a landscape perspective are considered to be presented by the modification.* *Existing conditions are considered sufficient, save for updating of relevant plan numbers."* Planning Comment The Landscape Officer assessment has raised no objection to approval of the modification application.
Development Engineering	The proposal has been assessed on 4/10/2019 and it is not supported based on the following comments: *1. The redesigned driveway longitudinal section (dwg A005 dated 13.05.2019) is not in accordance with AS/NZS2890.1 and in particular with requirements for ramp grades. A section along the property boundary shall be included in the amended plans with indicated existing and proposed levels for driveway and adjacent footpath.* *2. Conditioned connection of internal pathway with the proposed footpath along the development frontage shall be included on the plan-view and must be supported with long section through the center line of the paths. The section shall be designed in accordance with relevant standards for children and adolescents with physical disabilities. New footpath fronting the site shall be 1.5 m wide in accordance with Council specification.* *3. Storm-water redesigned concept shall be supported with dimensions (to show compliance with imposed conditions) and calculation/Drains model that shall include dispersion trench and rainwater tank.* Planning Officer Comment: Insufficient information has been provided to address engineering

	considerations for vehicle access, retaining walls on steeply sloping land and stormwater. The modification application is therefore recommended for refusal.
Traffic Engineer	*"The additional parking provision is considered satisfactory for the proposed additional rooms. The plans indicate that no changes are proposed on the access driveway. The conditions of consent granted to the Development Application in regards with the access driveway and public domain are still applicable.* *There is a concern raised on the inter-visibility between the vehicles from opposite directions given the sharp bend proposed on the driveway leading to the building. The sight line issue has to be addressed by provision of a convex mirror on the bend to enable the vehicle exiting the building to see the oncoming vehicles, as well as a give way line to be marked prior to the bend for vehicles to give way to the oncoming vehicle turning to the building from the bend. In view of the above the proposal can be supported subject to condition."* Planning Comment Traffic Engineering assessment has raised no objection to approval of the modification application.
Waste Officer	*"The applicant has not complied with the Northern Beaches Council Waste Management Guidelines as follows. A redesign is required to ensure compliance.* *Bin room design and location:* *The bin room is to be able to accommodate 13 x 240L bins required for the 16 dwellings. Plus, accommodate 1 x 240L vegetation bin for every 200 sqm of landscaped open space on the site.* *The applicant is to ensure there is a bin room at street level to facilitate a wheel out and return service by Council and/or its agents. The bin room is to be located within 6500mm of the front property boundary and access unobstructed and unrestricted with a minimum path of 1200mm wide.* *The pathway and access between the Waste Storage Area and Collection Point will be:* *a) Solid, concrete, continuous, non-slip and clear of any obstructions and steps.* *b) A maximum ramp gradient of 1 in 8.* *c) Hazard free and not via a pathway with vehicular traffic. d) A minimum width of 1200mm. Any doors fitted on the Waste Storage* *Area, pathway and access will be:* *a) A minimum width of 1200mm.* *b) Able to be latched in an open position.* *c) Unobstructed by any locks* *d) Openable in an outward direction.* *A bulky goods waste storage area must be provided, that will be a room or caged area separate from the waste storage area and accessible by the waste contractor located within 6500mm of the front property boundary."* Planning Officer Comments: Insufficient information has been provided to address waste considerations for site facilities required. The modification application is therefore recommended for refusal
Environmental Health (Unsewered Lands)	No referral required. The site has been approved for connection to a sewer main by *Sydney Water* and works are in progress in accordance with Sydney Water case number: 168552, including plans 168552WW, stamped by MGP and dated 11/7/2018.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.56 Modification by consent authorities of consents granted by the Court	**Comments**
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	**No** See discussion within this report whereby the proposal does not maintain the Housing density standard and is inconsistent with the General Principles of Development Control and the DFC as outlined.
(b) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been notified in accordance with the Warringah LEP 2000 and notification procedures of DCP 2011 (Part A7 – see "Community Participation Plan"). Submissions within the original development application and under the modification have been considered.
it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	Refer to notification and advertising details, including discussion on "Notification and submissions received. Submissions made for the modification have been considered and also reviewed in the context of submissions made with the original development application.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification and submissions received" in this report.

Section 4.15 Assessment

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

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

Section 4.15 'Matters for Consideration'	**Comments**
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "SEPP 55", "SEPP ARH" and "Warringah LEP 2000" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	No Draft Environmental Planning Instruments apply.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2000 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	The EPA Regulations 2000 requires the consent authority to consider the provisions of the *Building Code of Australia*. This matter has been previously addressed via existing condition of consent.
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	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the "General Principles of Development Control" in this report. The environmental concerns associated proposal relating to DFC, additional excavation for structures, parking and site facilities are unsatisfactory in relation to the B2 Oxford Falls Valley Locality, and warrants refusal of the proposal. (ii) The development will contribute to the available stock of affordable rental housing in the locality. However, the development does not ensure a satisfactory living environment for the demographic of the community that it is intended to cater for. (iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site has physical constraints which creates difficulties for addressing the DFC, due to the proposal being in a location that is constrained by steep landform and a requirement for a "low intensity low impact" development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regulations	The public submissions received in response to the proposed development are addressed under 'Notification & Submissions Received' within this report.
Section 4.15 (1) (e) – the public interest	For the reasons stated in this report, it is apparent that the proposal is not in the public interest due the likely impacts on the B2 Oxford Fall Locality. Accordingly, the assessment has found that the proposal is not justified for approval in the public interest.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No 55 – Remediation of Land

The requirements of 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 vacant land for a significant period of time. Site inspection shows some earthworks have been undertaken including vegetation clearing and construction of a new sewer line. Requirements of the SEPP were considered as part of the NSW LEC Appeal Proceedings No.11109/2015.

No change to the original assessment and conditions of consent are required for the modification.

State Environmental Planning Policy - BASIX

The NSW Department of Planning Industry and Environment has developed an alternative assessment process to be used to assess the thermal comfort of *large boarding house* developments (i.e. those designed to accommodate more than 12 people or with a gross floor area of more than 300 sqm). As the proposed development is classified as a "Class 3 Building" in accordance with the Building Code of Australia (BCA), SEPP BASIX does not apply to boarding house development under certain criteria at the development application stage.

The proposed form of development is instead affected by the energy efficiency related provisions contained within Section J - Energy Efficiency of Volume One of the BCA. Conditions requiring compliance with the BCA to address sustainable energy use (as per the BCA report, prepared by *"Thermal Performance"* dated 14/6/2019), may be included subject to any recommendation for approval.

State Environmental Planning Policy - Infrastructure

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

The application was referred to *Ausgrid* who did not raise any objection or provide conditions to the modification proposal.

NSW Road and Maritime Service

Clause 101 of *SEPP Infrastructure* requires the Consent Authority to consider any development application for development with frontage to a classified road. Willandra Road is not listed as a "classified road" for the purposes of the SEPP and the modification does not trigger any other traffic generating referral requirements to the NSW RMS

Sydney Water

In accordance with DA2014/1180, *Sydney Water* has authorised the construction of a sewer line service, at the applicant's expense, to connect the site to the Sydney Water sewer assets available in the vicinity of Little Willandra Road. No changes are required in relation to the modifications. Refer to the Sydney Water *Deed of Agreement 168552* contract and plans dated 11/7/2018.

SEPP (Affordable Rental Housing) 2009

The SEPP ARH and issues relating to "equivalent zone" are addressed under the original development assessment. The site is not within an equivalent zone therefore the SEPP is not applicable.

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

Desired Future Character (DFC)

The subject site is located in the B2 Oxford Falls Valley Locality under Warringah Local Environmental Plan 2000.

The Desired Future Character Statement for this Locality is as follows:

> *"The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.*

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained."

Definition and Category of Development

Boarding house development is identified as a Category 2 land use in the B2 locality, as it is a form of housing development which is not prohibited or listed in Category 1 or 3. In addition to being a form of housing, a "boarding house" is also a specifically described use under the WLEP 2000 - *Dictionary*.

A "boarding house" falls under the collective category of "housing", being a type of development for permanent residential accommodation. This is different to "other uses" that include tourist accommodation, such as backpacker lodges, B&B or motel rooms.

"Housing" means development involving the creation of one or more dwellings whether or not used as a group home.

The category described as "*other buildings, places or land uses*" in the B2 Locality, is for development other than "*housing*" that is not prohibited or Category 3. Since a boarding house is a form of housing, it is appropriate that it be subject to the housing density controls.

A boarding house does not escape application of the housing density controls under the WLEP 2000. In this regard, by similarity a "Group Home" (which is also separately defined and is so configured with bedrooms and shared spaces in a building), is distinguished as "a dwelling". Likewise a boarding house contains spaces that make it a building that has "*a room or a suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile."*

Therefore, a boarding house by default contains a dwelling or multiple dwellings (conventionally being attached) and any or a number of rooms that will also be "***capable** of being occupied or used as a separate domicile*". This is particularly the case if the boarding rooms have their own external access to enter / leave the property and lodger rooms have bathrooms and bench space for cooking appliances / food preparation.

Clause 12(3) (a) of Warringah LEP 2000 requires the consent authority to be satisfied that the modification to the proposed development will remain consistent with the Locality's DFC statement.

The legal context of "dwellings" within boarding houses was considered by Preston J under *SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66* – see paragraphs 63-67 of Preston J decision, dated 2 May 2018. In this instance, and following this recent legal judgement, this substantive element of the WLEP has a significant bearing on the modification in that the proposal cannot disregard the housing density control. In effect, the modification increases the number of dwellings on site from 16 to 19.

Consideration of the development against the Desired Future Character (DFC) statement

Before granting consent, Clause 12(3)(b) of WLEP 2000 requires that the consent authority must consider the DFC described in the locality statement and as the proposal is a Category 2 landuse, must demonstrate consistency with the DFC statement. As such, as the following provides a consideration of the development against the various parts of the above DFC statement:

> ***"The present character of Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.***
>
> ***Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. "***

Comment: New development is required to be limited to detached style housing "*that conforms to the housing density standard set out".* The proposal will increase the variation of the housing density standard, from 83.9% to 93.7%. Variations of more than 10% to the housing provision require the concurrence of the Director of the *NSW Department of Planning Industry and Environment*.

The DFC seeks for the locality to remain "unchanged" except in particular circumstances whereby development is required to "conform to the housing density standard." Clearly, the proposal is inconsistent with this element of the DFC and seeks to expand that variation. Additionally, the building does not present itself as "*detached style*" that would modulate and reduce the building scale and maintain a two storey form and character. The modification seeks to increase the area of the approved third storey, with no discernible articulation along the lengthy side walls that is commonly a feature of "detached style".

The modification is required to be considered against the DFC requirement for "low intensity, low impact" use. This criteria is described in the Land and Environment judgement "*Vigor Master Pty Ltd v Warringah Shire Council [2008] NSWLEC 1128".* The following definition was provided in the judgement:

- ***Intensity*** *- is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore "low intensity" would constitute a development which has a low level of activities associated with it.*

- ***Impact*** *- is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore 'low impact' would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality.*

Low Intensity Assessment

Occupation Intensity: The intensity of the occupancy is currently restricted by a condition of development consent to 13 lodgers. The modification application, as submitted, shows accommodation potentially up to 19 adults, in 16 separate rooms, within a three-storey building. The draft Plan of Management (PoM) is similar to the original consent and addresses issues of amenity for neighbours such as residents noise, visitor hours, the use of balconies and external areas, waste management, carparking, and other day to day management issues.

Traffic Intensity: The Applicant has provided a Traffic and Parking Assessment Report prepared by *Varga Traffic Planning* and provides a land use comparison with a 'motel' for traffic generation purposes. Using this generation rate, a comparison based on the *RMS Traffic Guide* and reference to the SEPP ARH has been used. Eight (8) car parking spaces are provided for occupants as well as 4 motorbike parking spaces. The site is within a rural area, therefore reliance on private transport is potentially higher due to the limitations of public transport to align with personal travel destinations and times of lodgers. However, the site has access to a local bus service along Willandra Road. The change in intensity of traffic to and from the site is considered to be low.

The additional traffic movements during the peak periods is considered acceptable by Council's Traffic Engineer and will not adversely impact traffic capacity along Willandra Road or the local road network performance.

***Density**:* In terms of density, the requirement under the B2 Oxford Falls Valley Locality Statement is 1 dwelling per 20ha, and the site has a total area of 3.215 hectares. While the proposed development is not a conventional dwelling, from a distance it will look similar to a single large dwelling house. The 3 storey elements on the sides and rear and visible ancillary aspects such as the bin room, exhibit a higher density of occupation. This is indicative of the higher intensity of use as a boarding house. The physical size of the building (as amended) has not be adequately designed to create a "detached style" and reduce the impacts of bulk when viewed from adjacent land.

Conclusion on 'Low Intensity' Considerations

The proposal is further intensifying the use of the site in terms of both density and occupation, which is contradictory to the DFC requirement to maintain 'low intensity' use for all development in the Locality.

Low Impact Assessment

The relevant potential impacts of the proposed development are addressed as follows:

***Built Form Impact**:* The physical impacts of the building form on the natural environment are generally confined to the building footprint and the APZ approved under DA2014/1180. The modifications seek to increase the size of the side wall plane, which result in the overall building not representing a "detached style", being a single massed block that is being enlarged by in-fill of the approved built form. Therefore, the built form impact is inconsistent with the desired future character envisaged for development in the Locality.

In addition, the APZ requirements will necessitate compliance with "Planning for Bushfire Protection 2006", which will require broad landscape clearances to be maintained, thereby increasing the visual exposure of the building to the street. Therefore, the built form impact cannot be ameliorated by dense screen planting in the vicinity of the building and so the modified design is not considered to be "low impact".

***Traffic Impact**:* The submitted Traffic and Parking Impact Assessment prepared by *Varga Traffic Planning Pty Ltd 17161,* dated 8/11/2018 states that the anticipated traffic movements would not adversely impact on the performance of the surrounding road network. The modification assessment will result in no notable change to the level of service for Willandra Road as a 'Regional Road'. As such, the traffic generation implications of the proposal are considered to be of low impact as compared to the test applied for Category 2 development and *low impact* assessment as made by Hussey C in "*Vigor Master Pty v Warringah Shire Council [2008] NSWLEC 1128".*

***Noise Impact**:* The boarding house will be operated seven (7) days a week, however restrictions relating to visitor hours and the use of external private open space and balconies have been incorporated into the draft boarding house Operational Plan of Management (PoM). An Environmental Noise Assessment, prepared by *PKA Acoustic Consulting,* dated 17/9/2014, was submitted with the original Development Application. The PKA report concluded that the use of the site meets the noise criterion for residential development, including vehicle noise and mechanical plant equipment. The modification does not involve any significant change to noise generation and conditions of consent relating to noise.

Conclusion on 'Low Impact' Considerations

The modified proposal does not involve adequate offsets or does not provide measures to ameliorate key impacts on the development. Therefore, this is contrary to maintaining 'low impact' as per the DFC requirement for all development in the Locality.

"There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway."

Comment: The modification does not seek to increase the amount of clearing of existing native vegetation across the western part of the site where the land rises toward a broad ridge, or near the creekline. The building is will maintain the approved setback to Willandra Road and the site cannot be seen from Narrabeen Lagoon or Wakehurst Parkway. Overall, the proposal will not disrupt the ridgelines or have an adverse visual impact on the local skyline when viewed from Narrabeen Lagoon or Wakehurst Parkway.

"The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

Comment: ***Vegetation Protection:*** As mentioned above, the proposal does not seek any further vegetation removal to that already approved on site. The site provides an Asset Protection Zone (APZ) for bushfire protection purposes approved by the NSW Rural Fire Service. The site will retain vegetation located in the western half of the site, as existing. Overall, the density of new landscape planting on the site is considered acceptable in its context and consistent with the landscape character of the area and factoring in APZ requirements.

Consideration of the Warringah Biodiversity Conservation Study (September 2011) was made under the original development assessment for DA2014/1180 and the modification does not proposed any substantial changes that will adversely affect the following conservation categories.

- Conservation Significance – Creek: Category A (Wheeler Creek Catchment).
- Conservation Significance – Connectivity: Regional Core
- Conservation Significance Rating: Very High

The modification proposal does not seek to increase clearing of any regional core habitat within the Wheeler Creek Catchment, but the approved development is subject to a Biodiversity Management Plan to restrict future development clearing on the remainder of site. Furthermore, the proposed modification of consent does not require any further tree removal beyond that currently approved within the site.

Rural Amenity: The proposed modification to the development would not result in any significant loss of privacy, outlook or result in overshadowing of adjoining residential properties.

Visual Materials: The proposed boarding house presents as a single storey building to the street entry area, however on the side and rear elevations of the building, it rises to 3 storeys. The colours and finishes of the building utilise natural earthy tones (beige walls, mid-grey roof and dark grey widow framing) to blend with the natural landscape. The chosen colours and materials are of earthy tones that are considered compatible with the locality. The modification does not seek to replace front fencing. Existing conditions require rural style post and wire strand fencing, which is appropriate for wildlife movement and the streetscape.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

The site does not front Forest Way or Wakehurst Parkway; therefore specific issues relating to these road corridors do not apply to the application.

The proposed landscaping along the eastern side of the site includes selected trees / shrubs to benefit the local streetscape. However, the current NSW *10/50 Clearing Rule*, RFS Referral Response and Bushfire Report, prevent a dense bushland buffer from being established. The bushland buffer is therefore less dense than what may normally be expected. This leads to higher potential visual impact of the proposal in the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.

Comment: No change to existing conditions of consent in relation to erosion and sediment control are recommended, as the issue of waterways and riparian land (including the water quality of Narrabeen Lagoon) was addressed in the original development assessment.

DFC Conclusion:

As detailed above the modified development is not consistent with the Locality's DFC statement. Particular concerns are raised with regard to further increasing the intensity of use (occupancy) contrary to the DFC requirement to limit future development to the particulars of the desired future character statement.

Built Form Controls (Development Standards)

The following table outlines compliance with the Built Form Controls of the B2 Oxford Falls Valley locality statement by comparison of the approved development with the modification proposal:

Built Form Control	Required	Proposed Development	Modified Development	Compliance
Housing Density	1 dwelling per 20hectares (ha) ***dwelling*** means a room or a suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile. ***housing*** means development involving the creation of one or more dwellings whether or not used as a group home.	3.215 Hectares – Lot 811 NOTE: 1 dwelling for 3.215 Hectares for the "existing holding". Approved development variation of 83.9% (1 dwelling per 4,473sqm averaged density) The Locality Statement states, *"Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses".* A boarding house is capable of higher occupancy than a normal dwelling. As such the assessment of the proposal against "*low impact, low intensity*" is considered relevant as addressed previously in this report.	Increase variation to 93.7% **1 dwelling per 1,692 sqm** (averaged) across the whole of the "existing holding")	**No** Concurrence of DPIE. (refer to "Other Matters for Consideration") For 19 self-contained boarding rooms (capable of being used as a "dwelling" in the form of a habitable "domicile").
Building Height	8.5 metres (m)	Approved RL height 57.03 8.0m	RL height 56.62 8.3m	Yes
	7.2m	Approved 7.2m	7.2m	Yes

Front Building Setback	20m	Willandra Road 20.0m to building and basement carpark	20m to building and basement carpark	Yes
Rear Building Setback	10m	Approved 297m	300m	Yes Yes
Side Setbacks	10m	Approved 36.6m (North) Approved 49.5m (South)	28.1m (North) 53.2m (South)	Yes Yes
Landscape Open Space	30% of site to be landscaped (0.964 Ha)	Approved 97.9% (31,479.6 sqm) – not including curtilage of building, driveway, parking areas or terraces. Note: The above calculation includes all landscaped areas of the site including the APZ.	97.51% (31,349 sqm) Note: The above calculation includes all landscaped areas of the site including the APZ.	Yes Yes

The modified development breaches the housing density controls and therefore must be subject to further consideration pursuant to Clause 20.

Clause 20 Variation to Development Controls – Housing Density Control

Consent may be granted to a proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the General Principles of Development Control, the DFC of the locality and any relevant State Environmental Planning Policy.

The proposal substantially exceeds the threshold previously accepted for the site and the increased density of use is affirmed by the recent legal context of what constitutes a "dwelling" within boarding houses as considered by Preston J under *SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66.*

*Refer to "Clause 20" assessment details below.

The proposed development fails to satisfy the Locality's Housing Density Built Form Control. Accordingly, further assessment is considered against the provisions of Clause 20(1).

Clause 20(1) stipulates:

"Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the General Principles of Development Control, the Desired Future Character of the locality and any relevant State Environmental Planning Policy."

Housing Density Variation (Cl 20)

The proposal seeks to increase the housing density standard from the existing variation of 83.9% to 93.7% as detailed in the built form control table
(Note 1:20ha comparison is not used as the holding has an entitlement on the original holding, as mapped with the gazettal of WLEP 2000.) In determining whether the proposal qualifies for variation under Clause 20(1) consideration is made in the following three step assessment:

(i) General Principles of Development Control

The proposal has been considered under clause 20 and fails to be consistent with the General Principles of Development Control as detailed in the following section headings of this report.

In summary, a further variation to the housing density standard for such a large scale development is not supported against the General Principles and the Desired Future Character. See detailed assessment of the "General Principles of Development Control" in this report in relation to the protection of water quality, traffic, site facilities, landscaping, minimising bushland clearing, sedimentation and conservation of flora and fauna habitat within the site.

Therefore, the proposal fails to qualify for a variation to the development standards, under the provisions of Clause 20(1).

(ii) Desired Future Character

In determining whether the proposal qualifies for consideration under Clause 20(1) in terms of the DFC, consideration is made as follows:

Consideration of the DFC for the development is addressed in this report. However, in summary the DFC is dictated in part by the housing density standard that is also subject to restrictions for 'existing holdings'. Therefore, this issue is addressed as follows:

In the *B2 Oxford Falls Valley Locality* the minimum area per dwelling required by the housing density standard is deemed to be the minimum allotment size for allotments created by subdivision - subject to the "existing holding" provisions of land, is defined as adjacent or adjoining lots held in the same ownership on 8 March 1974 and having a combined area of not less than 2 hectares.

The broad density requirement begins at 1 dwelling per 20 hectares. Since the holding is more than 2 hectares and the proposal is not for a "single dwelling", or "aged care", the density provision applies for the purpose of housing (in this instance a boarding house) across the whole of the holding.

The proposal is subject to satisfying the DFC and, in particular, the requirement to be "low intensity" and "low impact" for development. Part of this test also includes consideration of the key themes of the DFC for location, detached style of building appearance, bushland protection, water quality and streetscape.

In this case, the variation to the housing density of '1 dwelling per 20 hectares' is not supported due to inconsistency with the DFC and general principles. Consent to vary the housing density standard by more than 10% cannot be granted without the concurrence of the Director of the *NSW Department of Planning Industry and Environment*. As discussed previously in this report the use of the site for a boarding house is a much higher intensity of occupation than for a single dwelling. In this case, the subject proposal will result in a substantial housing density variation, including a development bearing limited resemblance to "detached style housing". For housing purposes, the proposal is contradictory to the DFC and "low intensity - low impact" requirements for Category 2 development.

In conclusion, the proposal fails to qualify for a variation to the development standards, under the provisions of Clause 20(1). (See discussion on "Desired Future Character" in this report for a detailed assessment of consistency).

(iii) Relevant State Environmental Planning Policies

Application of any State Environmental Planning Policies have been addressed previously within this report, including the relevance of SEPP ARH.

Conclusion on Cl 20 Housing Density Variation
The development is not considered to be consistent with the General Principles of Development Control and key elements of the Desired Future Character, including test of *'low intensity low impact.* Therefore, the proposal fails to qualify for a variation under Clause 20 for the housing density.

In this respect, the variation to the housing density built form control is not supported.

General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	Yes	This General Principle seeks to ensure that development does not result in excessive glare and solar reflections. The schedule of colours provided for the modification are consistent with the approved development application colours and materials. Accordingly, the proposal is considered to satisfy this General Principle.	Yes
CL42 Construction Sites	Yes	The site provides adequate area for the handling and storage of building materials, and will not unreasonably impact on the amenity of the locality subject to construction management. The erosion and sediment controls plans for construction are consistent with the approved development application No change to the existing conditions of consent is recommended in relation to considerations under this clause.	Yes
CL43 Noise		Clause 43 of Warringah LEP 2000 provides "*Development is not to result in noise emission which would unreasonably diminish the amenity of the area and is not to result in noise intrusion which would be unreasonable to the occupants".* The original development application was submitted with a noise assessment and the modification application does not require any change to existing conditions of consent. No change to the existing conditions of consent is recommended in relation to considerations under this clause.	Yes
CL44 Pollutants	Yes	A sewer line is available to the site and erosion control measures approved to ensure minimal	Yes

General Principles	Applies	Comments	Complies
		environmental impact from water pollution sources. No change to the existing conditions of consent is recommended in relation to considerations under this clause	
CL45 Hazardous Uses	No	No comment	N/A
CL46 Radiation Emission Levels	No	No comment	N/A
CL47 Flood Affected Land	No	No comment	N/A
CL48 Potentially Contaminated Land	Yes	Addressed under the development assessment for DA2014/1180. No change to the existing conditions of consent is recommended in relation to considerations under this clause.	Yes
CL49 Remediation of Contaminated Land	No	No comment	N/A
CL49a Acid Sulfate Soils	No	No comment	N/A
CL50 Safety & Security	Yes	The proposal maintains an acceptable level of safety and security through the site design and layout and a Boarding House PoM. Assessment of the proposal with regard to clause 50 is provided as follows: • The modification of the proposed building will maintain open surroundings for the building and casual visibility towards Willandra Road to maintain passive surveillance • Entrance to the building is clearly visible from the driveway area and ancillary footpath provides safe access. No change to the existing conditions of consent is recommended in relation to considerations under this clause	Yes
CL51 Front Fences and Walls	Yes	No change to the existing conditions of consent is required for the modification.	Yes
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	Yes	Site has a common boundary with Reserve land to the east. No change to the existing conditions of consent is recommended in relation to considerations under this clause	Yes
CL53 Signs	No	No comment	N/A
CL54 Provision and Location of Utility Services	Yes	The site has access to electrical and water services with connections are to be managed by the relevant service provider. A connection line to *Sydney Water*	Yes

General Principles	Applies	Comments	Complies
		assets for sewer service has been approved and works have progressed to construct the sewer line.	
CL55 Site Consolidation in 'Medium Density Areas'	No	No comment	N/A
CL56 Retaining Unique Environmental Features on Site	Yes	This General Principle seeks to ensure that development is responsive to the existing environmental features on the site and on adjoining land. The subject site contains extensive natural bushland, exposed rock outcrops scattered over the site as well as riparian land for the upper catchment of Wheeler Creek. Much of the APZ areas have already been cleared as part of historical development approvals on the site. The building position and ancillary changes for the modification proposal do not have a direct or unreasonable impact on natural rock outcrops or the creekline. Tree clearing issues required for bushfire protection under *Planning for Bushfire Protection* 2006 and the *Environmental Planning and Assessment Act 1979* are addressed under Clause 48 of this report. Accordingly, the modification proposal satisfies this General Principle.	Yes
CL57 Development on Sloping Land	Yes	This General Principle seeks to reduce the impact of development on sloping land by minimising the visual impact of development and the extent of excavation by requiring development to step down the site. In this regard the building location does not change as the building on the leeward side of a slope when viewed from Willandra Road. The subject site has a variable slope toward a watercourse that connects to Wheeler Creek. The western areas of the site also have significant sloped area rising a further 30 metres toward higher ground. The areas on the western side of the creek gully are not proposed to be altered by the modification of the development. Insufficient information has been provided to detail the retaining walls needed adjacent the dwelling, driveway and carparking. In addition to this revised geotechnical report / assessment is warranted due to the slope and depth of potential landfill associated with the proposed modification to the development. The proposal has not adequately addressed the requirements of this clause which warrants refusal of the application.	**No** (Reason for refusal)
CL58 Protection of Existing Flora	Yes	This general principle requires that development be sited and designed to minimise the impact on remnant indigenous flora, including canopy trees and understorey vegetation and on remnant native ground cover species. The modification does not require any change to the existing conditions of consent.	Yes

General Principles	Applies	Comments	Complies
CL59 Koala Habitat Protection	Yes	No works is proposed within the main bushland area in the western part of the site. No change to the existing conditions of consent is required for the modification.	Yes
CL60 Watercourses & Aquatic Habitats	Yes	The proposal has been reviewed by Council's NEU (Biodiversity) – who are satisfied with the development impacts and measures proposed to minimise any adverse effect on local watercourses or Narrabeen Lagoon.	Yes
CL61 Views	Yes	There are no coastal or district views across the site likely to be impacted by the proposed development.	Yes
CL62 Access to sunlight	Yes	This General Principle seeks to ensure that development does not unreasonably reduce sunlight to surrounding properties. The proposed modification to the boarding house retains a reasonable and equitable level of sunlight to both the subject site and the adjoining properties with no less than 2 hours of sunlight between 9am and 3pm on 21st June. Accordingly, the proposed modification satisfies this General Principle.	Yes
CL63 Landscaped Open Space	Yes	This General Principle seeks to ensure that development provides landscaped open space that contributes to the amenity of the area. The majority of the site will be retained as dense natural bushland. Therefore, the proposed is modification is satisfactory against the requirements of this clause.	Yes
CL63A Rear Building Setback	Yes	Natural bushland areas at the rear setback extend between 20m-100m along the rear boundary within the site will remain unchanged and protected by a Bushland Management Plan.	Yes.
CL64 Private open space	Yes	This General Principle seeks to ensure that housing is provided with an area of private open space that can be used as an extension of the living area for dining or the outdoor enjoyment of occupants. The modification plans identify a formal area of private open space, the ground floor has direct access to the western side of the site which may provide some open space. The plans for the curtilage of the site around the building show open space details for service facilities and options for serving as an extension of the many occupants of the boarding house for relaxation, dining, entertainment, recreation, and service needs (including clothes drying). Therefore, the modification is adequate in consideration of this clause.	Yes

General Principles	Applies	Comments	Complies
CL65 Privacy	Yes	Consideration is given to the potential impacts from loss of privacy and amenity resulting from the intensification proposed with the modification, including proximity to neighbouring dwellings. The proposal is positioned on a western facing slope within the land and therefore generally only appears as a single storey to Willandra Road. Balconies face west toward the gully within the site. Therefore, the residential development on the eastern side of Willandra Road is buffered from potential privacy impacts by the road reserve, wide separation distances and the building orientation to ensure no unreasonable impacts. The existing development consent includes requirements to comply with a *Boarding House Plan of Management* the proposal is considered to satisfy this General Principle.	Yes
CL66 Building bulk	Yes	The size and appearance of the proposed development is being enlarged. Previous elements of articulation are being filled in and the modification does not propose and change to building platform to break up the bulky form of the building. The proposed modifications detract from the requirements of this clause and the building will become inconsistent with being of "detached style". Therefore, the inconsistency with this clause is a reason for refusal of the modification.	**No** (Reason for refusal)
CL67 Roofs	Yes	This General Principle seeks to ensure that development provides a roof form that complements the local skyline and integrates with the built form of the development. The proposed roof form comprises a hipped style in a single span. The colours selected include a medium to dark colour range so as to prevent excessive glare and reflection. Accordingly, the proposal satisfies this General Principle. No change to the existing conditions of consent is required for the modification.	Yes
CL68 Conservation of Energy and Water	Yes	As the proposed development is classified as a Class 3 Building in accordance with the Building Code of Australia (BCA), and a Section J - Energy Efficiency assessment has been made to satisfy considerations under this clause. Other relevant Basix matters may be further addressed during construction design details. No change to the existing conditions of consent is required for the modification.	Yes
CL69 Accessibility – Public and Semi-Public Buildings	Yes	The building is not a public building. However accessibility to the main entry is required to be maintained to satisfy a Class 1b building, including	Yes.

General Principles	Applies	Comments	Complies
		compliance with current standards under AS1428 and satisfy the *Disability Discrimination Act 1992*. No change to conditions is recommended with regard to this clause.	
CL70 Site facilities	Yes	The proposal currently includes a bin storage room located on the eastern boundary adjoining Willandra Road. An external clothes line, laundry rooms, communal kitchen and two communal living rooms are provided, including an outdoor area which are satisfactory to meet the objectives of this clause. Council's waste services however consider that the waste bin area is unsatisfactory for the modification. The plans show a waste truck may be required to enter the site due to the narrow width of Willandra Road and embankment within the road verge. (See details within this report under the heading 'Internal Referrals'). Due to non-compliance with Council's Waste Policy, this issue warrants refusal of the modification application.	**No** (Reason for refusal)
CL71 Parking facilities (visual impact)	Yes	This General Principle seeks to ensure that parking facilities are sited and designed so as not to dominate the street frontage. The proposed parking facilities are provided as a garage is much lower than the existing ground front setback area with the garage entry is located side-on to Willandra road. Therefore the carparking area does not create an unreasonable visual impact. Accordingly, the modification to the proposal is considered to satisfy this General Principle.	Yes
CL72 Traffic, access & safety	Yes	Having regards to traffic volume, the proposal must be deemed to meet the DFC as a Category 2 development. In this case a higher threshold for traffic volumes of 0.4 movements for the likely potential occupancy is warranted due to the location that has limited public transport and not conveniently close to other retail services. This results in a peak traffic movement of eight (8) vehicles. Based on the considerations made by Hussey C in "*Vigor Master Pty Ltd v Warringah Shire Council [2008] NSWLEC 1128"* the proposal is Therefore the above the peak traffic generation that found to be acceptable for *low intensity / low impact* development as related in assessment against consistency with the DFC. This General Principle also seeks to ensure that driveway gradients are safe in terms of design requirements. The proposed driveway access shown for the modification plans do not comply with Councils development engineering requirements. Therefore, this issue warrant a reason for refusal of the modification.	**No** (Reason for refusal)

General Principles	Applies	Comments	Complies
CL73 On-site Loading and Unloading	Yes	The parking area and main entrance to the building, for delivery vehicles will be in reasonable proximity to the building. Further, the modification details provide adequate space to enable cars to enter and leave in a forward direction consistent with the requirements of this general principle. No change to existing conditions is required for the modification.	Yes Subject to conditions.
CL74 Provision of Carparking	Yes	Schedule 17 does not provide a parking rate specifically for boarding house uses. The applicant has submitted a *Traffic and Parking Assessment* prepared by "Varga Traffic Planning Pty Ltd" dated 13/6/2019 which applies the minimum requirements of SEPP ARH as a guide. By this comparison the proposal has allocated eight (8) car spaces, four (4) motorcycle and four (4) bicycle spaces and would otherwise satisfy the SEPP ARH if it applied to the locality. The *Traffic and Parking Assessment* prepared for the modification by "Varga Traffic Planning Pty Ltd", estimates up to six (6) vehicle movements per hour (VMPH) in peak periods which is acceptable by comparison to the approved development estimated at up to five (5) vmph. It is likely that this development will generate a higher demand for parking than is provided as a comparison to a "motel" and there is no convenient kerbside parking for visitors in front of the site and insufficient parking is provided for visitors. Therefore, the modification to increase the intensity of use without adequate visitor parking is recommended as a reason for refusal of the modification due to insufficient information provided with the plans to address this issue.	**No** (Reason for refusal)
CL75 Design of Carparking Areas	Yes	This General Principal seeks to ensure that carparking is designed to minimise visual impact and provide a safe and efficient environment for both vehicles and pedestrians within the site. Car parking, motorcycle spaces, and the disabled person's parking space are within the ground floor level which is satisfactory. Council's Traffic Engineer has reviewed the modification proposal raised no objections to the design of the parking area with respect to traffic safety and compliance with relevant Australian Standards. The modification proposal has not identified if any of the at-grade parking spaces will be allocated to visitor parking, or specific units.	Yes Subject to condition
CL76 Management of Stormwater	Yes	This General Principal seeks to ensure that adequate provision is made for the management of stormwater.	Yes

General Principles	Applies	Comments	Complies
		The application has been assessed by Council's Development Engineers and the existing conditions are satisfactory to address stormwater considerations for the modification work. Accordingly, the proposal satisfies this General Principle. Specific considerations are discussed in detail under the heading "Internal Referrals" in this report.	
CL77 Landfill	Yes	Landfill, if necessary, will utilise existing material on site sourced from excavation for building footprint, driveway and ancillary works. Accordingly, the proposal satisfies this General Principle.	Yes
CL78 Erosion & Sedimentation	Yes	Appropriate management of erosion and sedimentation works on the site are required by the existing conditions of consent. Detailed assessment is provided in the NEU referral response. Accordingly, the proposal satisfies this General Principle and no change to existing conditions is required. (Note: The current compliance issues relating to the sewer line connection works near and within the site associated regarding clearing / erosion concerns is subject to separate investigation.)	Yes
CL79 Heritage Control	No	No comment	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	Yes	This issue is addressed by the Aboriginal Heritage Office (AHO) referral advice that should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW *Office of Environment and Heritage* (OEH) and *the Metropolitan Local Aboriginal Land Council* should be contacted. Accordingly, the proposal satisfies this General Principle and no change to existing conditions is required.	Yes
CL81 Notice to Heritage Council	No	No comment	N/A
CL82 Development in the Vicinity of Heritage Items	No	The proposal is not within close proximity to any local heritage items identified in the Warringah LEP 2000 or Warringah LEP 2011 (applies to adjacent land).	Yes
CL83 Development of Known or Potential Archaeological Sites	Yes	No objection to approval of the modification and no change to the existing consent requirements of the AHO as detailed in the referral response. Accordingly, the proposal satisfies this General Principle and no change to existing conditions is required.	Yes

SCHEDULES

Schedule 8 - Site analysis

The Site Analysis plan submitted for the development addresses the requirements of Schedule 8 in so far as it relevant consistency when read together with the original development application site analysis.

Schedule 17 - Carparking Provision

See assessment under Clause 74 of the General Principles of this report which demonstrates the proposal's ability to satisfy the requirements of this Schedule. In summary, the WLEP 2000 does not have a specific parking calculation for boarding houses and the site is considered to be a more car dependant location (as per other rural localities under WLEP 2000), being well away from commercial centres and only serviced by one form of public transport (bus).

At full capacity, the proposal could accommodate 19 adults as per the modification plans showing 15 single bed rooms and 2 double bed rooms. This equates to 0.42 car spaces per room. The submitted plans do not identify any allocated visitor spaces to the building, which would be necessary given the higher intensity use, limited access to public transport and distance from any major commercial centre.

The proposal has a potential to generate a higher demand for parking than is provided if the occupancy involves a higher car ownership per person. The numerical provision of parking is comparable to a "motel" for the proposal, however the plans do not accommodate visitors or any potential parking near the building if the at grade parking is fully taken up. Therefore, the modification to increase the intensity of use without adequate visitor parking is recommended as a reason for refusal of the modification due to inadequate parking and insufficient information provided with the application to address Schedule 17.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

The modification proposal is subject to the application of Council's Section 94A Development Contributions Plan as the cost of works has increased to $1.4 million.

The following modified monetary contributions are applicable:

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of	$	1,400,000
Contribution - all parts Warringah	**Levy Rate**	**Contribution Payable**
Total S94A Levy	0.95%	$13,300
S94A Planning and Administration	0.05%	$700
Total	**1%**	**$ 14,000**

OTHER MATTERS FOR CONSIDERATION

Concurrence Requirements

The proposed modification requires concurrence from the Director of the *NSW Department of Planning Industry & Environment* (referred as the "Department of Planning" in WLEP 2000) for variation to housing density under Warringah LEP 2000.

In particular, if the land is less than 20 hectares and more than 2 hectares *"Consent may be granted for development that will contravene the housing density standard but, if by more than 10 per cent, only with the concurrence of the Director."*

The proposal achieves a density of 1 dwelling per 3.215 hectares for the lot and thus involves a variation to the LEP housing density standard by more than 10%. In this regard, the extent of the variation is proposed to be increased from 83.9% to 93.7% for the holding.

Following the judgement of *SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66* elements of the housing density provisions as they relate to boarding houses are more definitive than at the time of appeal for DA2014/1180. For the purpose of this modification proposal concurrence has not been provided and this assessment does not support the increased housing density variation.

CONCLUSION

Pursuant to Warringah LEP 2000, development for the purposes of a boarding house is Category 2 development in the B2 Oxford Falls Locality and is required to demonstrate consistency with the DFC Statement, Built Form Controls and General Principles of Development Control. Boarding house development, as affordable rental housing, is consistent with the State Government objective for new generation boarding houses in the metropolitan areas of Sydney. While this type of housing facilitates the provision of low-cost, flexible rental accommodation to a range of tenants to meet the housing needs of a diverse local demographic it is subject to consent.

While the modification proposal has a similar appearance to the approved boarding house, the intensification of use is considered to be unsatisfactory, principally with regard to increasing the extent of the non-compliance with the housing density. Consequentially, the proposal also detracts from the locality statement with regard to maintaining low *intensity / low impact* development as envisaged by the DFC.

Additionally, a number of environmental and design issues have been identified that cannot be addressed by conditions and therefore the proposal does not satisfy the other criteria of the DFC and General Principles, including engineering details required for driveway gradients and retaining walls.

The B2 Oxford Falls Valley Locality states that, *future development will be limited to new detached style housing conforming with the housing density standard.* In this case, the proposal is "attached" and does not conform to the density standard over the 'existing holding'. Concurrence from the Department of Planning Industry & Environment is also required to be sought under separate cover since approval from Council cannot be granted where the proposed variation exceeds 10%. In this case, the proposed variation is increasing to 93.7%.

For the reasons stated in this report, it is apparent that while there is public benefit to be gained from boarding house style accommodation, it is not in the public interest to support development that is inconsistent with the DFC, that would diminish the local environmental qualities or provide inadequate facilities to service the needs of the occupants. Furthermore, issues raised in public submissions to the proposal have been addressed and where applicable are concurred with as reasons of refusal in the public interest.

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;
- Any applicable draft Environmental Planning Instruments;
- Warringah Local Environment Plan 2000;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

The modification proposal has been assessed, as applicable, against the relevant matters for consideration, including but not limited to, Section 4.55, 4.56 and 4.15, 4.15(1) 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.

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

- Inconsistent with the requirements of the General Principles of Development Control pursuant to Warringah LEP 2000.
- Inconsistent with the Desired Future Character of the Warringah LEP 2000 for 'Category 2' development within the B2 Oxford Falls Valley Locality.
- Inconsistent with the objects specified in Section 5(a) (i) and (ii) of the Environmental Planning and Assessment Act 1979.

It is considered that the proposed development fails to satisfy the appropriate controls and assessment procedures have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority REFUSE Modification Application MOD2019/0325 to modify DA2014/1180, granted for a boarding house on land at Lot 811 DP 752038 Willandra Road Narraweena, for the following reasons:

1. Pursuant to Section 4.15 (1) (a) (i) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of the *Warringah Local Environmental Plan 2000* in that the proposal is exceeds the housing density controls. In particular

    - The B2 Oxford Falls Locality housing density controls are significantly exceeded.

    - The proposal increases the number of domiciles (dwellings) as established under *SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66*.

    - Concurrence of the *NSW Director of Planning* is required and has not been granted for an increased variation to the housing density standard.

    - The proposal fails to qualify for a variation to the housing density standard pursuant to the requirements of 'Clause 20' of the *Warringah Local Environmental Plan 2000*.

2. Pursuant to Section 4.15(1) (a) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of the *Warringah Local Environmental Plan 2000* in that the proposal is inconsistent with the Desired Future Character, Statement of the B2 Oxford Falls Valley Locality. In particular, the proposal does not satisfy Desired Future Character requirements for a "Category 2" development to conform to:

    - *Enhancing the natural landscape;*

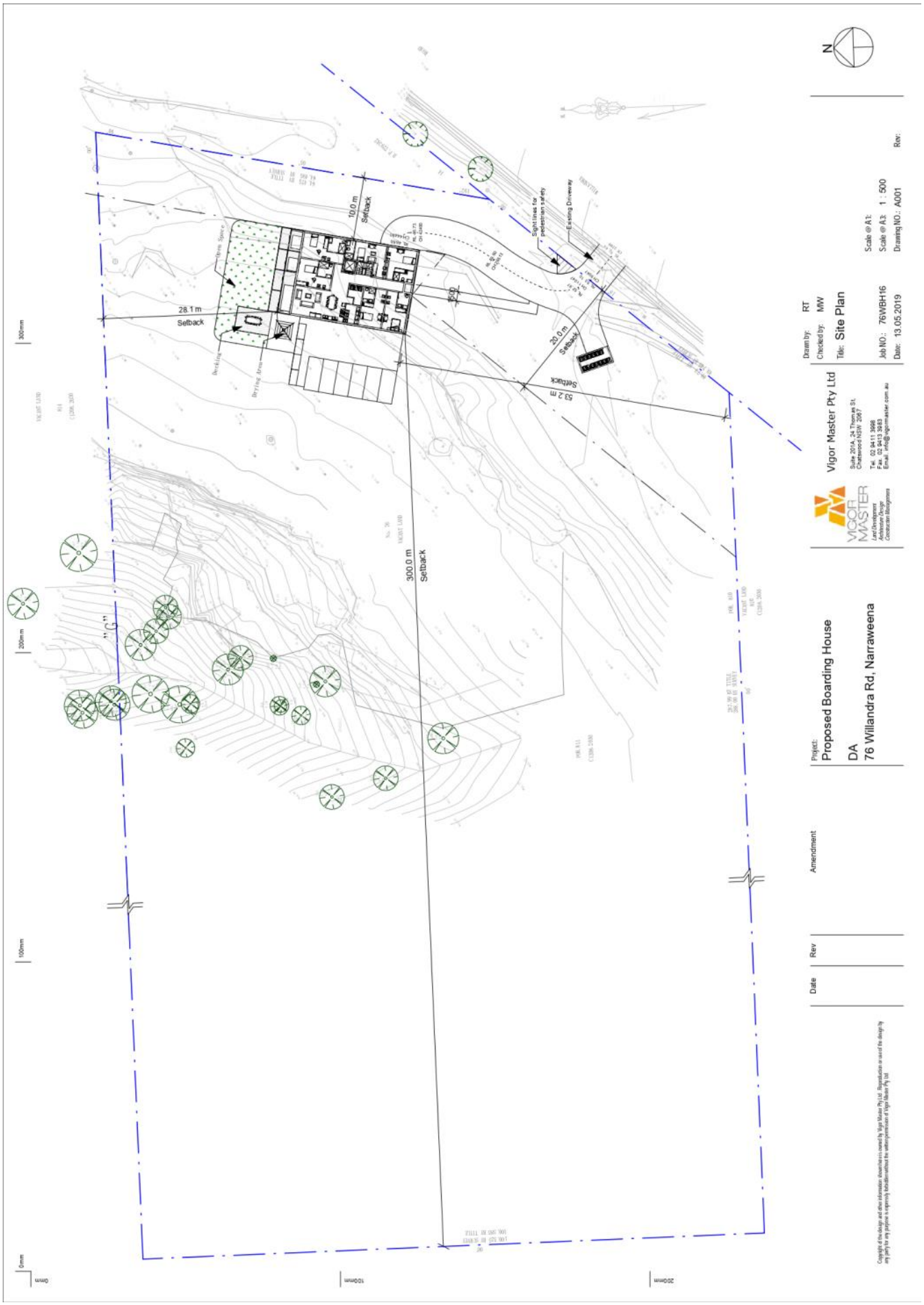
3. Pursuant to Section 4.15(1) (a) of the *Environmental Planning and Assessment Act 1979,* the proposed development is inconsistent with the provisions of the *Warringah Local Environmental Plan 2000* in that the proposal is inconsistent with the 'General Principles of Development Control'. In particular, the proposal does not satisfy the requirements of:

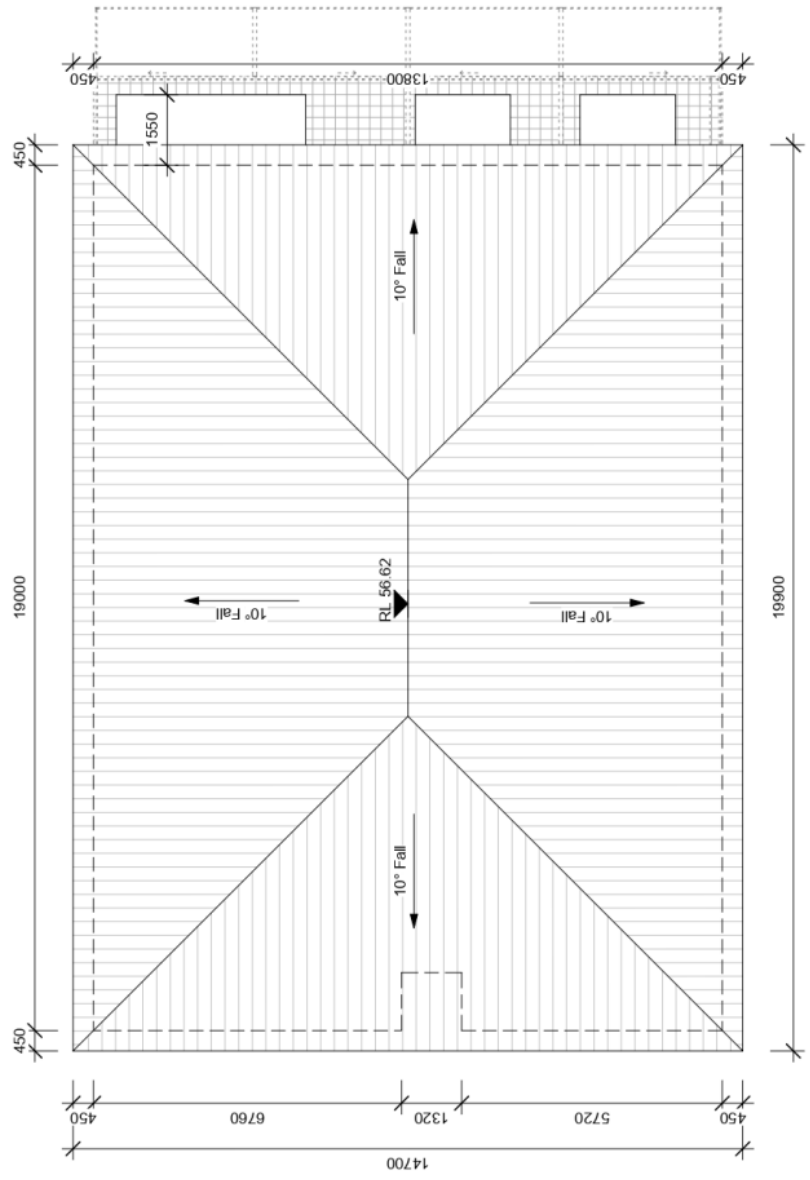
    - *Clause 57 Development on sloping land*

- *Clause 70 Site facilities;*
- *Clause 72 Traffic access and safety;*
- *Clause 74 Provision of parking;*
- *Schedule 17 – Carparking provision.*

4. Pursuant to Section 4.15 (1) (e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest. In particular the proposal does not meet the provisions of the relevant local environmental planning instrument for the creation of a better environment and maintaining the desired character of the rural locality.

5. Pursuant to Section 5 (a) (i) of the Environmental Planning and Assessment Act 1979, the proposal is inconsistent with *Clause 5 Objects*, for the provision of affordable housing in a manner that is consistent with the applicable local planning controls to promote a better environment.


N
10.0 m Setback
Sightlines for pedestrian safety
Existing Driveway
28.1 m Setback
20.0 m Setback
52.2 m Setback
300.0 m Setback
Drawn by: RT
Checked by: MW
Title: Site Plan
Scale @ A1:
Scale @ A3: 1 : 500
Job NO.: 76WBH16
Drawing NO.: A001
Date: 13.05.2019
Rev:
Vigor Master Pty Ltd
Suite 201A, 24 Thomas St, Chatswood NSW 2067
Tel: 02 9411 3666
Fax: 02 9413 3883
Email: info@vigormaster.com.au
Project:
Proposed Boarding House
DA
76 Willandra Rd, Narraweena
Amendment
Date
Rev
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N

Drawn by: RT
Checked by: MW
Title: Roof Plan
Job NO.: 76WBH16
Date: 13.05.2019
Scale @ A1:
Scale @ A3: 1 : 100
Drawing NO.: A104
Rev:

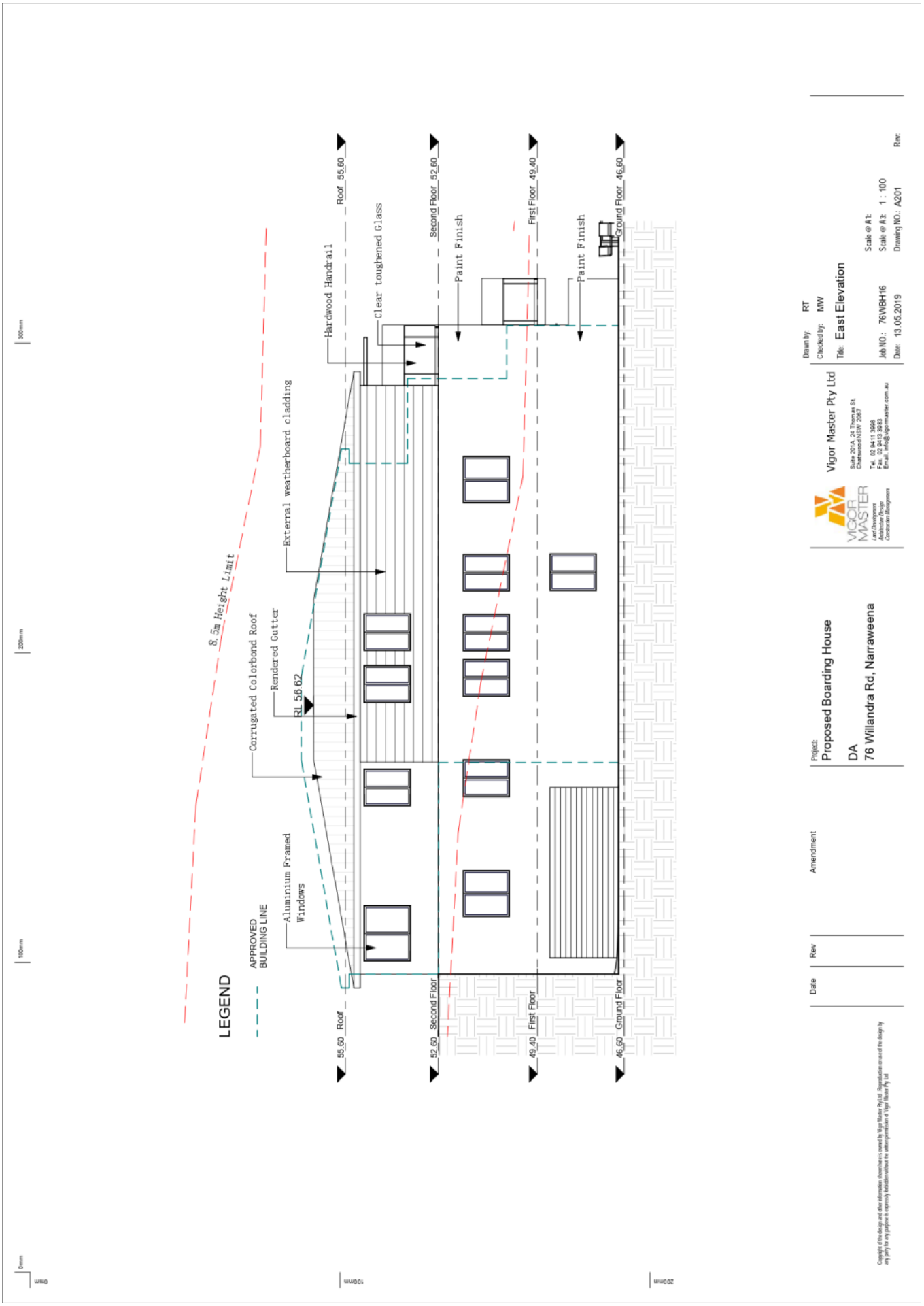
Vigor Master Pty Ltd
Suite 201A, 24 Thomas St,
Chatswood NSW 2067
Tel. 02 9411 3666
Fax. 02 9413 3883
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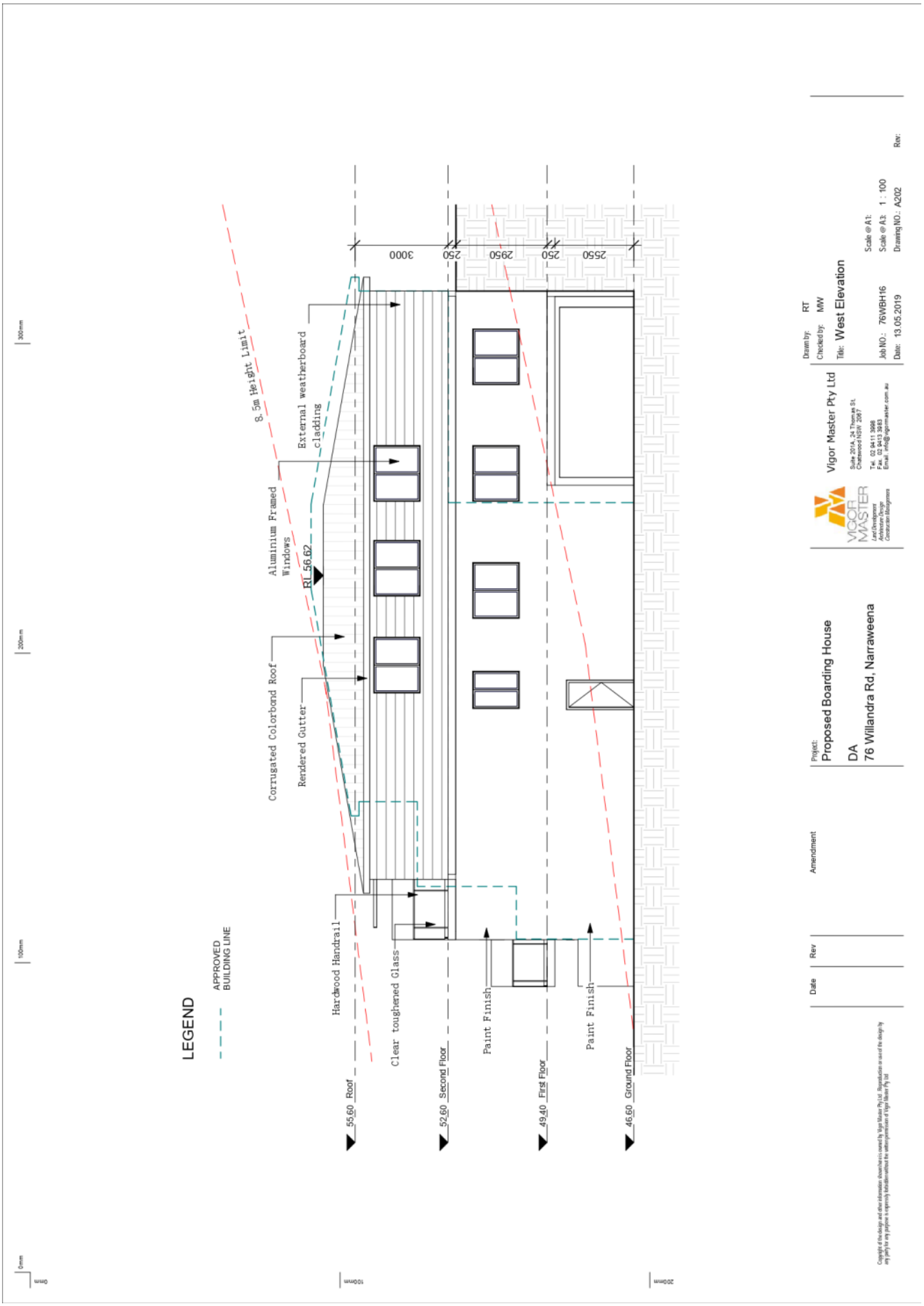
VIGOR MASTER
Architectural Design
Construction Management

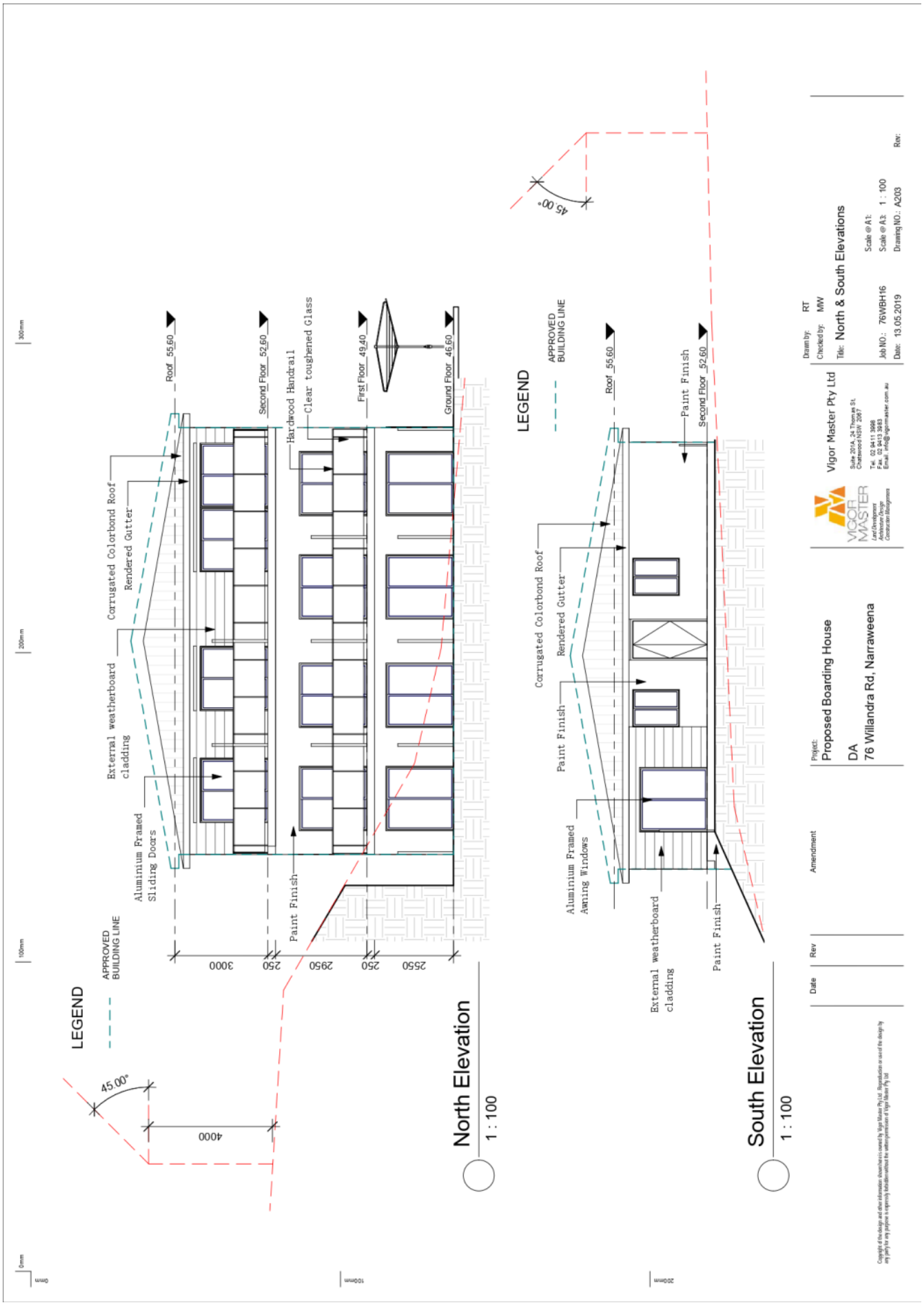
Project:
Proposed Boarding House
DA
76 Willandra Rd, Narraweena

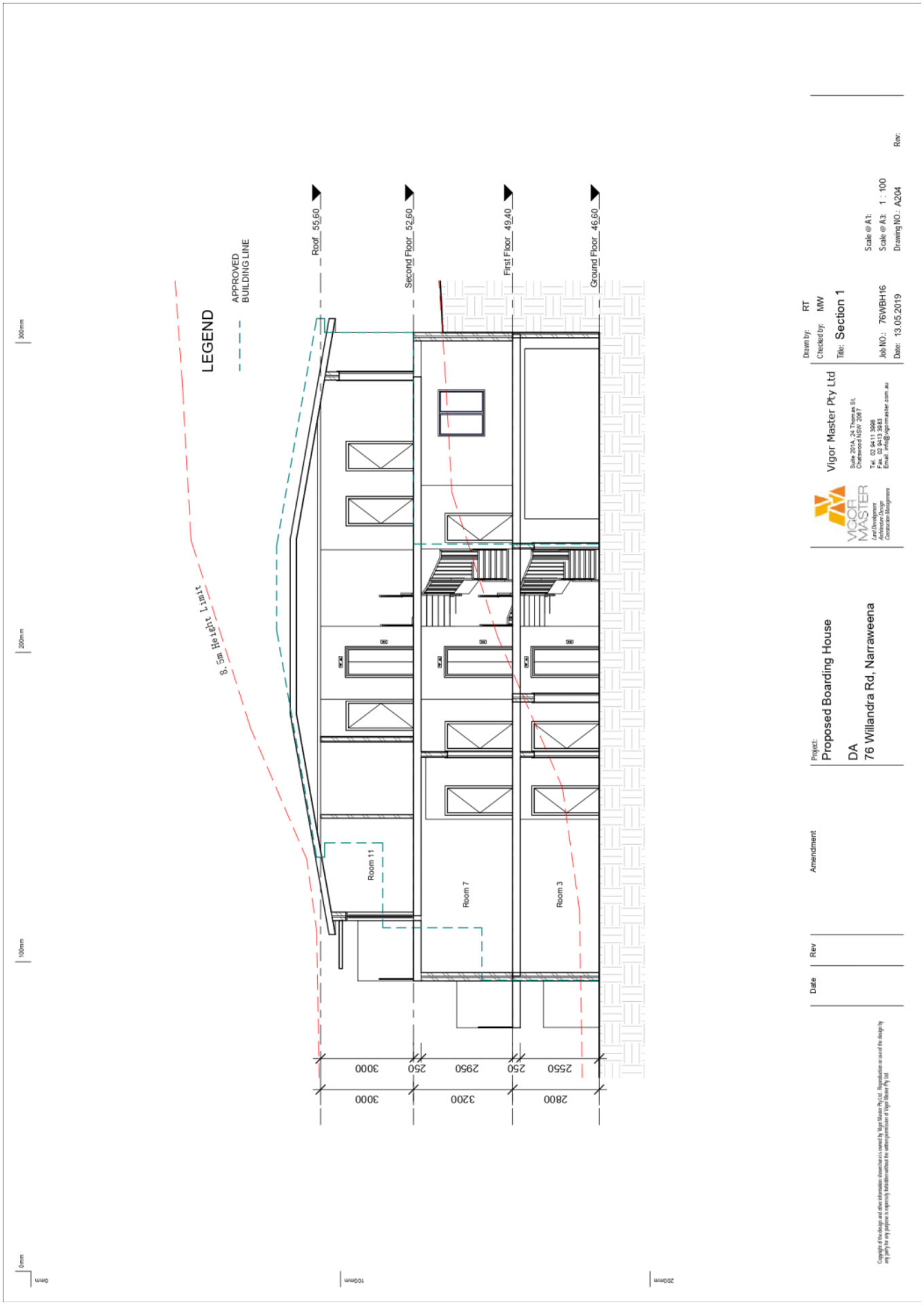
Amendment
Rev
Date

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LEGEND
APPROVED BUILDING LINE
8.5m Height Limit
Corrugated Colorbond Roof
Rendered Gutter
External weatherboard cladding
Aluminium Framed Windows
Hardwood Handrail
Clear toughened glass
Paint Finish
Paint Finish
RL 56.62
Roof 55.60
Second Floor 52.60
First Floor 49.40
Ground Floor 46.60
55.60 Roof
52.60 Second Floor
49.40 First Floor
46.60 Ground Floor
Vigor Master Pty Ltd
Suite 201A, 24 Thomas St, Chatswood NSW 2067
Tel: 02 9411 3666
Fax: 02 9413 3883
Email: info@vigormaster.com.au
Drawn by: RT
Checked by: MW
Title: East Elevation
Job NO.: 76WBH16
Date: 13.05.2019
Scale @ A1:
Scale @ A3: 1 : 100
Drawing NO.: A201
Rev:
Project:
Proposed Boarding House
DA
76 Willandra Rd, Narraweena
Amendment
Date
Rev


LEGEND
APPROVED BUILDING LINE
8.5m Height Limit
External weatherboard cladding
Aluminium Framed Windows
RL 56.62
Corrugated Colorbond Roof
Rendered Gutter
Hardwood Handrail
Clear toughened Glass
Paint Finish
Paint Finish
55.60 Roof
52.60 Second Floor
49.40 First Floor
46.60 Ground Floor
3000
250
2950
250
2550
Drawn by: RT
Checked by: MW
Title: West Elevation
Scale @ A1:
Scale @ A3: 1 : 100
Job NO.: 76WBH16
Drawing NO.: A202
Date: 13.05.2019
Rev:
Vigor Master Pty Ltd
Suite 201A, 24 Thomas St, Chatswood NSW 2067
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DA
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Amendment
Date
Rev


LEGEND
APPROVED BUILDING LINE
45.00°
4000
Roof 55.60
Second Floor 52.60
First Floor 49.40
Ground Floor 46.60
Corrugated Colorbond Roof
Rendered Gutter
External weatherboard cladding
Aluminium Framed Sliding Doors
Hardwood Handrail
Clear toughened Glass
Paint Finish
3000
250
2950
250
2550
North Elevation
1 : 100
LEGEND
APPROVED BUILDING LINE
45.00°
Roof 55.60
Second Floor 52.60
Paint Finish
Corrugated Colorbond Roof
Rendered Gutter
Paint Finish
Aluminium Framed Awning Windows
External weatherboard cladding
Paint Finish
South Elevation
1 : 100
Project:
Proposed Boarding House
DA
76 Willandra Rd, Narraweena
Amendment
Date
Rev
Vigor Master Pty Ltd
Suite 201A, 24 Thomas St, Chatswood NSW 2067
Tel. 02 9411 3666
Fax. 02 9413 3883
Email. info@vigormaster.com.au
Drawn by: RT
Checked by: MW
Title: North & South Elevations
Job NO.: 76WBH16
Date: 13.05.2019
Scale @ A1:
Scale @ A3: 1 : 100
Drawing NO.: A203
Rev:


LEGEND
APPROVED BUILDING LINE
8.5m Height Limit
Roof 55.60
Second Floor 52.60
First Floor 49.40
Ground Floor 46.60
Room 11
Room 7
Room 3
3000
250
2950
250
2550
3000
3200
2800
Drawn by: RT
Checked by: MW
Title: Section 1
Job NO.: 76WBH16
Date: 13.05.2019
Scale @ A1:
Scale @ A3: 1 : 100
Drawing NO.: A204
Rev:
Vigor Master Pty Ltd
Suite 201A, 24 Thomas St, Chatswood NSW 2067
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Email: info@vigormaster.com.au
Project:
Proposed Boarding House
DA
76 Willandra Rd, Narraweena
Amendment
Date
Rev

ITEM 3.5	**DA2019/1195 - KEIRLE PARK, PITTWATER ROAD, MANLY - USE OF LAND FOR A MUSIC EVENT INCLUDING TEMPORARY INSTALLATION OF A STAGE, FENCING, TOILETS, BAR AND MARKETS - DROP FEST 2020**
AUTHORISING MANAGER	**RODNEY PIGGOTT**
TRIM FILE REF	**2020/114301**
ATTACHMENTS	**1 ⇩Assessment Report**
	2 ⇩Site Plans

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the 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. DA2019/1195 for Use of land for a music event including temporary installation of a stage, fencing, toilets, bar and markets (Drop Fest 2020) at Lot 1 DP 535058 and Lots 8-20 DP 1177, Keirle Park, Pittwater Road, Manly subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Assessment Officer:	External Consultant – Geoff Goodyer, Symons Goodyer Pty Ltd
Address:	Keirle Park, Pittwater Road, Manly

Proposal:	Use of land for a music event on 14 March 2020, including temporary installation of a stage, fencing, toilets, bar and markets.
Development Application No:	DA2019/1195
Plans Reference:	Site Plan (Revision 3.1), Licensed Area Plan (Revision 3), Emergency Evac. Plan (Revision 3), Aeromedical Retrieval Plan (Revision 1), SS-STDDET-FOH-01 (Revision B), SS-DROP18-01-1 (Revision A), SS-DROP18-01-2 (Revision A), SS-DROP10-01-3 (Revision A), SS-DROP10-01-4 (Revision A), SS-DROP10-01-5 (Revision A).
Applicant:	The Drop Music Festival Pty Ltd
Owner:	Northern Beaches Council
Application Lodged:	28 October 2019

Zone:	RE1 Public Recreation
Permissible Development:	Recreation Facility (Major)
Land and Environment Court Action:	No
Referred to NBLPP:	Yes (Council owned land)

SUMMARY

Submissions:	Six (6)
Submission Issues:	• Noise; • Traffic; • Parking; • Patron behaviour; and • Security.
Assessment Issues:	• Noise; • Use of community land; • Traffic and parking; • Security; and • Application for more than a single event.
Recommendation:	**APPROVAL**

LOCALITY PLAN (not to scale)



Figure 1 – Location of Site

SITE DESCRIPTION

Keirle Park is located on the western side of Pittwater Road. It is a grassed area used as playing fields and various recreational and community facilities (tennis courts, senior citizens centre, croquet fields, etc.). It adjoins Manly Lagoon to the north, Manly Golf Course to the west and south.

Keirle Park has an area of 4.647 hectares (source: Keirle Park Plan of Management). It comprises the following allotments: Lots 5 - 20 Section 6 DP 1177, Lot 1 DP 1079502, Lot 2 DP 537807, Lot 1 DP 535058, Lot 1 DP 971708 and Lot 2 DP 928762.

Keirle Park is owned by Northern Beaches Council and is classified as Community Land under the Local Government Act 1993.

The music event is proposed to occupy that part of the site used for playing fields and adjacent change rooms and canteen facilities and does not involve the use of the tennis courts, croquet fields or senior citizens centre or other buildings and facilities within Keirle Park.

The following photographs show the playing fields that are proposed to be occupied by the music event:

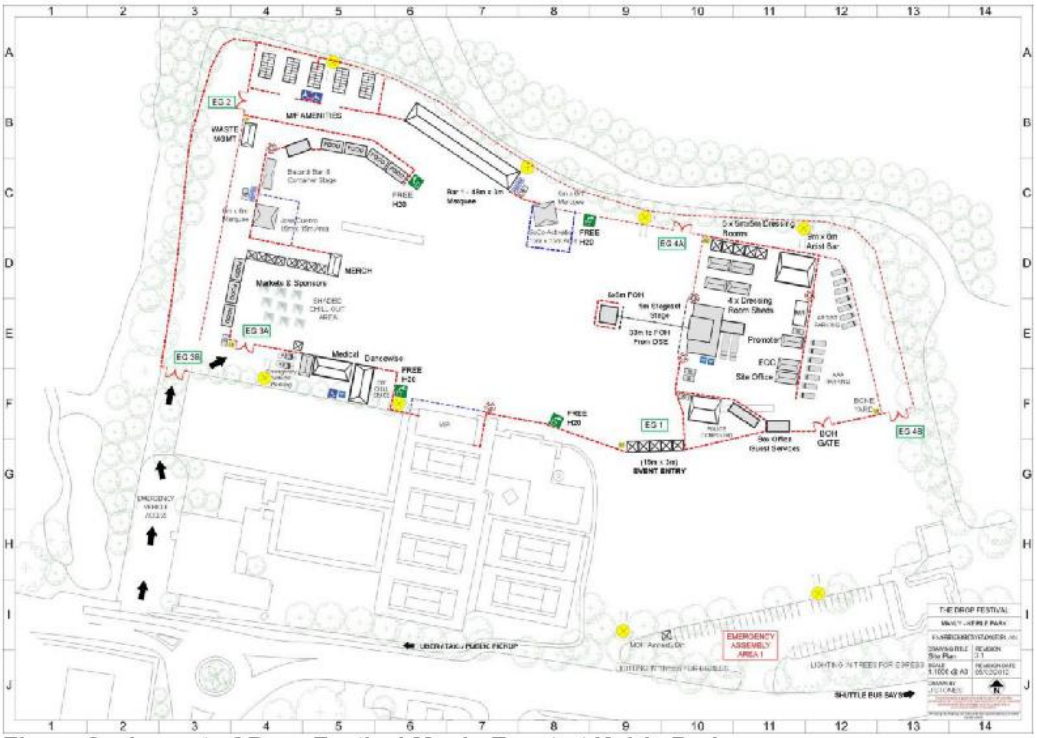


Figure 2 – Layout of Drop Festival Music Event at Keirle Park



Figure 3 and 4 – Photos of the proposed area for the Drop Festival and exiting buildings

RELEVANT BACKGROUND

On 23 May 2003 Council approved DA 185/2002 for alterations and/or additions to an existing Club at the site.

On 8 July 2008 Council approved DA 496/2007 for the construction of a single storey sports facility building at the site.

On 6 March 2019 Council approved DA2019/0054 for the use of land for a music event including temporary installation of a stage, fencing toilets, bar and markets. The music event, known as "The Drop", occurred on 23 March 2019.

The current development application was lodged on 28 October 2019 and was notified from 1 November to 23 November 2019 and advertised in the Manly Daily on 2 November 2019. The development application was re-notified from 12 November 2019 to 30 November 2019 and re-advertised in the Manly Daily on 16 November 2019.

The development application was amended on 13 February 2020 by the applicant. Amendments included altering the application from being for a single music event (14 March 2020) to an application for a maximum of two music events per year for a 5-year period. For reasons discussed later in the report this amendment is not supported.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the use of the playing fields area and adjacent changing room and canteen buildings at Keirle Park for a music event called "The Drop Festival" on 14 March 2020. The music event will commence at 1.00pm and finish by 10.30pm with a music curfew at 10.00pm. The music event has an estimated attendance of 9,000 patrons and a capacity of 12,000 patrons.

The application also seeks approval for up to two music events per year for a 5-year period. Specific dates (other than 14 March 2020) are not specified in the application.

Works will be carried out in preparation for the event from 10 March to 14 March. These works include setting up the various structures associated with the music event, such as the stage, the installation of toilets, construction of a bar and food service areas, positioning of food trucks, provision of free water stations, and erection of temporary structures for medical services, box office and back stage rooms. 1.8m high fencing will be erected around the site of the music event. During this period the site will be "locked down" to create a designated safe work zone.

Intermittent sound checking will occur from 12pm to 6pm on 13 March and from 10am on the day of the event (14 March). No rehearsals longer than 15 minutes are scheduled. Any rehearsals will only occur during the sound check times and will be monitored and set to 5 dB (A) lower than the festival level limit. The Noise Guide for Local Government gives the example of a limit of Lmax 75 dB (A) being suitable for a one-off music festival. A limit of Lmax 75 dB (A) will be adopted for this event.

Works will be carried out to remove all structures on 15 March and 16 March. During this period the site will be "locked down" to create a designated safe work zone.

The proposal includes a Traffic Management Plan, Security Management Plan, Event Medical Plan, Fire Safety Plan, Grass Protection Plan, Noise Management Plan, Event Management Plan, Adverse Weather Plan, Waste Management Plan, Flood Management Plan and Emergency Management Plan.

STATUTORY CONTROLS

a) **Environmental Planning and Assessment Act 1979**
b) **Environmental Planning and Assessment Regulation 2000**
c) **Local Government Act 1993**

d) SEPP 19 - Bushland in Urban Areas
e) SEPP (Coastal Management) 2018
f) SEPP (Infrastructure) 2007
g) Manly Local Environmental Plan 2013
h) Manly Development Control Plan 2013

REFERRALS

Internal Referrals

Referral Body Internal	Comments	Consent Recommended
Building Assessment	The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to conditions.	Yes
Engineering	Development Engineering has no objection to the temporary use of the subject land. If any change of traffic is required, an application must be lodged to Council for approval.	Yes
Environmental Health – Commercial Use	The proposal is for The Drop Festival 2020 comments for issues such as noise etc are dealt with in the "industrial" referral. For Food Stalls we have no objections. Recommended for approval subject to conditions.	Yes
Environmental Health – Industrial Use	1. Environmental Health believes the DA can be favourably considered with conditions; noting that low frequency music noise may need reducing during the event. 2. The event is for only a limited time 1pm to 10.30pm performance ceasing 10pm (previously 3pm to 10pm) on a Saturday and is a “one off- potentially annually ". A 2 hour increase in performance time for this event, and will offer entertainment for an expected local teen audience. 3. It is noted that a warm up/sound tests at reduced sound levels will be carried out on the same day from 10am to 1pm (previously - preceding day over 4 hours). 4. The location is away from the beach front residential area which has been subject to many noisy events.	Yes

Referral Body Internal	Comments	Consent Recommended
	5. Noise generation has been taken into consideration and the location appears to be a best fit for the area compared with the beach area potentially as an alternative. 6. Stage and amplification has been proposed to minimise impact on residents. 7. Offensive noise is most likely to be generated, but generally will be limited to the maximum of 75dB(A) as suggested by the Noise Guide for Local Government for a one-off event at the nearest residences. Normal ongoing noise restrictions for licensed venues are not normally applied to special events. At 75dB(A) to noise will be similar to having a vacuum cleaner operating in the resident's room, so some discomfort to some residents will result. Intrusive bass over a slightly longer event needs to be acknowledged - Lmax 95 dB(C) this may need reducing on the day/night if complaints are received. The promoter will provide a dedicated member of staff to control the music levels on the stages. This staff member will have the automatic authority and technical ability to reduce the music levels at the desk for all acts where required. The noise limit at affected residences will be LAmax 75 dB(A), when measured with the meter set to fast response over any 15 minute period during the concert or sound test. An upper guideline level of Lmax 95 dB(C) at residents will be adopted to control low frequency noise. Therefore it is critical that the general neighbourhood be notified in advance and onsite monitoring occur and adjustments be made as necessary. For the previous 2019 Event only 8 formal complaints are documented (trim 2019/175194) which is considered very low. 8. Conditions can be added to minimise the noise nuisance along lines proposed by the applicant. 9. It is recommended that all residents within 500m of the location be letter box dropped at least 48 hours in advance of the Event advising of the event and hours, a contact phone number should be provided for	

Referral Body Internal	Comments	Consent Recommended
	enquiries/complaints. (The applicant is proposing something similar but states in the Noise assessment that Council do this. This is not acceptable to Council). 10. A Council officer (Event staff or Health Officer) with or without a noise level meter and mobile phone should be available on site/adjoining residences during the event to liaise with organisers/noise consultant to ensure compliance with proposed noise management. 11. Food venders will require Temporary Food Stall approvals from Council in advance of the event. 12. Toilet facilities proposed 1:60 patrons (previously 1:70) utilising toilet blocks instead of the previous porto-loo toilets. 13. Water supplies must be town water unless supplied by a licensed water carter and then a Quality Assurance Plan is provided to ensure risks are managed. 14. Comments from the Dept of Health NSW Public Health Unit need to be incorporated and it is expected they will receive notification of this Major event. Their comments may include the previous or similar comments for the 2019 event reproduced below to ensure the issues are taken into consideration: 15. Drinking Water – All water for drinking purposes at the event must be potable. – There must be an adequate drinking water supply available. – Water stations must be connected to Sydney Water by a licensed plumber. – The Management Plan Checklist advised that large IBC water storage tanks will be used in locations not in vicinity of tap. If this is used, the water must be supplied from Sydney Water and all plumbing	

Referral Body Internal	Comments	Consent Recommended
	connections must be completed by licenced plumber. – The Management Plan Checklist states bar staff will replenish free water tanks on the bar service points. Further information may need to be provided to demonstrate there is no risk of contamination. 16. Toilet Facilities and Sanitation – The number of toilets must be adequate. The NSW Dept Premier & Cabinet document provides recommended numbers of toilets for events of <5000. As this event is anticipated to be 10 000 the number of toilets should be doubled. ie. Males 16WC + 50 urinals and females 60 WC. Therefore 126 toilets should be provided. If there are more than 10 000 attendees the number of toilets may need to be increased. – The Site plan states 140 port a loos + 2 accessible however the plan only shows 104 toilets. – It is recommended that there be separate toilets for males and females. – Separate toilets with hand wash facilities should be available for food handlers. The Site plan does not show separate toilets are available for food handlers. – There must be hand washing facilities with soap in close proximity to the toilets. – There must be adequate sanitary disposal facilities. – Toilets must be monitored, kept clean and provided with toilet paper. Further comments were received on 19/2/2020 providing a condition ensuring that adequate toilets are provided for patrons and participants at the event. The condition is included in the recommendation of this report.	

Referral Body Internal	Comments	Consent Recommended
	17. Shade / Weather Protection – The event will be held in the afternoon/evening from 3.00pm until 10.00pm – therefore there will be reduced exposure to UV. – The site plan shows limited areas are provided with seating and umbrellas. No objections subject to conditions.	
Landscape	Review of the proposal indicates that no trees are required to be removed to accommodate the event and no permanent structures are to be erected. General tree protection conditions have been included if the proposal is to be approved. Recommended for approval, subject to conditions.	Yes
Natural Environment – Biodiversity	The proposal has been assessed against MLEP Clause 6.5 (Terrestrial Biodiversity). The vegetation along the northern and western boundaries of the proposed festival is mapped as Swamp Oak Floodplain Forest (OEH 2016), an Endangered Ecological Community listed under both the NSW Biodiversity Conservation Act 2016 (BC Act 2016) and the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act 1999). The proposal is for a temporary festival at Keirle Park within modified and managed parkland immediately adjacent a tributary of Burnt Bridge/Manly Creeks and protected riparian vegetation. The event proposal does not include any removal of native vegetation. The proposed festival evacuation plans appear to show some indicative perimeter fencing indicated by a red dashed line. If bushland protection fencing is installed along the northern, western and southern boundaries of the festival a minimum of 5 metres from the dripline (canopy) of existing trees, then the proposed festival is unlikely to result in long-term impact to wildlife habitat or terrestrial biodiversity at the site.	Yes

Referral Body Internal	Comments	Consent Recommended
	Recommended for approval, subject to conditions.	
Natural Environment - Coastal	To be assessed by Natural Environment – Riparian.	Yes
Natural Environment – Flood	A Flood Risk Management Report has been prepared by Northern Beach Consulting Engineers Pty Ltd dated 4 December 2019. This Report outlines how the flood risk to life and the emergency response arrangements will be managed for the site. Provided that the applicant complies with the recommendations of the report and the conditions of consent relating to flood risk management, the application complies with Clause 6.3 of the Manly Local Environment Plan and 5.4.3 of the Manly Development Control Plan. No objections subject to conditions.	Yes
Natural Environment – Riparian	Site fencing must be located to protect waterway riparian areas. Care must be taken to ensure portable toilets do not impact waterways. Conditions apply. Food outlets must dispose of waste appropriately. Condition applies.	Yes
Parks, Reserves and Foreshores	The proposed location for the music festival is Keirle Park in Manly. This park is comprised of Council managed reserve and Crown Land Reserve. Parks has conditioned the following: • Community notification • Structure footing preference • Working on Reserves Permit • Public Liability Insurance • Removal of All temporary structures/material and rubbish Further site specific controls will be applied via the Working on Reserves permit, including: • Bond for field damage • Wet weather management Parks has no other issues with the proposal. The proposal is therefore supported.	Yes

Referral Body Internal	Comments	Consent Recommended
Property and Commercial Development	Property has no objection to the proposal as submitted, however it should be noted that the apartment above the Manly Seniors Centre is tenanted, and these tenants will be impacted by the festival, including the set up and dismantling of infrastructure. These tenants should be kept fully informed by the event organiser of operations associated with the event, especially where there are impacts to access or noise impacts.	Yes
Traffic Engineer	??Awaiting Comments	
Waste Management	The proposal is now supported by the Waste Education Officer (Waste Management), subject to conditions which will be imposed on the draft conditions.	Yes, subject to conditions

External Referrals

Referral Body External	Comments	Consent Recommended
Ausgrid	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.	N/A
NSW Police	NSW Police provided comments on 24 February 2020. The following is a summary of those comments: In principle, the proposal is supported by the NSW Police subject to conditions and issuing of appropriate license(s). The event will have adequate levels of security, use of CCTV, staff and police (including user pay officers) to ensure patron behaviour is maintained to a reasonable level. Additionally, recommendations from the NSW Police include the following:- • *"Food of a nature and quantity consistent with the response service of alcohol must be available during liquor trading hours.* • *No more than four (4) alcoholic drinks may be sold/supplied or served to a patron per visit to the bar.*	Yes, subject to conditions

Referral Body External	Comments	Consent Recommended
	• *No drinks containing any more than 4% ABV spirits/liquor.* • *Sale of alcohol must cease 30 minutes prior to the end of the event.* • *The licensee and their staff must comply with any lawful direction relating to the sale and supply of liquor made by a NSW Police Officer, being the senior officer on site or Inspector from Liquor and Gaming NSW.* • *Free water outlets within the festival be clearly sign posted to ensure accessibly to patrons in day and evening periods.* • *Patrons being removed who are deemed to be "overly' affected by alcohol.* • *A licensed security guard be placed at each bar que to assist with Patron Id checks and intoxication assessment.* • *A security guard should be present at the entry to the VIP area to manage capacity and patron screening for intoxication.* • *That the Alcohol Plan of Management be included as conditions of consent and also the Liquor Licence."* A recommendation to limit capacity to 10,000 patrons due to the egress from this isolated site with limited infrastructure and transport modes as well as the event to only an over 18's event only.	
Roads and Maritime Services	Awaiting Referral Comments	
NSW Health	It is recommended that the onsite medical staffing levels be increased to include at least one onsite doctor at the level of resuscitation doctor and additional nursing staff and paramedics.	Yes, subject to recommendations

NOTIFICATION & SUBMISSIONS

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.

The notification stated that the proposal was for a single event only on 14 March 2020. The applicant subsequently amended the application on 13 February 2020 so that it was seeking

a 5-year approval with up to 2 events per year. Such a proposal would need to be renotified as it is different from that which was originally notified. There was insufficient time to renotify the proposal prior to the date of the event on 14 March 2020. Consequently, a condition of consent is recommended specifying that the approval is for a single event only on 14 March 2020.

As a result of the public exhibition process Council is in receipt of six (6) submission/s from:

Name:	Address:
Mrs Elizabeth Taylor	46 Golf Parade MANLY NSW 2095
Mr Nigel Gibson, General Manager, Manly Golf Club	38-40 Balgowlah Road MANLY NSW 2095
Mr David Tierney	61 Eurobin Avenue MANLY NSW 2095
Ms Teresa Eagar	2/34 Eurobin Avenue MANLY NSW 2095
Details withheld	
Victor and Yupin Keller	70 Riverview Parade MANLY NSW 2095

One of the submissions was in support of the proposal. The remaining submissions raised the following issues:

Noise Impacts

Concerns were raised regarding noise nuisance from the proposed music event.

Comment: A Noise Management Plan by Noise Consulting and Management Pty Ltd is included in the proposal. The location of the stage and the height and direction of the speakers have been designed to minimise noise nuisance and the existing buildings at Keirle Park will assist in providing a noise barrier to the nearest dwellings to the east of the site. Noise monitoring will be undertaken during the event and the system checks on the morning of the event and an acoustic consultant will be in direct contact with the sound engineers, etc., in the event that noise levels exceeds the adopted criteria. A complaints system will be implemented to respond to resident complaints for duration of the event.

Council's Environmental Health Officer has reviewed the Noise Management Plan and raises no objections subject to conditions including strict compliance with the Noise Management Plan.

It is acknowledged that the proposal will create noise. However, it is a temporary use that provides a social benefit in the form of public entertainment to a significantly large part of the community and, in balancing these considerations, it is considered that the noise generated by the proposal, managed as proposed, does not warrant refusal of the application.

Traffic Impacts

Comment: This needs to be updated – these are last year's comments. In principle the proposal is supported by the Traffic Engineer subject minor amendments and approval of the Local Traffic Committee on 5 March 2019. Additionally, it is noted that the RMS raises no objections subject to the approval from the Local Traffic Committee.

Parking

Comment: This needs to be updated – these are last year's comments. In principle, the proposal is supported by Council's Traffic Section subject to minor amendments and approval of the Local Traffic Committee at its meeting on 5 March 2019. Additionally, it is noted that the RMS raises no objections, subject to the approval from the Local Traffic Committee.

Patron behaviour

Comment: In principle, the proposal is supported by the NSW Police subject to conditions and issuing of appropriate license(s). The event will have adequate levels of security, use of CCTV, staff and police (including user pay officers) to ensure patron behaviour is maintained to a reasonable level.

Additionally, recommendations from the NSW Police include the following:-

- *"Food of a nature and quantity consistent with the response service of alcohol must be available during liquor trading hours.*
- *No more than four (4) alcoholic drinks may be sold/supplied or served to a patron per visit to the bar.*
- *No drinks containing any more than 4% ABV spirits/liquor.*
- *Sale of alcohol must cease 30 minutes prior to the end of the event.*
- *The licensee and their staff must comply with any lawful direction relating to the sale and supply of liquor made by a NSW Police Officer, being the senior officer on site or Inspector from Liquor and Gaming NSW.*
- *Free water outlets within the festival be clearly sign posted to ensure accessibility to patrons in day and evening periods.*
- *Patrons being removed who are deemed to be "overly' affected by alcohol.*
- *A licensed security guard be placed at each bar que to assist with Patron Id checks and intoxication assessment.*
- *A security guard should be present at the entry to the VIP area to manage capacity and patron screening for intoxication.*
- *That the Alcohol Plan of Management be included as conditions of consent and also the Liquor Licence."*

This objection does not warrant refusal of the application.

Security and trespassers on Manly Golf Club property

Comment: The concern relates to people who try to gain access to the event without paying for tickets by entering the Manly Golf Course and then jumping the perimeter fence around the event. The proposal includes a Security Deployment plan by ISEC, a security risk management systems company. It includes a proposal to have security personnel dedicated to the perimeter to discourage people congregating.

NSW Police have also made recommendations to utilise 2.4m fencing around the entire event which will be included in the draft conditions for consideration by the panel.

Given the above it is considered that objection does not warrant refusal of the application subject to conditions.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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 "Manly Development Control Plan 2013" 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	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. Clauses 54 and 109 of the EP&A Regulation 2000, relate 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. The applicant amended the application and submitted additional information on 13 February 2020.
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	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report. (ii) The proposed development will not have a detrimental social impact in the locality. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is zoned for the proposed purpose. The assessment of this application has concluded that the site is suitable for the proposed purpose, subject to resolution of the flooding issues.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Public Exhibition" 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, subject to resolution of the flooding issues.

LOCAL GOVERNMENT ACT 1993

The site is classified as "*community land*". Section 36 of the LG Act requires the preparation of a Plan of Management for all community land. The Keirle Park Plan of Management applies to the subject site.

Section 35 of the LG Act requires that the land be used and managed in accordance with the Plan of Management.

The Keirle Park Plan of Management includes a number of Objectives and then describes the means of achieving the Objective. Objective 14 is to:

> *"Retain opportunities to use open space for special events or projects and for future activities if need becomes apparent."*

The proposed music event is considered to be consistent with this Objective.

The means of achieving this Objective are:

> *"1. Consider the making or renewal of leases, licences or any other estate or permit, as appropriate.*
> *2. At each lease, licence or permit renewal consider the need to continue the activity."*

It is considered that the proposed music event is consistent with these broadly-worded means of achieving the Objective.

The proposal is not inconsistent with other provisions of the Keirle Park Plan of Management such that this development application for a music event would be prevented from being approved.

ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policies (SEPP's)

SEPP 19 – Bushland in Urban Areas

Clause 6(1) of SEPP 19 provides that a person shall not disturb bushland on land zoned for public open space purposes except with the consent of Council. The proposal is to only use the areas of playing fields and adjacent change rooms / canteen at Keirle Park and fences will be erected to prevent access to areas other than the playing fields. Consequently, the proposal will not disturb any bushland on land zoned for open space purposes.

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. Due to the temporary nature of the music event and because the event is restricted to the playing fields only, it is considered that there will not be any adverse impact on bushland on adjoining land zoned for public open space purposes.

Councils Natural Environment Unit have assessed the potential impacts on the surrounding bushland are satisfied the impacts can be managed/mitigated through conditions of consent.

SEPP (Coastal Management) 2018

The site is located within the Coastal Environment Area as identified in SEPP (Coastal Management) 2018. Clause 13(1) requires Council to consider whether the proposed development is likely to cause an adverse impact on the following:

Clause 13(1)	Comments
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment	The music event is a temporary use and is unlikely to cause an adverse impact.
(b) coastal environmental values and natural coastal processes	The music event is a temporary use and is unlikely to cause an adverse impact.
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1	The music event is a temporary use and is unlikely to cause an adverse impact. Waste management is included in the proposal.
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms	The music event is a temporary use and is unlikely to cause an adverse impact.
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability	The music event is a temporary use and is unlikely to cause an adverse impact. There will be a temporary restriction on public access to the playing fields during the event and in the period leading up to and after the event.
(f) Aboriginal cultural heritage, practices and places	The music event is a temporary use and is unlikely to cause an adverse impact. The historical use of the playing fields make it extremely unlikely that there are any artefacts on the site.
(g) the use of the surf zone	The site is not in the vicinity of the surf zone so no adverse impacts are anticipated.

Under clause 13(2) consent cannot be granted to the proposal unless Council is satisfied that:

Clause 13(2)	Comments
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	The music event is designed to avoid adverse impacts by restricting activities to the playing fields area only and providing fencing to prevent use of other areas. The music event is a temporary use that is unlikely to result in adverse impacts.
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	Not relevant.
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.	Not relevant.

Part of the site (the northern portions) is located within the Coastal Use Area as identified in SEPP (Coastal Management) 2018. Clause 14(1) (a) requires Council to consider whether the proposed development is likely to cause an adverse impact on the following:

Clause 14(1)(a)	Comments
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability	The music event is a temporary use and is unlikely to cause an adverse impact. There will be a temporary restriction on public access to the playing fields during the event and in the period leading up to and after the event.
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores	The proposal will not cause any adverse impacts with regards to overshadowing, wind funnelling or loss of views.

Clause 14(1)(a)	Comments
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands	The music event is a temporary use and is unlikely to cause an adverse impact.
(iv) Aboriginal cultural heritage, practices and places	The music event is a temporary use and is unlikely to cause an adverse impact. The historical use of the playing fields makes it extremely unlikely that there are any artefacts on the site.
(v) cultural and built environment heritage	The music event is a temporary use and is unlikely to cause an adverse impact. The site does not contain a heritage item and is not within a conservation area.

Under clause 14(1)(b) consent cannot be granted to the proposal unless Council is satisfied that:

Clause 14(1)(b)	Comments
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	The music event is designed to avoid adverse impacts by restricting activities to the playing fields area only and providing fencing to prevent use of other areas. The music event is a temporary use that is unlikely to result in adverse impacts.
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	Not relevant.
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.	Not relevant.

Under clause 14(1)(c), Council must take into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development. In this regard the proposed music event is a temporary use and the proposed structures are of an appropriate bulk, scale and size for the proposed use.

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.

Local Environment Plans (LEP's)

Manly Local Environmental Plan 2013 (MLEP 2013)

Consideration of proposal against Manly Local Environment Plan 2013:

Definition of proposed development: (ref. MLEP 2013 Dictionary)	Recreation facility (major)
Zone:	RE1 Public Recreation
Permitted with Consent or Prohibited:	Permissible with consent

Objectives of the Zone
• To enable land to be used for public open space or recreational purposes. • To provide a range of recreational settings and activities and compatible land uses. • To protect and enhance the natural environment for recreational purposes. • To protect, manage and restore areas visually exposed to the waters of Middle Harbour, North Harbour, Burnt Bridge Creek and the Pacific Ocean. • To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.
The development is considered to be consistent with the objectives of the zone for the following reasons: • The proposal represents the recreational use of public open space. • The proposal complements the range of recreational activities available in public open spaces. • By restricting the music event to the playing fields area, and because the use is a one-off music event, the natural environment will be protected. • The playing fields will be restored after the music event with the removal of all structures. • The height and bulk of the proposed structures are appropriate for a music event of this scale and will be removed following the completion of the music event.

Principal Development Standards:
There are no development standards applicable to the site.

Relevant Miscellaneous Provisions	
Provision	**Comment**
Heritage conservation	The site does not contain a heritage item and is not within a heritage conservation area. There are three heritage items in the vicinity of the site, being the former tram depot complex and associated building on the corner of Pittwater Road and Balgowlah Road (I214), the group of 2 storey residential flat buildings on the northern side of Eurobin Avenue (I154) and the row of Norfolk Island Pine trees in Lagoon Park (I166). The proposal, being a temporary land use, will have no impact on the heritage significance of those heritage items.

Relevant Additional Local Provisions	
Provision	**Comment**
Acid Sulfate Soils	The site is shown on the Acid Sulfate Soils map as being partly within Class 1, partly within Class 3, and partly unaffected. The proposal does not involve the disturbance of more than 1 tonne of soil and is unlikely to lower the water table as no excavation is proposed and no further investigation is required pursuant to clause 6.1(6) of MLEP 2013.
Flood Planning	The proposal includes a Flood Risk Management Plan prepared by Northern Beaches Consulting Engineers Pty Ltd. The report has been reviewed by Council's technical officers who have raised no objections to the proposal subject to conditions.
Essential services	The proposal involves the use of generators for electricity which is appropriate given the temporary nature of the use.
Noise impacts – licensed premises	Clause 6.21 of MLEP 2013 requires that Council consider the impact of any noise nuisance likely to be generated by the development on residential accommodation in the vicinity of the site.

Relevant Additional Local Provisions	
	In this regard, the proposal includes a Noise Management Plan, which has been reviewed by Council's Environmental Health Officers and is considered to be satisfactory. To control noise to the specified limit (75 dB(A) with a maximum 95 dB(C) to control low frequency noise), noise monitors will be positioned at the most affected residential premises with readings provided to the sound engineers to adjust the sound levels accordingly. Sound level meters indicating the actual and allowed music levels will be displayed at the stage. Speakers will be positioned at least 2m below the height of the existing tennis centre buildings, which will form an acoustic barrier. A condition of consent will require a report, containing the results of the monitoring, any complaints, the effectiveness of the noise control measures and recommendations on how to better manage/mitigate/avoid such impacts for future events is to be presented to Council within 30 days of the event.

Manly Development Control Plan 2013 (MDCP 2013)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4.2 Privacy and Security	Yes	Yes
3.4.2.3 Acoustic Privacy (Noise Nuisance)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.8 Waste Management	Yes	Yes
5.4.3 Flood Prone Land	Yes	Yes
5.4.4 Riparian Land and Watercourses	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

The majority of the documentation accompanying the development application identifies that the proposal seeks an estimated attendance of 9,000 patrons with a maximum capacity of 12,000 patrons.

However, the Security Management Plan by ISEC dated 14.2.2020 only provides for an attendance of 5,000 patrons. Because of this, it is considered that the proposal provides for insufficient security arrangements for more than 5,000 patrons. NSW Police recommendation is to limit the capacity to no more than 10,000 patrons due to the egress from this isolated site with limited infrastructure and transport modes as well as the event to only an over 18's event only. It is further noted that the NSW Police Notice and Request for Services and the St John NSW Management Plan, which also form part of the development proposal, provide

only for 7,000 patrons. The Traffic Management Plan provides for an "expected capacity" of 9,000 patrons. It is considered that these matters would also necessitate the imposition of a condition limiting the maximum number of patrons that may attend the festival.

As it is, the limit of 5,000 patrons is established by the Security Management Plan, as discussed above and a condition to this effect is included in the recommendation of this report.

3.4.2.3 Acoustic Privacy (Noise Nuisance)

The proposal includes a Noise Management Plan prepared by a qualified Acoustic Consultant. The Noise Management Plan identifies that the proposal will generate noise during the event (1.00pm to 10.00pm), and for system checks from 12.00pm to 6.00pm the day before the event and 10.00am to 1.00pm on the day of the event.

The Noise Management Plan adopts a maximum noise level of Lmax of 75 dB (A) which has been adopted from the NSW Noise Guide for Local Government (NSW EPA, 2013). To address concerns over long periods of low frequency music noise the Noise Management Plan uses a level of Lmax 95 dB(C) as an upper limit.

Noise will be monitored throughout the event at three nearby residential properties (1 Eurobin Avenue Manly, 1 Lakeside Crescent North Manly and 5 Addiscombe Road Manly Vale).

The Noise Management Plan includes a number of Noise Abatement Measures, including a complaints mechanism and the ability to provide additional noise monitoring in response to any complaints received during the event. An accredited Acoustic Consultant will monitor the event and be in two-way radio communication with the sound desk staff, production manager, sound engineers, event organiser and hotline staff. Council's Environmental Health Officer has reviewed the proposal and has raised no objections subject to conditions that are included in the recommendation of this report.

3.8 Waste Management

The proposal includes a Waste Management Plan that details the methods in which waste will be collected, stored and disposed of with an emphasis on maximising recycling. Waste Management contractors have been engaged for the event.

The proposal is now supported by the Waste Education Officer (Waste Management), subject to conditions included in the recommendation of this report.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

POLICY CONTROLS

Manly Section 94 Development Contribution Plan

The proposal is not subject to the application of Council's Section 94 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;
- Local Government Act 1993;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan 2013;
- Manly Development Control Plan 2013; and
- Codes and Policies of Council.

The proposal has been assessed against the relevant matters for consideration under Section 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.

Noise and Traffic Impacts and Public Benefit

The proposal will result in impacts from noise and disruption to traffic. In assessing the proposal, these impacts need to be balanced with the public benefits that arise from a music event as a means of providing public entertainment.

In balancing the impacts versus the benefits of the proposal, consideration must also be given to the temporary nature of the annual event and that the impacts will be experienced over a relatively short period of time. In balancing the impacts and the benefits it is considered that the proposal merits approval.

It is considered that the site is suitable for the proposed use, the proposed use is consistent with the applicable planning controls and is recommended for approval.

RECOMMENDATION

That Council as the consent authority grant Development Consent to DA2019/1195 for the use of land for a music event including temporary installation of a stage, fencing, toilets, and bar at Keirle Park, 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
Site Plan (Revision 3.1)	05.02.2019	J Stones
Licensed Area Plan (Revision 3)	05.02.2019	J Stones
Emergency Evac. Plan (Revision 3)	05.02.2019	J Stones
Aeromedical Retrieval Plan (Revision 1)	06.01.2020	J Stones
SS-STDDET-FOH-01 (Revision B)	14.8.2016	Stageset
SS-DROP18-01-1 (Revision A)	21.3.2018	Stageset
SS-DROP18-01-2 (Revision A)	21.3.2018	Stageset
SS-DROP18-01-3 (Revision A)	21.3.2018	Stageset
SS-DROP18-01-4 (Revision A)	21.3.2018	Stageset
SS-DROP18-01-5 (Revision A)	21.3.2018	Stageset

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
Adverse Weather Plan	14.12.2019	Jeremy Stones
Safety Management Plan	12.2.2020	Jeremy Stones
Event Management Plan	05.02.2020	Jeremy Stones
Grass Protection Plan	23.9.2019	Jeremy Stones
Statement of Environmental Effects	17.2.2020	Jeremy Stones
Traffic Management Plan	07.02.2020	Assure Safety
Transport Management Plan	Undated	The Drop
Risk Management Plan	17.09.2019	Jeremy Stones
Emergency Response Plan	05.02.2020	Jeremy Stones
Health Management Plan	12.02.2020	Jeremy Stones
Medical Plan	03.02.2020	St John Ambulance Australia (NSW)
Operations Plan	September 2019	Dancewize NSW
Alcohol Plan of Management	13.2.2020	Justin Tynan
Security Deployment Plan	14.02.2020	ISEC
Noise Management Plan	19.12.2019	Noise Consulting and Management Pty Ltd
Flood Risk Management Plan	04.12.2019	NB Consulting
Waste Management Plan	06.01.2020	Clean Vibes

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

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 the following:

Other Department, Authority or Service	eServices Reference	Dated/Received
NSW Police	Referral Response – NSW Police	24/02/2020
Roads and Maritime Services	Referral Response – RMS	
NSW Health	Referral Response – NSW Health	19/12/2019

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at 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) 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.

Reason: Legislative Requirement

4. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:
- 7 am to 10.00 pm

Demolition and removal of materials/buildings/structures works are restricted to:
- 7.00 am to 8.00 pm.

(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) Onsite toilet facilities 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) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(i) 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.

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

5. Sale of food and drink

All food vendors of any food and drink for sale (or given away as promotion) shall apply in advance (14 days' min) of the event for food vending approval from Councils Environmental Health Team. Application forms are available on line at Councils Web site. "Temporary Food Stalls" Any packaged foods must be appropriately labelled- see NSW Food Authority web site for requirements.

Reason: To comply with Food Legislation

6. Building materials, sedimentation

No building materials or other materials and waste are to be placed on or enter areas of bushland, wetland, saltmarsh, seagrass or riparian vegetation. Appropriate sediment fencing is to be installed.

Reason: Environmental Protection

7. Community Notification

The event organisers are required to notify all residents, businesses and relevant sporting clubs within a minimum 500 metre radius of the event (from the main stage). The notification is to include the following:

- Bump in dates and times
- Event date and times
- Bump out dates and times
- A contact number that is accessible the whole length of the event from bump in to bump out.

Reason: To ensure clear public communication and notification of the event.

8. Flood Emergency Response Requirements

1) All recommendations of the Flood Risk Management Report prepared by Northern Beaches Consulting Engineers Revision C prepared 4 December 2019 must be complied with for the duration of the proposed festival, including bump in, festival day and bump out.

2) An appropriately qualified engineer with experience in floodplain management must be engaged by the applicant to provide advice and interpret appropriate response action if the 'Flood Watch' alert threshold is reached for Bump In, Day of Event or Bump Out.

3) Sufficient copies of the approved Flood Risk Management Report prepared by Northern Beaches Consulting Engineers Revision C prepared 4 December 2019 must be made available on-site during Bump In, Day of Event and Bump Out.

4) The Flood Evacuation Coordinator and Flood Evacuation Assistant must be fulfilling their responsibilities outlined in the Flood Risk Management Report prepared by Northern Beaches Consulting Engineers Revision C prepared 4 December 2019 at all times.

Reason: To ensure that the requirements of the Flood Risk Management Report are adhered to and that flood risk to life is appropriately managed.

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

9. 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.

10. Structure Footings

Any structures that require footings are to utilise the weight plate and ballast footing solution as outlined in the 'Structures fixing solutions' plan, as shown on page 10 of the Site Survey Plan document.

Reason: To protect existing irrigation infrastructure from damage.

11. Flooding

In order to protect property and occupants from flood risk the following is required:

Storage of Goods – D1
Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 3.7m AHD unless adequately protected from floodwaters in accordance with industry standards.

Notification of Emergency Services
The applicant must demonstrate that they have notified the relevant NSW State Emergency Service personnel of the proposed event and have provided a copy of the approved Flood Risk Management Report prepared by Northern Beaches Consulting Engineers Revision D prepared 4 December 2019.

Flood Refuge Access Arrangements
In addition to written permission the applicant must demonstrate that they have appropriate access arrangements established for the identified flood refuge locations.

Roles and Responsibilities
Prior to the issue of the construction certificate the applicant must nominate the names and contact details for the Flood Evacuation Coordinator and Flood Evacuation Assistant
.
Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. Tree protection

(a) Existing trees which must be retained
  i) All trees located on the subject site
  ii) All trees located on adjoining land

(b) Tree protection
  i) No tree roots greater than 25mm 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 25mm 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.

13. Bushland Protection Fencing

Prior to the commencement of any onsite building works, the boundary between the natural bushland zone and the festival construction area as shown on the submitted plans - is to be surveyed and marked clearly on the ground.

A temporary 1.8 metre steel mesh fence is to be erected between the natural bushland zone and the construction area for the duration of festival works. The fencing must be a minimum of 5m from the dripline (canopy) of existing trees along the northern, western and southern boundaries of the festival grounds.

Details demonstrating compliance, including photographic evidence, is to be submitted to the Principal Certifying Authority prior to commencement of works.

Reason: To ensure that the vegetation in the restricted development area is protected during and after construction.

14. Physical Barrier to be placed at Landward Edge of Riparian Zones

Prior to commencement, temporary fencing must be provided to the rear of the portable toilets along the waterway, a minimum distance of 5m from vegetation. The physical barrier shall be constructed of non-combustible materials and shall not be less than 1.8 metres in height in order to prevent entry into environmentally sensitive areas.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to commencement.

Reason: To promote the long-term sustainability of ecosystem functions.

15. Bunding or relocation of portable toilet area adjacent to waterway

A bunded area must be provided to the downstream area of the portable toilets adjacent to the waterway in order to prevent any waste entering the environment.

Alternatively, the portable toilets are to be located a minimum of 20m from any waterway/drainage line.

Reason: Protection of waterways from the impacts of pollution.

16. Working on Reserves Permit

Works (undertaken by principal contractors working without Council supervision) on land under Council's care control and management require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks and Recreation business unit.

Reason: Public Safety and the protection of Council infrastructure.

17. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of $20 million in relation to the occupation of, and approved works within Council's road reserve or land under Council's care, control and management, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. Disposal of waste from catering outlets

All catering outlets must dispose of their waste (including liquid) in accordance with approved waste management practices. Rinsing out of any items, sink drainage and the like must not be allowed to drain to the environment. In the event waste is being disposed of to the environment, the event organisers must order this to cease immediately and to contact Council for further investigation.

Reason: To ensure protection of waterways from the impacts of pollution.

19. 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.

20. Removal of All Temporary Structures/Material and Rubbish

At the conclusion of the event, during the bump out timeframe from Sunday 15th - Monday 16th March, all temporary fencing, structures and rubbish are to be removed from the site.

Reason: To preserve reserve amenity and maintain public safety.

21. 2019 Bump-in/out Operations

Truck movements associated with the Bump-In/Bump-Out are to be restricted to between 9:30am and 3:30pm.

Reason: To avoid truck movements during the peak network traffic periods (DACTREDW1)

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

22. Implementation of Flood Risk Management Report recommendations

The applicant must demonstrate that they have implemented the recommendations outlined in the Flood Risk Management Report prepared by Northern Beaches Consulting Engineers Revision C prepared 4 December 2019. This includes but is not limited to:

- Installation of on-site rainfall monitoring equipment
- Installation of appropriate flood warning signage

Reason: To ensure that the applicant has implemented the relevant recommendations from the Flood Risk Management Report prepared by Northern Beaches Consulting Engineers Revision C prepared 4 December 2019.

23. Structural Certification

Upon erection of the proposed stage, certification is required to be provided to Council from a qualified structural engineer prior to the use of the building.

Such certification should also indicate any restrictions on the acceptable loadings for the structure.

Reason: To ensure adequate provision is made for building occupant safety.

24. Registration of Food Business (temporary food premises – stalls)

The food businesses must be registered with Council as Temporary Food Premises 1 (one) month prior to the event and be issued with or hold already an approval permit for the sale of food (including drink).

Reason: To ensure Food premises/stalls are approved by Council to maintain food safety standards.

25. Food Standards

All Temporary and Mobile Food premises are to comply with the Food Act 2003 and NSW food Authority Guidelines for Mobile and Temporary food stalls.

Reason: To maintain Food standards

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

26. Cleaning and maintenance of toilets during the event

- A dedicated cleaner shall be allocated to ensure continual service, cleaning and maintenance of the event toilets to minimise, blockages and spills, and ensure adequate water supply, toilet paper and liquid soap at all times.
- Toilets are to be provided on the minimum basis of 1:60 patrons.
- Should a toilet block leak/fail a contingency plan shall be in place to ensure land and or water pollution is avoided and adequacy of toilet numbers is maintained.

Reason: To provide hygienic sanitary services and protect public health.

27. Toilet Facilities and Sanitation

The number of toilets facilities must be a minimum of:

- Males 16 water closets plus 50 urinals and females 60 water closets (minimum of 126 toilets)
- Separate toilets with hand wash facilities must be available for food handlers.
- There must be hand washing facilities with soap in close proximity to the toilets.
- There must be adequate sanitary disposal facilities.
- Toilets must be monitored, kept clean and provided with toilet paper.

28. Noise Management

1. Compliance with all recommendations contained within the Acoustic Assessment and Noise Management Plan by Noise Consulting & Management Pty Ltd ref 3518 20 Sept 2019 and the Statement of Environmental Effects (SEE) undated submitted with the DA.

2. All residential premises within 500m of the location be informed by letter box drop at least 48 hours in advance of the Event by the organiser advising of the event and hours, a contact phone number should be provided for enquiries/complaints.

3. A Council allocated officer is to be provided with a contact name phone number to the sound management staff/contractor on the day to ensure direct communication to deal with any complaints or issues that may arise during the event and after the event until 12 midnight.

4. A report containing the results of the noise monitoring, any complaints, the effectiveness of the noise control is to be presented to Council within 30 days of the event.

Reason: To minimise the noise impact on residential receivers.

29. Lighting - glare

Lighting is to be used so as to minimise glare to neighbouring residential premises.

Reason: To maintain amenity of surrounding residential properties.

30. NSW Public Health Requirements

The recommendations of NSW PUBLIC HEALTH for Major Events shall be complied with as specified for the event.

Reason: To ensure Public Health is not compromised by the event and activities.

31. Dead or Injured Wildlife – Manly LEP Clause 6.5

If construction activity or event activities associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To manage/mitigate potential impacts to native wildlife.

32. Access to site for lessees and licence's

Access to the site should be maintained for the lessees and licences of the buildings on the site at all times during operation, set up and take down of the music festival.

Reason: To ensure regular users of the buildings are not unduly inconvenienced by the festival.

33. ??2019 Traffic Management

Traffic, parking and pedestrian safety is to be managed in accordance with the Traffic Management Plan submitted by Traffic Plan Professionals Pty Ltd, recommendations of the Local Traffic Committee, Councils Traffic Engineer(s) and directions from NSW Police.

Reason: To ensure safety and safe movement of vehicles and pedestrians.

34. Extinguishment of flood-lighting

Flood-lighting is to cease within 30mins of the work(s)/setup/setdown hours. On the event night (14 March) flood-lighting is to cease within 1 hour of the conclusion of the concert (11pm). Flood-lighting is to be provided from Keirle Park to Queenscliff Bridge (via the pedestrian pathway through Lagoon Reserve).

Reason: Pedestrian safety and amenity of surrounding residential properties.

35. Post Event Performance Report

A post event performance report is to be produced within two (2) weeks after the conclusion of the event and is to be submitted to Northern Beaches Council and NSW Police by 30 March 2020. A briefing by the applicant, security and event management is to be completed with the Northern Beaches Council and NSW Police within four (4) weeks after the event (13 April 2020).

Reason: To improve on future event(s) and address issues/concerns raised during the event.

36. Limitation on this Consent – One Event Only

This consent is for a one off event, being The Drop Festival to be held during the following dates:

(a) Bump-in (start to end of set-up) from 10 to 13 March 2020

(b) Event date - 14 March 2020

(c) Bump-out (finish, removal of all structures and departure) from 15 to 16 March 2020

Any future event will need to be the subject of a separate development application.

Reason: To ensure compliance with the terms of this consent.

37. Maximum capacity

The maximum number of patrons permitted at the event is 5,000 persons.

Reason: To limit the patronage at the site in accordance with the documentation submitted with the development application.

38. Security fencing

2.4m high fencing is to be provided around the entire event to discourage unlawful entry to the site.

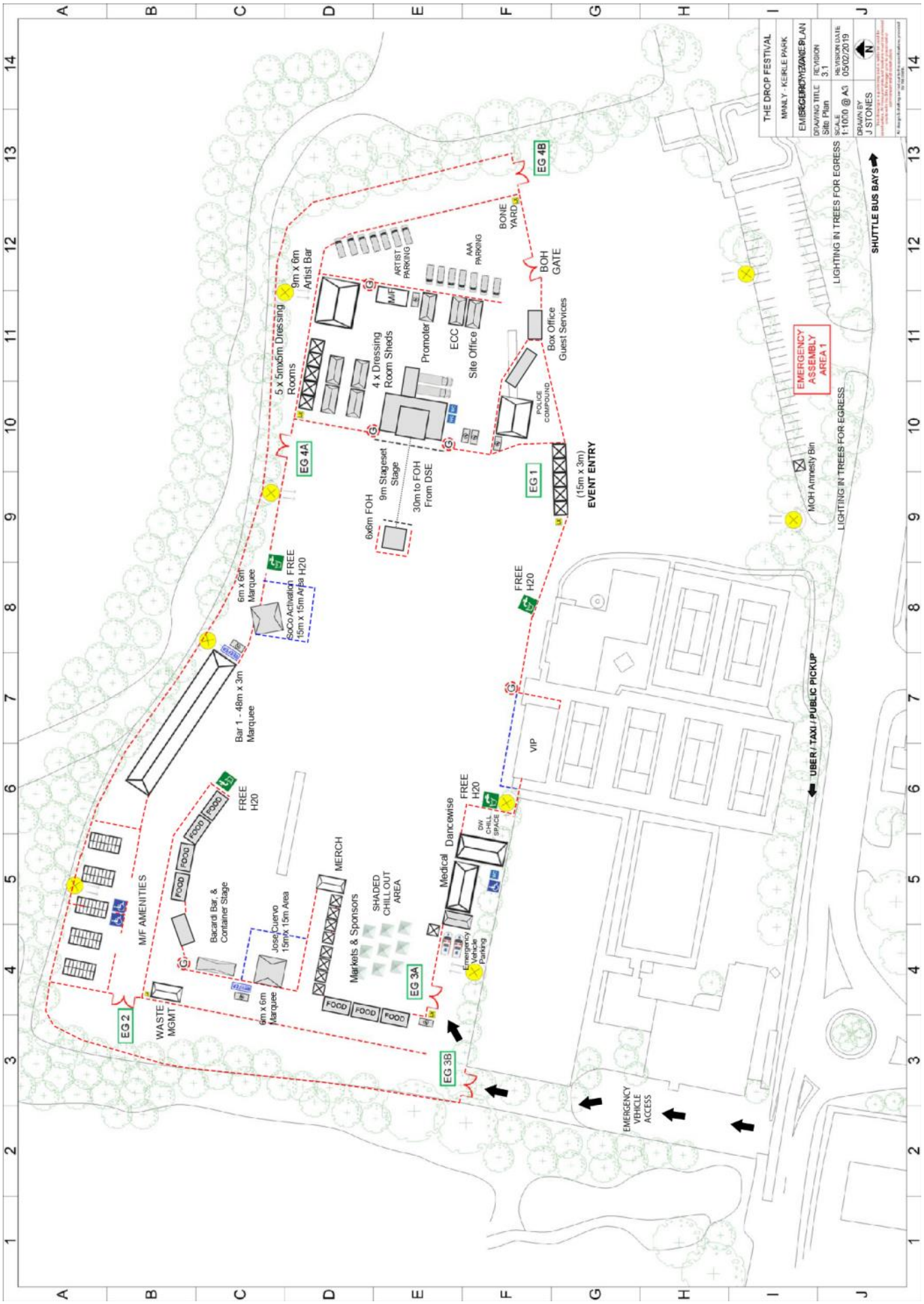
Reason: To enhance security on the site and neighbouring sites.

39. Waste Management Plan

Waste management is to be in accordance with the Northern Beaches Council Event Waste Management Guidelines and include the following:-

- Single use plastic or carton bottled water must not be sold or distributed at the event,
- All drinks served from bars throughout the event site are served in reusable system plastic cups such as Globelet, Aluminium Cans or paper cups.
- “Bio-plastic” or biodegradable plastic products must not be sold or distributed at the event such as cups, bowls, cutlery and straws.

Reason: Waste management


THE DROP FESTIVAL
MANLY - KEIRLE PARK
EMERGENCY MANAGEMENT PLAN
DRAWING TITLE Site Plan
REVISION 3.1
SCALE 1:1000 @ A3
REVISION DATE 05/02/2019
DRAWN BY J STONES
N
EG 1
EG 2
EG 3A
EG 3B
EG 4A
EG 4B
EVENT ENTRY
(15m x 3m)
BOH GATE
BONE YARD
ARTIST PARKING
AAA PARKING
MF
Promoter
ECC
Site Office
Box Office
Guest Services
POLICE COMPOUND
9m x 6m Artist Bar
5 x 5m x 5m Dressing Rooms
4 x Dressing Room Sheds
9m Stageset Stage
6x6m FOH
30m to FOH From DSE
6m x 6m Marquee
SoCo Activation 15m x 15m Area
FREE H20
Bar 1 - 48m x 3m Marquee
MF AMENITIES
Bacardi Bar, & Container Stage
Jose Cuervo 15m x 15m Area
6m x 6m Marquee
WASTE MGMT
MERCH
Markets & Sponsors
SHADED CHILL OUT AREA
Medical
Dancewise
CHILL SPACE
Emergency Vehicle Parking
VIP
FOOD
LIGHTING IN TREES FOR EGRESS
EMERGENCY ASSEMBLY AREA 1
MOH Amnesty Bin
SHUTTLE BUS BAYS
UBER / TAXI / PUBLIC PICKUP
EMERGENCY VEHICLE ACCESS


THE DROP FESTIVAL
MANLY - KEIRLE PARK
LICENSED AREA PLAN
DRAWING TITLE
Site Plan
REVISION
3
SCALE
1:1000 @ A3
REVISION DATE
05/02/2019
DRAWN BY
J STONES
LICENSED AREA
APPROX: 2.47ha
EVENT ENTRY
(15m x 3m)
VIP
BOH GATE
BONE YARD
ARTIST PARKING
AAA PARKING
Promoter
ECC
Site Office
Box Office
Guest Services
POLICE COMPOUND
4 x Dressing Room Sheds
5 x 5mx5m Dressing Rooms
9m x 6m Artist Bar
9m Stageset Stage
6x6m FOH
30m to FOH From DSE
6m x 6m Marquee
SoCo Activation 15m x 15m Area
Bar 1 - 48m x 3m Marquee
FREE H20
MF AMENITIES
Bacardi Bar, & Container Stage
Jose Cuervo 15m x 15m Area
MERCH
Markets & Sponsors
SHADED CHILL OUT AREA
Medical
Dancewise
DW CHILL SPACE
Emergency Vehicle Parking
FOOD
WASTE MGMT
LIGHTING IN TREES FOR EGRESS
MOH Amnesty Bin
SHUTTLE BUS BAYS
UBER / TAXI / PUBLIC PICKUP
EMERGENCY VEHICLE ACCESS

ITEM 3.6	**DA2019/1173 - 3 BERITH STREET, WHEELER HEIGHTS - DEMOLITION OF EXISTING DEVELOPMENT AND CONSTRUCTION OF A SENIORS HOUSING DEVELOPMENT COMPRISING 6 X INFILL SELF CARE HOUSING UNITS AND BASEMENT PARKING, AND STRATA SUBDIVISION**
AUTHORISING MANAGER	**ANNA WILLIAMS**
TRIM FILE REF	**2020/114314**
ATTACHMENTS	**1 ⇩Assessment Report** **2 ⇩Site Plan and Elevations** **3 ⇩White Geotechnical Group Report** **4 ⇩Peer Review of White Geotechnical Group Report by JK Geotechnics** **5 ⇩Additional Investigation Report by JK Geotechnics** **6 ⇩Peer Review of all geotechnical reports by Crozier Geotechnical**

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, grants **deferred commencement approval** to Application No. DA2019/1173 for demolition of existing development and construction of a Seniors Housing development comprising 6 x infill self-care housing units and basement parking, and strata subdivision at Lot A DP 411784, 3 Berith Street, Wheeler Heights subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1173

Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot A DP 411784, 3 Berith Street WHEELER HEIGHTS NSW 2097
Proposed Development:	Demolition of existing development and construction of a Seniors Housing development comprising 6 x infill self care housing units and basement parking, and strata subdivision
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes, under *SEPP HSPD prevails over the WLEP 2011 and the development is permissible.
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Ming Hong Zhou
Applicant:	Boston Blyth Fleming Pty Ltd

Application Lodged:	24/10/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	02/11/2019 to 16/11/2019
Advertised:	02/11/2019
Submissions Received:	25
Clause 4.6 Variation:	Nil
Recommendation:	Deferred Commencement Approval

Estimated Cost of Works:	$ 2,829,900.00

Executive Summary

This Development Application (DA) seeks approval for a "Seniors Living" development, pursuant to State Environmental Planning Policy (SEPP) Housing for Seniors or People with a Disability (HSPD). The application is identical to that proposed under DA/2018/1928, in that it provides for a total of six (6) dwelling / units comprising a two storey building to the front and single storey building to the rear with basement parking. The application is referred to the NBLPP as more than ten (10) submissions have been received.

Principal assessment issues with the development proposal relate to bulk and scale / (FSR), impact to streetscape character, traffic and parking, landscaping, open space and trees, view loss, compliance with SEPP HSPD, accessibility / access to infrastructure, services, and transport, excavation and stormwater. In the context of the full assessment these specific issues have been considered within the report and detailed comments provided with respect to engineering, traffic, landscaping, building accessibility, urban design and waste management. Conditions are recommended to address issues where appropriate.

Twenty-three (23) public submissions were received following notification. In addition to the issues listed above, the following issues were raised: excavation and construction impacts, privacy, spatial separation, overshadowing, documentation issues, road safety and concerns with the removal of asbestos. Conditions are recommended to appropriately address those concerns raised in the public interest.

On balance, the proposal is recommended for deferred commencement approval having considered relevant issues and the assessment of the design plans submitted.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for demolition work and the construction of six (6) dwellings (in-fill self-care housing) for aged and disabled persons housing and and strata-sub-division. In detail the development includes:

- Site clearance, demolition of all on-site structures (house, swimming pool, shed, driveway, retaining walls and ancillary structures);
- Excavation to a of approximately 3m in the north-west corner and 6.2m in the south east corner with a Finished Floor Level (FLL) of RL 72 and RL 71.95 to the pit of the lift shaft);
- Construction of one level of basement car parking for eight (8) cars, including one (1) visitor car parking space, motor bike and bike parking area, storage areas, stair and lift access and plant/services (Finished Floor Level FFL 72.0);
- Site works, including construction of driveway areas, footpaths, on-site detention and drainage works;
- Ground Floor: Two detached buildings / pavilions are proposed separated by a communal central courtyard area. The front building / pavilion is two (2) storeys in height with a FFL of 76.0. The building comprises 2 x three (3) bedroom units at ground floor with open plan living and dining areas and private front decks. A central entry area / ramped corridor provides access to all ground floor units and access to stairs and lift for the upper floor units. The rear building / pavilion is single storey in height with a FFL of between 77.0 and 77.2 a maximum height of RL 82. The pavilion comprises 2 x two (2) bedroom units with open plan living and dining and rear facing courtyards. The apartments are accessed via the communal walkway down the centre of the front pavilion and through the landscaped communal courtyard in the centre of the site;
- First floor: The upper level of the front pavilion has a FFL of 79.0 and a maximum height of RL 82.0 (RL to the top of the highlight windows and RL 83.7 to the top of the lift shaft). The first floor contains 2 x three (3) bedroom units with open plan living area and private front decks. Each apartment is accessed via a communal elevated glazed walkway in the centre of the pavilion which is accessed via the ground floor by a lift or stairs. PV panels are proposed on the roof;

- Landscaping works including the removal of 16 trees (4 of which are exempt), tree protection measures to retain the significant trees within the site frontage, planting of two canopy trees, deep soil perimeter landscape and screen planting;

- Ancillary works include the construction of fencing, retaining walls, bins storage, entry portico / letterbox and access paths, including a new 1.5m wide footpath along the east of Berith Street to the intersection of Rose Street;

- Materials and finishes: Front pavilion painted render, sandstone cladding, aluminium door and window frames, timber screens colour-bond metal awnings, glazed balustrade, and

- Strata subdivision, by separate application.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential
Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D9 Building Bulk

Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot A DP 411784 , 3 Berith Street WHEELER HEIGHTS NSW 2097
Detailed Site Description:	The subject site is legally described as Lot A in DP 203378 and Lot 4 in DP411784 no 3 Berith Sreet, Wheeler Heights. The site is located on the eastern side of Berith Street, approximately 55m south of the intersection with Rose Avenue. The site has a total area of 1,269 square meters (sqm), it is rectangular in shape with a 20.13 metres (m) frontage to Berith Street and a depth of 63.0m. The site slopes gently toward the north-east corner having a (diagonal) cross fall of 4m and average gradient of 5% from front to rear. The site currently contains a part one / part two storey detached dwelling house with integrated garage, pool and minor structures, including a shed located adjacent to the rear boundary. Medium to large trees are located on the property. Vehicle and pedestrian access to the site is available via Berith Street. The site is located within the R2 Low Density Residential zone. Surrounding development primarily comprises low density detached one and part one and two storey dwellings in landscaped settings. The dwelling to the immediate north is single storey detached with a hipped roof and the dwelling to the immediate south is a part one / part two storey dwelling with a pitched roof and a detached garage to the front. The tennis court to Wheeler Heights Primary School adjoins the site to the east (rear) and Augusta Shopping centre on Veterans Parade is located approximately 400m due east (via Berith Street and Rose Avenue). The site is not subject to natural hazards of landslip, flooding, bushfire or acid sulfate soils and does not contain any significant natural rock outcrops.

Map:



SITE HISTORY

A search of Council's records has revealed the following:

DA2018/1828

On 9 September 2019, Development consent was granted by the Northern Beaches Local Planning Panel at its meeting on 4 September 2019 for the construction of a Seniors Housing development comprising six (6) x infill self care housing units and basement parking.

Issues identified post determination of development application (DA2018/1828) related to the geotechnical report resulted in the applicant submitting a fresh development application (DA2019/1173) with a new geothechnical report. It is noted that the proposal remains to be the same as that sought in the original development application DA2018/1828.

PLM2018/0095

Pre-lodgement Meeting PLM2018/0095 for "Demolition works and the construction of a Seniors Living Development State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004" was held with Council on 29 May 2018. The pre-lodgement meeting was held in respect of the original development application DA2018/1828. No pre-lodgement meeting was held in respect of the subject application DA2019/1173.

DA2012/0670

On 28 August 2012, consent was granted for alterations and additions to an existing dwelling and subdivision of one lot into two lots.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	**Comments**
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan (WDCP) applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	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. Clauses 54 and 109 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. Additional information has been submitted including a revised waste management report, a BCA report, a BASIX report and shadow diagrams. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. 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. 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. Clause 98 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.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and	(i) 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. (ii) The proposed development will not have a detrimental social

Section 79C 'Matters for Consideration'	Comments
economic impacts in the locality	impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for a seniors housing development. The design of the development as one and two storey buildings / pavilions is suitable within the context of the site. The site is accessible to services and infrastructure and, subject to a condition requiring the construction of a footpath to connect to Rose Avenue, is located within a suitable distance and gradient to public bus stops and the local shops at Veterans Parade.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Public Exhibition" in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest, subject to conditions. Issues raised in public submissions have been considered and addressed in summary within the detail of this report.

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 process council is in receipt of 25 submission/s from:

Name:	Address:
Diane Moira McNatty	11 Berith Street WHEELER HEIGHTS NSW 2097
Mr Adam Paul Gibbs	16 Berith Street WHEELER HEIGHTS NSW 2097
Henry Voon Leong Chin	9 Berith Street WHEELER HEIGHTS NSW 2097
Mr Eric Duncan Ward Rogers Mrs Noreen Rogers	31 Rose Avenue WHEELER HEIGHTS NSW 2097
Ms Joan Elizabeth Catherine Croydon	5 Berith Street WHEELER HEIGHTS NSW 2097
Ms Jan Margaret Hawthorn	20 Berith Street WHEELER HEIGHTS NSW 2097

Name:	Address:
Mr Robert Guy Barnes Mrs Christine Helen Barnes	10 Berith Street WHEELER HEIGHTS NSW 2097
Mrs Jaqueline Esme McKinn	29 A Lantana Avenue WHEELER HEIGHTS NSW 2097
Ms Rebecca Catherine Plester	8 Berith Street WHEELER HEIGHTS NSW 2097
Rebecca Henderson	33 Rose Avenue WHEELER HEIGHTS NSW 2097
Mrs Jill Carolyn Clouston	14 Kirkstone Road WHEELER HEIGHTS NSW 2097
Mrs Barbara Hilda Elgafi	54 Rose Avenue WHEELER HEIGHTS NSW 2097
Mrs Helen Janelle Churchill	13 Rose Avenue WHEELER HEIGHTS NSW 2097
Amanda Louise Spencer	1 Berith Street WHEELER HEIGHTS NSW 2097
Craig Robert Gilmour	58 Rose Avenue WHEELER HEIGHTS NSW 2097
Mrs Dorothy Susan Waterhouse	56 Rose Avenue WHEELER HEIGHTS NSW 2097
Mr Rodney James Millichamp	29 Rose Avenue WHEELER HEIGHTS NSW 2097
Mrs Linda Anne Kemp	46 Rose Avenue WHEELER HEIGHTS NSW 2097
Withheld Withheld	WHEELER HEIGHTS NSW 2097
Mr David John Collett Mrs Wendy Collett	7 Berith Street WHEELER HEIGHTS NSW 2097
Mrs Shirley Irene Smith	52 Rose Avenue WHEELER HEIGHTS NSW 2097
Mr Charles George Longley	18 Rose Avenue WHEELER HEIGHTS NSW 2097
Ms Dorothy Elizabeth Cordery	25 Rose Avenue WHEELER HEIGHTS NSW 2097
Jacqueline Ryals	42 Rose Avenue WHEELER HEIGHTS NSW 2097
Nathan Langelaar	23 Rose Avenue WHEELER HEIGHTS NSW 2097

The following issues were raised in the submissions and each have been addressed below:

- Cumulative impact of seniors housing development;
- Overdevelopment - in-appropriate scale, density and height in a low density residential area;
- Visual impacts on the streetscape / established character;
- Impacts on residential amenity - loss of visual and acoustic privacy, sunlight and impacts on views;
- Excavation and constructions impacts - dust, noise, vibration, removal of asbestos;
- Road safety, traffic and parking issues, and
- Inaccurate, incorrect, missing and misleading information.

The matters raised within the submissions are addressed as follows:

Cumulative impact of seniors housing development in the area in terms of traffic congestion, noise and construction impacts. A cumulative impact study and site compatibility certificate is required. The DA should not be considered in isolation to other Senior Housing developments and needs to ensure that the existing infrastructure (roads, parking and public transport) can support the numerous senior housing development proposals in the area while maintaining the existing high level of amenity. Approvals set a precedent for more developments and the area is over saturation with senior housing developments. It is noted that the other developments are

either single detached dwellings or are located on battle axe blocks with no street frontage. The development could be sold to others with no enforcement of the age restriction or measures to control who will live in the development. Furthermore, conditions are required to ensure that the development is affordable in order to comply with Council's Policy on Affordable Housing.

Comment:

Part 1A Clause 24 of the Seniors Housing SEPP requires a site compatibility certificate if:

(1) (a) the development is proposed to be carried out on any of the following land to which this Policy applies:

(i) land that adjoins land zoned primarily for urban purposes;
(ii) land that is within a zone that is identified as "special uses" under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted),
(iii) land that is used for the purposes of an existing registered club, or

(b) the development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45. (Clause 45 relates to vertical villages).

The subject site is not located on land that triggers a requirement for a site compatibility certificate, it is located within a R2 residential zone and the SEPP makes the development permissible with consent. It is noted that when required, a site compatibility certificate is to be submitted by the owner of the land to the Department of Planning, as opposed to Council.

Clause 25 (2C) states that *a cumulative impact study for the purposes of this clause is a study that considers whether the impacts associated with the proposed development on the land to which an application relates (when considered together with the impacts of proposed developments on the proximate site land concerned).* A cumulative impact study is only required if a site compatibility certificate is required.

(a) take into account the capacity of existing or future services and infrastructure (including water, reticulated sewers and public transport) to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision, and
(b) take into account the capacity of existing or future road infrastructure to meet any increase in traffic as a result of proposed development.

Despite the application not requiring a site compatibility certificate, the criteria required under clause 25 (5) (b) (i), (iii) and (v), relating to site compatibility / cumulative impact, must be taken into consideration under Clause 29 of the SEPP. Clause 25 (5) (b) requires the proposed development to be compatible with surrounding land uses having regard to (i), (iii) and (v). These matters are discussed in detailed under the heading SEPP (HSPD). Notwithstanding the fact that a site compatibility / cumulative impact study is not required under the provisions of the SEPP (HSPD), the following is a consideration of Seniors Housing developments within the area.

A search of the NSW Planning Portal has confirmed that there are no current site compatibility certificates issued within a 1 km radius of the site. A search of Council records confirm that a total of 9 Seniors Housing developments have been approved within a 1km radius of the site which include the two revisions of DA2017/0662 for 44 Rose Avenue, 46 Rose Avenue and 43 Lantana Avenue, DA2014/1267 for 7 - 11 Veterans Parade which did not result in extra accommodation and DA2002/0445 for 38-40 Veterans Parade which has lapsed. It is noted that only seven (7) developments have been approved since the commencement of the SEPP HSPD in 2004 providing a total of 31 units. These applications include the 6 (six) units approved on the subject site under

DA2018/1828 and Development Application's DA2017/0107 and DA2019/1336 which are revisions to DA2017/0662 for 44 Rose Avenue, 46 Rose Avenue and 43 Lantana Avenue. A summary of these applications is provided below:

• 44 Rose Avenue, 46 Rose Avenue and 43 Lantana Avenue, Wheeler Heights (DA2017/0662) 13 units approved.
• 3 Berith Street, Wheeler Heights (DA2018/1828), the subject site, 6 units approved.
• 30 Rose Avenue and 34 Rose Avenue, Wheeler Heights (DA2016/0621) 12 units approved.
• 43 Lantana Avenue, Wheeler Heights (DA2019/1336) a revised scheme to (D2017/0662) which excludes the adjoining properties - 7 units proposed. Note the DA is undetermined.
. 44 Rose Avenue, Wheeler Heights (DA2019/0107) a revised scheme to (D2017/0662) which excluded the adjoining property at 43 Lantana Avenue - 6 units approved.
• 7-11 Veterans Parade, Collarory Plateau (DA2014/1267), first floor lounge room addition (no extra accommodation) to historic residential care facility dating back to 1968.
• 62 Edgecliff Boulevarde, Collarory Plateau (DA2003/0775) 3 units approved (note: this approval predates SEPP HSPD)
• 38-40 Veterans Parade, Wheeler Heights (DA2003/1655) 8 units approved (note: this approval predates SEPP HSPD)
• 38-40 Veterans Parade, Wheeler Heights (DA2002/0445) 12 units approved (note: this approval predates SEPP HSPD). This consent was not activated, has lapsed and is superseded with DA2003/1655)

The War Vets (RSL ANZAC Life Care Independent Living Village) at 90 Veterans Parade / 4 Colooli Road is not included in the study being an historic development that was established to provide care to war veterans. It has had several developments over the years upgrading and expanding housing. The War Veterans is a precinct defined by Lantana Avenue and Veterans Parade with four vehicular entrances.

It is concluded that there is not an over saturation of SEPP HSPD developments within the area. Issues relating to infrastructure capacity are discussed elsewhere in this report.

In response to the occupancy of the development, a condition will require a positive covenant to be registered on title requiring the occupation of the HSPD development to be seniors or people with a disability, people who live in the same household as seniors or people with a disability or staff employed to assist in the administration of and provision of services to such seniors or disabled.

The application is for HSPD and not a boarding house, as such Council's policy on Affordable Housing does not apply. Issues relating to streetscape are discussed elsewhere in this report.

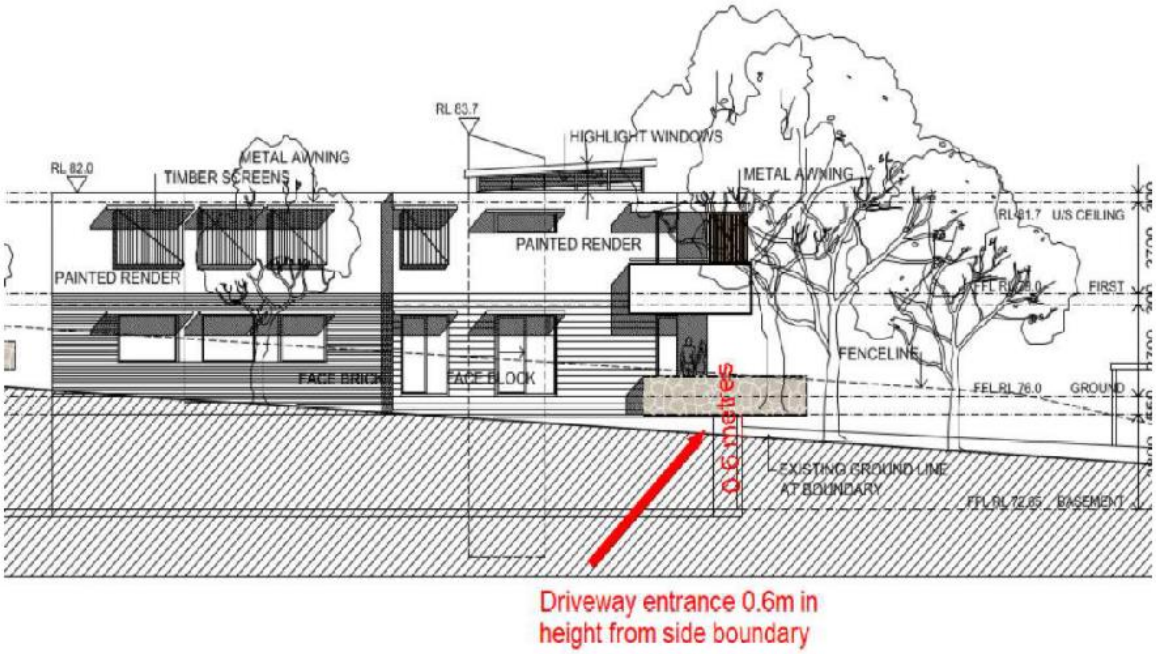
Overdevelopment – demolition of one single storey dwelling to be replaced with six (6) dwellings in an apartment bock style is in-appropriate in scale, density and height in the low density residential area. Due to the site levels the proposal presents a frontage above three (3) storeys to Berith Street (2 floors plus 1.5m height of the basement level above ground). Height poles are required to assess the proposal in relation to the neighbouring dwellings to identify the impacts including view loss, visual impacts, and impacts on solar access.

Comment:

The proposal is submitted pursuant to State Environmental Planning Policy (Housing for Seniors or Persons with a Disability) 2004, (SEPP HSPD) "the SEPP". The SEPP prevails above the Warringah LEP 2011 by making HSPD permissible in the R2 Low Density Residential Zone despite being prohibited under the WLEP. In addition, the SEPP has its own development standards that prevail over the WLEP and allows a higher density of development than the LEP permits in R2 Low Density

Residential Zone. The proposal complies with the 8m height control in the SEPP and the 8.5m height development standard in the WLEP and sufficient information has been submitted to assess potential impacts of the height, including solar access, on neighbouring dwellings. As such, it is considered unreasonable to ask the applicant to submit height poles.

It is acknowledged that due to the level differences the entrance to the basement car park will be visible from the street. In calculating the number of storeys in a development for the purposes of the SEPP, a car park that does not extend above ground level by more than 1 metre is not to be counted as a storey. The entrance to the basement car park is set back 3.3m from the northern boundary and measures 0.6m in height above ground level, see image below. As such, the car park entrance does not constitute an additional storey and the development has been assessed as being two storeys in height. It is also noted that the entrance is set back 16.3m from the frontage in a landscape setting and will not have unreasonable impacts on the streetscape.



Elevation showing the height of the driveway entrance from the side boundary.

The density of the development is generally in accordance with the built form controls of the SEPP, the WLEP and WDCP and the principles of the Seniors Living Policy. The articulation siting and design of the development reduces the bulk and massing of the two storey building to the street. The bulk is modulated to present two distinct elements similar to the form of a town house development as opposed to a block of apartments. A detailed assessment of height, density and built form controls is provided within this report under the heading SEPP HSPD.

Visual impacts on the streetscape / established character which comprises detached cottage style single storey dwellings set back from the street frontage in landscape settings. The proposal is out of character with surrounding development and will reduce neighbourhood amenity. The proposal presents a large two storey boxy apartment style development with minimal landscaping and extensive excavation. The development is jarring, offensive and unsympathetic to the streetscape. In order to fit into the streetscape and meet the design principles of the Seniors Living Policy it is requested that the proposal be amended from 6 dwellings to 4 with the single storey dwellings to the front of the block in line with the

neighbouring houses and parking on the same level with no excavation.

Comment:

In assessing the existing character, the relevant area has been assessed to include the immediate street and the visible surroundings from the site extending to local surrounds within 400m (being the connection route to local transport that the proposal depends on).

It is agreed that the prevailing pattern of development in the immediate relevant area, Berith Street, is low density single storey or part one and two storey detached dwellings in landscaping settings. Many dwellings are from the post war period, brick and tiled construction with hipped or gable roofs. Some dwellings have been extended and others have had secondary dwellings, constructed in either the front or rear yards. There are also some exceptions to this including the two storey dwelling located diagonally opposite the site at No 8 Berith Street and the contemporary flat roof part one / part two storey dwelling at 16 Berith Street, see photos below.



No 5 Berith Street, located to the immediate south of the site.



No 18 Berith Street, located to the south of the site on the opposite side of Berith Street.



No 8 and 10 Berith Street, located opposite the site.



No 16 Berith Street, located to the south of the site.

Other development in the relevant area include schools and shops which have a mixed built form and are non-residential uses in terms of character. There are also a number of Seniors Housing developments, and dual occupancy / secondary dwelling developments in the vicinity (within a direct 400m of the site), indicating the current or past development approval of these higher density style of housing.

The subdivision pattern in the area presents detached dwellings orientated to the street and set back from the frontage in generous landscaped gardens with canopy street trees, see image below.



Aerial image showing the subdivision pattern in the locality.

In terms of whether the development contributes to the character of the area it is accepted that the density of the proposed development is greater than other sites within the immediate surrounding area, however, as discussed above and elsewhere in this report, the proposed density generally complies with the numerical controls of the SEPP, the WLEP and WDCP.

The design of the subject development is contemporary using a flat roof, large window fenestration, balcony features and wall treatment. The character of the development is more consistent with the character of the development at No 16 Berth Street. The use of a flat roof is supported as it has less impact than a hipped roof would toward the adjoining property to the south, No.5 Berith Street in terms of visual impact, overshadowing and building bulk. The building maintains a consistent landscape setback to the street with an average 14m setback (6.5m required) from Berith Street and the retention of canopy trees to the frontage. The front building is well articulated and modulated to break up the mass of the development so as to fit into the surrounding context and streetscape.



Photomontage of the proposed development.

The proposed natural tone and the colours of material palette are generally consistent with the colours evident in the area, namely white, brown, grey, and earthy colours. The use of external materials of brick or rendered walls, glass sliding doors and timber / weatherboard cladding and the like appears in the streetscape. A condition is recommended requiring the materials of the front balcony to be modified to a light-weight open style treatment in order to further reduce perceived visual impacts of excessive bulk.

The application has been referred to Council's Urban Designer who offers no objections to the proposal. The proposal is assessed as being appropriate within the existing residential character by the use of the deep landscaped frontage, the articulation and dividing the mass of the building into 'modules'. In summary, it is unreasonable to request the development to be reduced to four(4) two (2) storey dwellings given that the development generally complies with the built form controls. A detailed assessment of streetscape and character is contained under the heading SEPP HSPD (Seniors Living Policy) of this report.

Impacts on visual privacy with the proposed development overlooking the rear gardens and windows of neighbouring dwellings. The timber slats will not provide adequate privacy as they cannot be angled to prevent overlooking. In addition, the position and height of the proposed planting, including a coastal banksai on the side boundary, will not provide sufficient screening.

Comment:

Visual and acoustic privacy is managed by ensuring private open spaces (decks and courtyards) are oriented toward the street / rear boundary (the school tennis courts). The proposal includes windows to habitable rooms located between 2.5m and 3m from the north and south boundaries. The applicant proposed to address potential privacy issues to neighbouring properties with the use of replacement 1.8m high timber fencing and perimeter landscape planting along the north, south and east boundaries and screening devices, including highlight windows and fixed privacy screens to upper floor habitable windows and the edge of the upper floor decks. Conditions are recommended to ensure these privacy measures are complied with including a requirement for the screens to be angled and fixed to prevent overlooking. In respect of screen planting a coastal banksai is proposed to be planted along the northern boundary which will have a mature height of 6m and is considered to be a suitable species to

provide screening. A detailed assessment of visual privacy is provided within this report under Clause D8.

Loss of sunlight and daylight to No 5 Berith Street with overshadowing of the property throughout the entire day. 3D diagrams are requested to show the shadow to the north facing windows of No 5 Berith Street.

Comment:

Due to the east west orientation of the subject site, the development will overshadow the dwelling located to the immediate south at No 5 Berith Street. The dwelling house at No.5 Berith Street has a 1.2m set back to the southern boundary and has north facing ground and first floor windows which provides light and ventilation to the main living rooms.

The SEPP requires that adequate daylight to the main living area and substantial areas of private open space of neighbouring properties. Clause D6 of the WDCP requires at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21. Additional shadow diagrams have been submitted in plan, elevation and section which show that the proposal complies with solar access provisions and will not result in unreasonable impacts to the private open space and main living areas of No 5 Berith Street, refer to the detailed discussion under Clause D6 of the WDCP.

View loss. The proposal will result in the loss of north facing district views currently enjoyed from the upper floor side windows of No 5 Berith Street to the Bahai Temple at Ingleside. The view will be replaced with an expanse of wall, metal awnings and timber screens.

Comment:

The north facing first floor side windows to the living room and dining room within No 5 Berith Street currently overlook the roof of the existing single storey dwelling on the subject site and beyond this district northern views to the escarpment at Ingleside and the Bahai Temple.

To determine the extent of potential views to be affected, Council has applied the four planning principles outlined within the Land and Environment Court case *Tenacity Consulting v Warringah Council*. This is discussed in detail under D7 of the WDCP of this report. In summary, the nature of the view (principle 1) is a district land view which is primarily obtained from the north facing living room windows and first floor deck across a side boundary. The district northern view from the north facing first floor windows and first floor deck will be lost as a result of the development. In addition, the oblique northern view from the west facing living / dining room windows will be impacted by the development (principle 2). However, as the development is generally complying in terms of the built form controls in the SEPP, WLEP and WDCP, it has been assessed as unreasonable to protect the subject district view from across the side boundary (principle 3). It is also noted that the district western view to the escarpment from the large west facing dining / living room windows and the first floor deck will not be affected by the development.

Concern that the proposal will generate increased traffic and create safety issues in the adjacent street, compounded by other recent Senior's development nearby and school traffic within Rose Avenue and Berith Street. Berith Street is a school zone, a drop off and pick up location for school children attending Wheeler Heights Public School. Construction traffic, including the use of B double trucks, will result in impacts on road safety, especially for school children accessing Berith Street. Concern that the proposal does not have adequate parking for visitors and the higher volume of deliveries/carer/service traffic generated by HSPD development. 16 bedrooms are proposed and only 8 car parking spaces are provided which is

inadequate. Off street parking is not sufficient for the scale of the development and there is conflicting information relating to parking in the documentation.

Comment:

The SEPP HSPD requires 0.5 car spaces for each bedroom. The proposal provides a total of sixteen (16) bedroom in six (6) units (4 x three (3) bed units and 2 x two (2) bed units). The proposal provides a compliant total of eight (8) parking spaces in the basement. The SEPP prevails over the Warringah DCP for carparking requirements and SEPP HSPD contains overriding standards that "cannot be used to refuse development consent for self-contained dwellings".

Council's Transport Unit have confirmed that in accordance with the RMS Guide to Traffic Generating Developments, the proposed development is expected to generate three (3) weekly peak hour trips. This is considered to have a negligible impact on the road-network. It is acknowledged that the availability of kerbside parking may be taken up during various peak daytime periods, such as during school drop off and pick up times. Outside peak period there is available kerbside parking available close to the site for short term visitors, deliveries and service providers. Notwithstanding this, despite visitor parking not being required under the SEPP, a condition is recommended requiring two (2) visitor spaces to be provided on site to serve the needs of health service providers or carers visitations for seniors. The two (2) visitor spaces will be in addition to the eight (8) residential car parking spaces which can be accommodated in the areas annotated on the basement pan as SA (Storage Area) in the basement.

The concern raised regarding the road safety during the construction stages has been addressed with the inclusion of the requirement for the submission of a Construction Traffic Management Plan which has to take into account the proximity of the site to the school and is to reflect the safe environment around the school particularly during pick up and drop off hours.

In summary, pursuant to SEPP HSPD and subject to conditions to manage construction traffic, this issue does not warrant refusal of the application.

Excavation is not in character with the area. Construction and excavation will result in impacts on neighbouring amenity including dust, noise, vibration, the potential for structural damage to property and congestion and road safety issues. Excavation of other sites in the area, including 44 Rose Avenue, have had problems which have impacted on neighbouring amenity, including constant noise commencing at 7am and dust issues and emergence measures being required to prevent a boundary fence collapsing into the pit. There are also issues with underground water. Dust from the excavation and road safety issues during construction has the potential to cause health related impacts.

As rock is present underground on the subject site the excavation period will be extended and impact from vibration during the excavation of the rock could damage neighbouring property. Monitoring is required to ensure that there is no structural damage caused as a result of the excavation of the rock. Noise from construction needs to be managed, it is requested that construction work shall not commence before 9.30am and cease at 2.30pm. In addition, conditions should be imposed prohibiting trucks in Berith Street during school zone periods: 8-9.30am and 2.30 – 4pm. Any damage to neighbouring property should be made good at the expense of the developer. Dust pollution should be managed. Off-site removal of excavated material must be managed and be appropriate in size and capacity. Large lorries, such as those used at 44 Rose Avenue would not be permitted in Berith Street which is a school zone. There is little faith that the developer will follow the conditions of the geotechnical report to remove the 'unacceptable' hazards relating to vibration impacting on the neighbour's house and the need for retaining walls. Conditions that are required include the potential need for

underpinning adjoining properties and a dilapidation report to be carried out before and after excavation with any damaged being rectified at the developer's expense.

Comment:

It is agreed that the majority of the surrounding sites along Berith Street have not been re-developed or excavated for basement car parking. However, excavation for car parking is not prohibited and subject to appropriate design and management can be carried out without unreasonable impacts on neighbouring sites.

The application is supported with a geotechnical report prepared by White Geotechnical Group that provides recommendations for the management of excavation to ensure the protection of neighbouring properties. The Geotechnical report has been peer reviewed by two separate Geotechnical Engineering companies engaged by Council, who supports the recommendations of the White report subject to additional conditions which are included in the recommendation. A detailed discussion on earthworks is provided under clause 6.2 of the WLEP of this report. All conditions requested by neighbours to address excavation impacts, as summaries above, are included in the draft set of conditions, with the exception of construction work commencing before 9.30am and ceasing at 2.30pm. Council's standard condition allow demolition and excavation work between 8.00am and 5.00pm Monday to Friday has been applied. Additional conditions will however be imposed including a condition restricting rock breaking to commence no earlier than 9.00am and a condition restricting heavy vehicular movement in the school zone during school zone hours (8am - 9.30am and 2.30pm - 4pm).

The dwelling and shed to be demolished both contain asbestos and the reports submitted with the application do not correctly reference the existing building materials or management of asbestos. Demolition of asbestos could result in serious health issues to neighbouring residents and the school children and staff. The building on site was constructed before 31 December 2003, therefore, the developer must provide a register of asbestos and a 14 day notice of asbestos removal to neighbours.

Comment

The waste management plan has been amended to correctly reference asbestos and conditions are included requiring the appropriate safe removal of asbestos during the construction process and the requirement for notification of asbestos removal to neighbours.

There are stormwater issues in the area and the stormwater drains to Berith Street are regularly blocked. Run-off from the school has caused problems in the past and a concrete wall had to be constructed to manage flooding. The scale of the proposal could aggravate this issue. What measures are in place to manage this issue and ensure that drainage is managed on the subject site and not neighbouring properties.

Comment:

Council's Engineer has requested a revised stormwater management design. Conditions have been included in the recommendation to address this issue. In addition to this, conditions are required to ensure the development adequately contains erosion and sediment and does not create unreasonable impacts on the amenity of adjacent land during construction.

The remove 16 trees may include street trees or trees on adjacent land. The developer attempts to reduce the visual bulk behind a large liquidambar tree, however, concern is raised regarding the ability to provide an accessible footpath adjacent to the liquidambar street tree and other trees which have exposed tree roots uplifting the footpath and causing hazards for the elderly.

If an accessible footpath cannot be provided the street trees may need to be removed. The extension of the footpath, required to be constructed by Council, will also impact on properties to the north. Any impact on existing private driveways to accommodate the footpath need to be managed. Tree planning is proposed to the front and rear but not the side boundaries where it is needed to reduce impacts.

Comment

Sixteen (16) trees are proposed to be removed, four (4) of which are exempt, and six (6) trees will be replanted. The arborist report describes attributes that support the removal of the trees, including suppressed form, trunk failure and structural defects. It is noted that the proposal retains the trees on neighbouring private land and street trees. Measures, namely Tree Protection Zones (TPZs) are recommended to protect the street trees to address pathway construction. In addition, trees are retained along the rear boundary and frontage which will be supplemented with additional replacement planting.

In response to the issue raised regarding the tree roots of the liquidambar street tree (T1) impacting on the accessibility requirements of the proposed footpath, Council's Landscape Officer supports the recommendation of the arborist. The arborist recommendation requires the accessible path to navigate around the tree. Council's Landscape Officer has confirmed that the verge gradient along Berith Street complies with the SEPP, so that the impact to street trees is unlikely to require the removal of the Liquidamber. It is also noted that the applicant will be required to construct the accessible footpath along Berith Street, as opposed to Council.

In summary, the arborist report, landscape plan and DA details have been reviewed by Council's Landscape Officer who supports the proposal subject to conditions, refer to discussion in the referral section and clause D1 of this report.

The assessment of the previous DA for the seniors housing was mishandled, the original DA was retracted due to documentation issues yet the documentation with the current application remains inaccurate. The subject application should be rejected as there is missing documentation, including details on construction and excavation management. The demolition plan and waste management plan that were submitted late contain inadequate / incorrect / insufficient details. The demolition plan is required to include full details of the age and condition of the building to be demolished. There are contradictions in other documents including the BASIX report and the BCA report. In addition, the BCA report is not up to date with current standards. The private certifiers assertion that the development will comply with construction certificate is too late in the process. The conditions of the previous approval have not been applied to the current proposal e.g. the redesign of the front building to have a 500mm setback, the re-location of the bin area and the need for a stormwater connection point to be relocated.

Comment

To address deficiencies identified in the documentation of the original application (DA2018/1828), the applicant has submitted a new development application, including a new geotechnical report.

In response to the concern that the new DA should have been rejected clause 51 of the the *Environmental Planning and Assessment Regulations 2000* is relevant. Clause 51 allows a consent authority to 'reject a DA" within 14 days of receiving it if:

(a) the application is illegible or unclear as to the development consent sought, or
(b) the application does not contain any information, or is not accompanied by any document, specified

in Part 1 of Schedule 1, or
(c) being an application referred to in section 4.12(8) of the Act, the application is not accompanied by an environmental impact statement referred to in that subsection.

Following a review of the documentation with the current application, Council Officers formed the view that the application was legible, it was clear what type of approval was being sought and the documents prescribed in Part 1 of Schedule 1 had been provided. Accordingly, the DA was not rejected and it was exhibited to the public and referral Officers.

The issues regarding misleading and incorrect information do not warrant the rejection of an application. Notwithstanding this, the applicant was requested to re-submit documentation which had been identified as containing errors including a revised waste management plan, BCA report and BASIX certificate. These documents have been included in the exhibition material available to the public.

This application has been assessed by an Officer with no prior involvement in the previous application. Notwithstanding this, the condition requiring the set back on the top floor of the two storey building 500mm from the southern boundary has been re-imposed in the recommendation of the subject DA. Conditions will also be imposed requiring the project management of the construction phase to follow due process with regards to waste management.

The proposal will generate between 12 – 18 bins along the street frontage which will be unsightly and could result in traffic delays with garbage trucks servicing the site.

Comment

Council's Waste Management Unit have confirmed that the proposal requires a minimum of 6 x 240 litre bins, plus two (2) green bins as opposed to 12-18 bins. In addition, the bulky goods storage room is not required. A condition is recommended requiring the re-design of the waste storage area to comply with Council's Waste Management Policy and for the area to be set back 1m from the southern boundary which will allow for screen planting to the boundary. As such, given the reduced intensity of the waste area, it is not expected that this aspect of the proposal will result in visual impacts to the streetscape or traffic delays with servicing the site.

Accessibility - The SEPP requires facilities to be located no more than 400m from the site and an accessible path of travel. The site is located over 500m to the nearest shops along Rose Street which is sloping upwards and there are insufficient rest stops and no footpath along Berith Street. As such the proposal does not meet the requirements of the SEPP and the site is not suitable for senior housing.

Comment:

As discussed elsewhere in this report, the site is located within 400m to facilities and public transport in compliance with SEPP (SHPD). A condition requires the construction of an accessible footpath along Berith Street to connect to Rose Avenue which will provide a compliant at gradient connection to the bus stops and shops at Veterans Parade with sufficient rest stops.

De-value property

Comment

This is not a material planning issue which is a relevant consideration under the Environmental

Planning and Assessment Act, 1979.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respects to aspects relevant to the Building C approval and consideration of the notes below. Note: The proposed development may not comply with some requirements of the BCA a Planners Comment: The conditions recommended by Council's Building Unit to address building assessment
Environmental Health (Industrial)	**General Comments** Environmental Health have reviewed the proposal for a multi-unit development i **Recommendation** APPROVAL - subject to conditions Planners Comment: The conditions recommended by Council's Environmental Health Unit to address noise a have also been included.
Landscape Officer	The Arborist's Report and Landscape Plans submitted are noted. Subject to conditions re on site) and Landscape Plans, no objections are raised to the proposal with regard to lar Planners Comment: The conditions recommended by Council's Landscape Unit to address issues relating to recommendation.
NECC (Development Engineering)	General Information This development application proposes the demolition of the existing dwellings plus assc bedroom in-fill self-care housing units and basement car parking for 8 vehicles pursuant Assessment comments The Applicant has submitted Geotechnical Report prepared by White geotechnical group The Stormwater Concept Plan proposes the construction of a Kerb Inlet Pit (KIP) over th connection to the existing Council stormwater system has to be amended as conditioned minimum clearance of 1 metre from driveways is required. The location of the proposed The proposal for driveway crossing profile shall be redesigned to reflect one of the Coun any Construction Certificate. Councils Development Engineers have reviewed the development application and storm approval of the detail design prior to the issue of any Construction Certificate. Development Engineers raise no objections to the proposal subject to conditions.

Internal Referral Body	Comments
	Planners Comments: The conditions recommended by Council's Development Engineer to address the followi • Stormwater design detention and certification; • Design details of the accessible footpath along Berith Street and the vehicular cr • Excavation - structural adequacy during excavation using underpinning, shoring a report and peer review; • Traffic control and • Civil works supervision and ongoing site inspections.
Strategic and Place Planning (Urban Design)	The proposal can be supported as the cluster of single and double storey pavilion built fc 14.4m front building setback (6.5m required) proposed to keep the existing mature trees. The minor breach of rear setback for the single storey units (6m required - proposal varie visual and acoustic privacy separation. The proposed front and side building setbacks pr amenities to surrounding neighbours are reasonably preserved and maintained. The natural tone of material palette proposed for the building external finishes are also a Planners Comment: Council's Urban Designer has not requested any conditions to be imposed. However, in neighbouring dwellings No 1 and 5 Berith Street a condition is included requiring part of t amended to be more lightweight to minimise the perceived visual bulk from the streetsca area.
Traffic Engineer	The proposal is for the development application (under SEPP SL Housing) for the propo Applying the parking rate required by the SEPP, the proposed development comprising of which are disability accessible spaces). Therefore, the proposed development satisfie There are bus stops located within 400m from the subject site with pedestrian facilities tc Rose Ave to connect the site to the existing footpath on Rose Avenue. This is to provide Reviewing the car park design, the single-sided aisle proposed in the car parking area is In accordance with RMS Guide to Traffic Generating Developments, the proposed devel In the view of the above, the proposal can be supported subject to conditions. Planners Comment: The conditions recommended by Council's Transport Unit to address road safety and pa required on site to reduce impacts on the availability of kerb side parking.
Waste Officer	Note that for developments of less than 10 dwellings a bulky goods storage is not require site storeroom for developments under 10 dwellings. Bins storage area should be able to accommodate 8 x 240 litre bins. Bins can not be dou

Internal Referral Body	Comments
	without the need to move other bins in the process. Development is considered acceptable subject to the above and to the conditions below. Planners Comment: The conditions recommended by Council's Waste Unit to address the bin storage design boundary in order to help protect neighbouring amenity.

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 (Housing for Seniors or People with a Disability) land use.

SEPP (Building Sustainability Index: BASIX) 2004

On 19 November 2019 the applicant submitted an amended BASIX certificate (Certificate No.952573M_03). It is noted that despite the request to update the BASIX report the latest version references ten (10) car parking spaces as opposed to the eight (8) spaces proposed. The error in the reference to the number of car parking spaces does not have any implications to the proposal in terms of compliance with the BASIX commitments.

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass

Energy	50	50

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

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

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for in-fill self-care housing (also referred to as 'Seniors Living').

Chapter 1 – Preliminary

The aims of the Policy are set out in Clause 2 and are as follows:

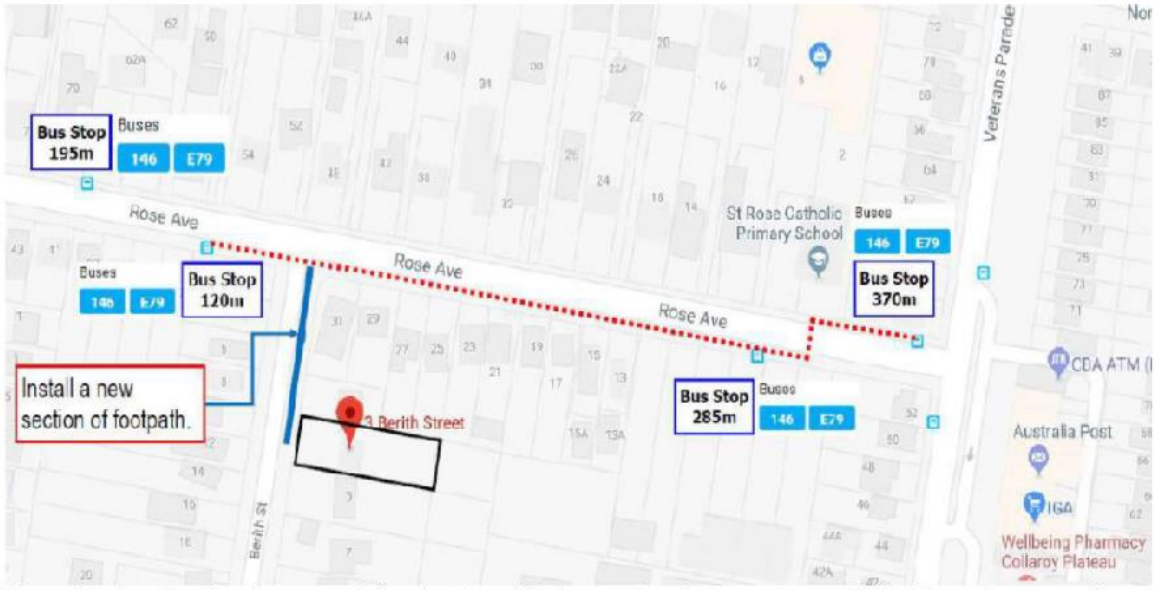
This Policy aims to encourage the provision of housing (including residential care facilities) that will:
(a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
(b) make efficient use of existing infrastructure and services, and
(c) be of good design.

Comment:
a) Supply - The proposal includes six (6) units for self-contained living of seniors housing or people with a disability. As such, the proposal will increase the supply and diversity of residences that meet the needs of seniors and people with a disability within the area;

b) Infrastructure - The proposal is within an established residential area with access to public transport (buses) and a main road to enable travel to the central business areas of Dee Why, Narrabeen / Mona Vale, Brookvale and the City. The site is located within 400m of the nearest bus stop and the local retail centre, (Augusta Shopping Centre) at Veterans Parade which provides a range of essential retail and commercial services, see maps below which show the shopping centre being located 397.8m from the site and the bus stops 285m and 370m from the site. As such, the development makes efficient use of existing infrastructure and services, this is discussed in greater detail below.



Map showing the distance of the site to the the Augusta shopping centre (source Council's Trapeze software).



Map showing the the distance of the site to public bus routes (source Accessibility Report prepared by Accessibility Solutions)

c) Design - The development is of a contemporary design comprising a two storey building / pavilion to the front and a single storey building / pavilion to the rear located within a landscape setting. The development is well articulated and subject to conditions provides a good level of residential amenity and meets the accessibility requirements of the SEPP.

The proposal generally complies with the built form controls of the SEPP and the height, bulk and massing is appropriate within the streetscape. Subject to design modification conditions relating to the side set back of the two storey building and windows, the development will not have unreasonable amenity impacts on neighbouring properties in terms of visual privacy and bulk and scale. In summary, the design of the development is acceptable for the reasons discussed in detailed within this report.

Chapter 2 – Key Concepts

Comment:

Key concepts of SEPP HSPD include:

- The definition of "Seniors" as persons aged 55 or more years, including a facility of residential care or those eligible for aged housing provided by a social housing provider.
- The provision of purpose built housing for "people with a disability" that includes persons with long term or permanent impairment, limitation or activity restrictions that affect their capacity to participate in everyday life.
- The provision of purpose built "Seniors housing" with the intent that such housing includes a residential care facility, a hostel, a group of self contained dwellings or a combination of these, but not a hospital.

The proposal falls within the definition of "***in-fill self-care housing***" which is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

The proposal satisfies this element of the SEPP HSPD in that the development is for purpose built self-contained dwellings that are for self-care accommodation of seniors or persons with a disability.

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Pursuant to Clause 18 of SEPP HSPD a condition requires a positive covenant to be placed on title restricting the occupation of seniors housing to seniors or people who have a disability, people who live within the same household with seniors or people with a disability or staff employed to assist in the administration of and provision of services to housing provided under the Policy.

The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	**Requirement**	**Proposal**	**Complies**
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may	An Accessibility Report has been submitted by Accessibility Solutions which concludes that the development has satisfactory access to a range of shops, services and public transport. The site has access to public transport (buses) services (see map above) to the central business	Yes

Development Criteria			
Clause	**Requirement**	**Proposal**	**Complies**
	reasonably require, and (b) community services and recreation facilities, and (c)the practice of a general medical practitioner	areas of Dee Why, Brookvale, Narrabeen / Mona Vale and connecting services to the City. These local centres all contain a range of services for banking and finance, shopping and groceries, postal and government offices, community services, medical services and recreation facilities.	
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400 metres away.	Clause 26(2) (a) of the SEPP requires the site to be within 400m walking distance of shops, services and public transport. It is noted that the accessible report refers to the site being located approximately 425m from the shopping centre at Veterans Parade. The distance to shopping centre has been calculated as being less than 400m using Council's Trapeze software, refer to the map above. The accessibility report calculates the site being 120m to 370m to the relevant bus stops (both having benches and one being sheltered) on Rose Avenue to access bus routes 146 / E79 which travel to Dee Why, Brookvale, Warringah Mall and Military Road to Sydney City. It is noted that the bus stops have benches and one is sheltered to allow passengers to rest and have shelter. With respect of footway access the gradient of Berith Street and Rose Street has been assessed as compliant with Clause 26(2) of the SEPP. A condition requires the applicant to construct a 1.5m wide footpath to be constructed on the east side of Berith Street to provide a level connection to the footpath on Rose Avenue which connects to the bus stops along the street.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	Not applicable	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water	Reticulated water and sewerage is available. The proposal is subject to Sydney Water requirements via a "Section 73 Certificate". This issue is addressed by conditions.	Yes

Development Criteria			
Clause	**Requirement**	**Proposal**	**Complies**
	and sewerage infrastructure.		
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v): i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development. iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision. v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.	As discussed under the heading *Submissions* a site compatibility certificate is not required. Despite this, Clause 29 requires consideration of certain criteria specified in clause 25 (clause 25 relates to site compatibility and cumulative impacts). An assessment of the relevant criteria is provided below: i) The proposed self contained infill seniors housing is compatible with the natural environment and the existing / surrounding residential land use and the neighbouring school. Potential environmental hazards, such as those associated with excavation and stormwater can be managed through appropriate conditions to ensure that there are no unreasonable impacts to neighbouring uses, refer to discussion under the heading earthworks within this report. ii) As discussed above, the site is accessible to a range of retail, community, medical and transport services subject to a condition requiring the construction of an accessible footpath along Berith Street. The proposal will also be subject to Section 7.12 contributions to assist in providing future demand for local services and infrastructure as appropriate. Stormwater will be connected to Councils infrastructure in Berith Street and conditions require the the stormwater design to be amended to comply with Council Policy. Concern has been raised in the submissions regarding insufficient car parking and impacts on kerbside parking. The availability of kerbside parking varies significantly due the adjacent primary school times and local resident parking on the street. While the proposal complies with the minimum numerical parking requirements of the SEPP a condition requires the provision of two (2) visitor car parking space, in addition to the eight (8) residential car parking spaces provided, to address concerns relating to kerbside parking. v) The SEPP (HSPD) allows for a higher density than that normally permitted within low density residential areas. The combination of single storey and two storey elements is generally compliant	Yes

Development Criteria			
Clause	**Requirement**	**Proposal**	**Complies**
		with the built form controls of the SEPP, the WLEP and WDCP. The average 14.5m setbacks and landscape setting combined with building articulation, external materials, balconies and fenestration generally help reduce the building bulk and minimises the impact of the front two storey building on the neighbouring character. In order to further ensure the proposal is consistent with the neighbourhood character conditions are recommended to modify the materials of the balcony to a more create a more lightweight structure and increase side set backs to improve spatial separation issues that affect the visual and amenity of the neighbouring dwellings. Shadow diagrams confirm that the bulk and massing will not result in unreasonable impacts on solar access to neighbouring properties and impacts on visual privacy are addressed by condition requiring highlight windows and angled fixed privacy screens attached to upper floor windows and perimeter planting and new fencing. In summary, for the reasons outlined above and elsewhere within this report, the development, subject to design modification conditions, is considered to be compatible with the bulk, scale built form and character of the surrounding area.	
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A site analysis has been provided.	Yes

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

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

Section	Requirements	Comment
1. Responding to context	Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form. Policy environment –	Built Environment: As discussed under the heading *Submission,* the adjacent housing stock has a mixed appearance with most building constructed in Australian post-war styles, some having undergone substantial

Section	Requirements	Comment
	Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.	renovation / alterations. The street is characterised with detached one and part one / part two storey dwelling set back at a distance from the street in large landscaped settings. However, there are also two storey dwellings along the street and contemporary buildings. It is also noted that while the minimum lot size for individual dwellings is 600sqm within the zone. The site has an area of 1,269sqm and the SEPP permits higher density of housing for the purposes of the SEPP. Increased densities of housing also exist in proximity to the site in the form dual occupancy developments and other seniors housing developments that are a legacy of past planning controls or policies. The pattern of development in the neighbourhood can therefore be described as contains a mix of low density development with places of higher density housing interspersed, refer to examples under the Submissions Section of this report. The proposal has been designed as contemporary one and two storey buildings / pavilions. The articulation of the proposed development will maintain semi-detached appearance from the street. The proposal follows the orientation and pattern of development in the street. The front building is set back between 16.8m and 17.6m from Berith Street and generally follows the set back of other developments along the east side of Berith Street. The deep set back will allow the development to sit within a landscaped setting, consistent with other developments in the area. In addition, conditions are recommended relating to setbacks and materials of the front balcony to ensure the character of the area is preserved.

Section	Requirements	Comment
		Policy Environment: The site is located with a R2 Low Density Residential zone within the Warringah LEP. The objectives for the zone include: • To provide for the housing needs of the community within a low density residential environment, • To enable other land uses that provide facilities or services to meet the day to day needs of residents; and • To ensures that low density residential environments are characterised by landscape settings in harmony with the natural environment. The proposal achieves these objectives for the character of the area in that it will provide to the needs of the community for HSPD housing. The proposed one and two storey built form set within a landscape setting is generally compatible with the built form bulk and height to surrounding development. The two storey building to the front has a height of between 5.6m and 6.2m and a maximum height of 7.5m to the the lift overrun. As such, the height of the proposal complies with the maximum 8m building height contained in the SEPP and the 8.5m height of building development standard contained in the WLEP. The proposal also generally complies with the built form controls contained within the WDCP with the exception of rear setbacks and some ancillary structures (entrance portico and waste storage) breaching the front set back, refer to discussion under Clause B9 of this report. The site complies with landscaping

Section	Requirements	Comment
		requirements of the SEPP and will maintain a landscape setting that includes the retention of canopy trees to the frontage supplemented with additional planting of native plants and trees to maintain the character of the area.
2. Site Planning and design	Objectives of this section are to: -Minimise the impact of new development on neighbourhood character; -Retain existing natural features of the site that contribute to neighbourhood character; -Provide high levels of amenity for new dwellings and a range of housing choice; -Maximise deep soil and open space; -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation.	The bulk of the development is located towards the frontage and reduced to the rear in compliance with the recommendations of the Policy. The setbacks and landscape setting allows for the retention of significant canopy trees to maintain the existing pattern and character of gardens and trees in the locality. The principle deep soil zone is located to the rear in accordance with the design principles. The existing driveway location and crossing is retained and the basement parking will ensure there will be no visual impact of car parking on the street. It is acknowledged that the driveway and entrance door to the basement car park will be visible from the street. However, planting is retained and supplemented along the frontage which will reduce the visual impact of the driveway and entrance on the streetscape.
3. Impacts on streetscape	Objectives of this section are to: -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Ensure that new development, including the built form, front and side setbacks, trees, planting and front fences, is designed and scaled appropriately in relation to the existing streetscape; -Minimise dominance of driveways and car park entries in streetscape. -Provide a high level activation and passive surveillance to the street.	Issues relating to streetscape, built form, setbacks, trees and planting are discussed above and elsewhere in this report. In summary, the 14.4m average front set back / landscaped setting, with the retention of canopy trees, will enhance the desirable characteristics of the street. The visual bulk of the development from the streetscape is also reduced with articulation and modulation as per the the design principles. The set backs are generally consistent with the existing pattern in the street with the exception of the rear set back. Clearly defined open private and communal space is provided which allows for passive surveillance to the street.
4. Impacts on	Objectives of this section are	Subject to conditions relating to

Section	Requirements	Comment
neighbours	to: -Minimise impacts on the privacy and amenity to neighbouring dwellings; -Minimise overshadowing; -Retain neighbours' views and outlook to mature planting and tree canopy -Reduce the apparent bulk and -Provide adequate building separation.	privacy screens, setbacks and landscaping, the proposal will not cause unreasonable impacts on neighbours amenity in terms of loss of visual or acoustic privacy. Shadow diagrams confirm that the development will not result in unreasonable overshadowing and while district views will be lost from the north facing upper floor widows to no 5 Berith Street views and outlook to tree canopy will be retained.
5. Internal site amenity	Objectives of this section are to: -Provide quality usable private and communal ope space to all residents; -Provide dwellings that have distinct identity and safe entries; -Provide safe and distinct pedestrian routes to all dwellings and communal facilities; -Ensure solar access to living areas and private open space; -Reduce the dominance of parking, garaging and vehicular circulation space.	The proposal provides generous private terraces and decks which vary in size from 19 sqm to 85sqm. In addition, a 78.8sqm communal courtyard is provided within the centre of the site. 83% of the units have compliant solar access and all dwellings have distinct identity and safe entries.

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

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

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	As discussed above, the desirable elements of the location's current character consists of low density detached single storey and two storey residential development in landscape settings interspersed with a higher density development including other Senior Housing developments.	Complies

Control	Requirement	Proposed	Compliance
		The SEPP allows for a greater density of development than provided under the WLEP and WDCP; the proposal generally complies with the density / FSR controls. It has been assessed that the proposal contributes to the quality and identity of the area. The two storey building / pavilion is well articulated with front and side setbacks and a landscape setting that is consistent with the subdivision pattern in the area. The proposal uses a mixture of quality materials which will enhance the streetscape. Conditions require the spatial separation of the two storey building to be increased to the side boundaries to minimise impacts in neighbouring amenity.	
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.	No heritage items are on the site or in close proximity.	N/A
	c. Maintain reasonable neighbour amenity and appropriate residential character by; (i) providing building setbacks to reduce bulk and overshadowing (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are	Reasonable neighbour amenity will be maintained in that the proposal has been designed: (i) to satisfy the objectives of the building setback controls and height controls to minimise overshadowing impacts. (ii) the built form and siting of the development provided a site layout that is practical and has an orderly and efficient layout that maintains opportunities for retention of significant mature trees to the front and deep soil landscaping. (iii) the two storey front	Complies

Control	Requirement	Proposed	Compliance
	compatible in scale with adjacent development, (iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours.	building / pavilion complies with the maximum 8m height development standard and is generally compatible with the height of other residential development in the area. (iv) both buildings are sited between a 2.5m and 3m to the side boundaries and between 5m to 6.7m to the rear. Subject to a condition relating to the side setbacks of the two storey building all other set backs are assessed as acceptable to ensure that there are no unreasonable impacts on neighbouring amenity. Conditions are recommended to limit earthwork adjacent to the rear boundary to ensure the height of boundary fencing is minimised.	
	d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,	The proposal provides a 14.4m front set back and is generally consistent with front setbacks of the neighbouring properties. The front set back exceeds the 6.5m setback requirement under the DCP. The siting of the front building is in line with the established building line along the east of Berith Street, consistent with the established larger setbacks for dwellings on the street.	Complies
	e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.	Landscaped open space and deep soil zones are provided to the front and rear of the site to enable continuity with adjacent gardens. A mix of native small to medium canopy trees and shrubs will be used that include perimeter planting and landscaping within the spaces between the dwellings. The proposal has been assessed by Council's Landscape Unit as acceptable subject to conditions, refer to discussion under the heading *Referrals*.	Complies
	f. retain , wherever reasonable, major	Mature canopy trees are retained to the front and rear of	

Control	Requirement	Proposed	Compliance
	existing trees, and	the site, however, the major trees in the centre area of the site cannot be effectively retained as this area will be dedicated for buildings and basement excavation.	
	g. be designed so that no building is constructed in a riparian zone.	The site is not within a riparian zone.	N/A
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	Visual and acoustic privacy is managed by ensuring private open spaces at ground level are orientated to the front and rear. The upper floor of the front building / pavilion contains habitable room windows and balconies along the side elevation with a minimum 2.5m to the side boundaries. Conditions require these windows to be either high-level windows or have fixed angled privacy screens to protect privacy to the neighbouring properties. Conditions are recommended requiring the replacement of timber fencing to ensure acoustic and visual privacy between adjacent properties.	Complies
CL35 Solar access and design for climate	The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating	The applicant has submitted shadow diagrams in plan and elevation that illustrate that solar access complies with the Warringah DCP controls in relation to neighbour's properties and private open space. The shadow diagrams in elevation show that the proposal will not impact on solar or daylight access to the first floor north facing windows to the main living area of No 5 Berith Street. The proposal has been designed to ensure that the proposed dwellings have sufficient solar access and natural ventilation.	Complies

Control	Requirement	Proposed	Compliance
	the windows of living and dining areas in a northerly direction.	The proposal has been submitted with a BASIX certificate and energy rating assessment to demonstrate that the dwellings will meet performance standard for thermal and cooling condition for sustainable building design and comfortable living.	
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention (OSD) and water re-use.	A new stormwater connection will be required direct to the kerb pit in Berith Street. A condition requires the stormwater and OSD to be redesigned in accordance with Council's stormwater policy, and *Technical Specification*.	Complies. Subject to engineering conditions.
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the	The proposal has been designed to encourage crime prevention. The proposed driveway access can be observed from within the site allowing for passive surveillance from the front courtyards, balconies and windows. Bollard lighting will be provided to ensure pathway areas are lit for safety and security. Separate access is provided to each unit via a shared central corridor.	Complies.

Control	Requirement	Proposed	Compliance
	front door.		
CL 38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	An accessibility report has been submitted by Accessibility Solutions, which concludes that the development complies with accessibility and adaptability requirements of the SEPP in the following manner: • 100% of the units having wheelchair accessible pathways from an adjoining road or internal road. A condition requires the re-design of the accessible footpath adjacent to the liquidamber street tree (T1) to reflect the recommendations of the arborist report; • Communal amenities are wheelchair accessible; • Six (6) accessible parking spaces are provided, one for each dwelling; and Subject to a condition requiring the construction of a 1.5m wide footpath along Berth Street to connect to the footpath along Rose Avenue, access is available to public transport to access a range of shops and services. Safe and convenient pedestrian and vehicular access is provided to the site. The number of car parking spaces comply with the relevant controls and have been assessed by Council's Traffic Engineer as acceptable.	Complies
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of	A garbage bin storage room is located at the front of the site. It is noted that bulky good storage is not required and a condition requires the bin storage room to be set back 1 from the southern	Can comply

Control	Requirement	Proposed	Compliance
	appropriate facilities.	boundary and be re-designed to comply with Council's Policy under the *Part C9 Waste Management* of the Warringah DCP.	

Part 4 - Development standards to be complied with
Clause 40 – Development standards – minimum sizes and building height
Pursuant to Clause 40(1) of SEPP HSPD a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposed development complies with the standards specified in the Clause.

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

Control	Required	Proposed	Compliance
Site Size	1000 sqm	1,269 sqm	Complies
Site frontage	20 metres	20.13m (Berith Street)	Complies
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.5m	Complies
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	The front building is 2 storey in height at the side boundary and the rear building is single storey. All buildings are set back a minimum 2.0m or greater setback from the side boundary.	Complies
	A buildings located in the rear 25% of the site must not exceed 1 storey in height. Consideration of the objectives of the 25% rear height control setback is made to assess consistency against the urban design objectives sought by the SEPP HSPD.	The rear 25% of the site covers an area 15.7m x 20.1m = 315.5 sqm. A single storey building / pavilion is located within this zone which is compliant with the height control.	Complies

Clause 41 Standards for hostels and self contained dwellings

In accordance with Clause 41 a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in Schedule 3 for such development. The following table outlines compliance with the principles set out in Schedule 3 of SEPP HSPD.

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.	An access report has been provided by Accessibility Solutions, dated 15 October 2018, demonstrating appropriate access requirements have been met to satisfy SEPP HSPD. The gradient for wheelchair access on the site and along Berith Street and Rose Avenue has been assessed as acceptable. Conditions require the construction of an accessible footpath from the subject site along Berith Street to Rose Street and the design of the accessible footpath adjacent to the liquidamber street tree to be modified in accordance with the recommendations of the arborist report.	Complies
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level	Bollard style lighting is to be used adjacent to the pathways.	Complies
Letterboxes	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry.	Letterboxes are located to the frontage of the site on a hard stand in an accessible location. A condition requires the accessible path to be designed to ensure a sufficient hard stand area is provided adjacent to the letterboxes.	Condition recommended to ensure compliance
Private car	(a) Carparking space	Compliant disabled persons	Conditions

Control	Required	Proposed	Compliance
accommodation	must comply with AS2890 (b) One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power operated door or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date.	carparking space is provided for each dwelling in the basement and the basement car park has a power operated door.	are recommended to ensure compliance.
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Each dwelling has an accessible path of travel to the front entry. Upper floor units rely on lift and stair access.	Complies
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Open plan living areas, bathrooms and bedrooms comply.	Condition recommended to ensure compliance
Bedroom	At least one bedroom within each dwelling must have: (a) An area sufficient to accommodate a wardrobe and a queen size bed (b) A clear area for the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction. (c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.	Proposal is able to comply	Condition recommended to ensure compliance
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	Proposal is able to comply	Condition recommended to ensure compliance
Toilet	The toilet is to comply	Proposal is able to comply	Condition

Control	Required	Proposed	Compliance
	with the requirements described in Clause 9 of Schedule 3.		recommended to ensure compliance
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Proposal is able to comply	Condition recommended to ensure compliance
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Proposal is able to comply	Condition recommended to ensure compliance
Ancillary items	Switches and power points must be provided in accordance with AS4299.	Proposal is able to comply	Condition recommended to ensure compliance
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	Proposal is able to comply	Condition recommended to ensure compliance
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Proposal is able to comply	Condition recommended to ensure compliance
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Proposal is able to comply	Complies
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	A laundry facility is provided for each dwelling. Private open space terraces also allow for open air clothes drying.	Condition recommended to ensure compliance
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of	Proposal is able to comply	Condition recommended to ensure compliance

Control	Required	Proposed	Compliance
	AS4299		
Garbage	A garbage storage area must be provided in an accessible location.	Garbage bin storage room is located at the front of the site in an accessible location. A condition requires the bin storage room to comply with Council's Policy under the Warringah DCP and be set back a minimum of 0.9m from the southern boundary.	Condition recommended to ensure compliance and that the bin room is clear of the minimum 0.9m setback to a side boundary.

Part 5 - Development on land adjoining land zoned primarily for urban purposes
This part is not applicable to the subject site as the site is zoned low density residential.

Part 6 - Development for vertical villages
This part is not applicable to the proposed development.

Part 7 Development standards that cannot be used as grounds to refuse consent
Clause 46 Inter relationship of Part with design principles in Part 3
Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.

Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings
In accordance with Clause 50 of SEPP HSPD a consent authority must not refuse consent to a development application made pursuant to Chapter 3 for the carrying out of development for the purpose of a self contained dwelling on any of the grounds listed in Clause 50.
The following table outlines compliance with standards specified in Clause 50 of SEPP HSPD.

Control	Required	Proposed	Compliance
Building height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below).	7.0m	Complies
Density and scale	0.5:1 (634.5sqm GFA)	0.57:1 (727sqm GFA)	The proposal exceeds the 0.5:1 FSR (634.5sqm) by 92.5sqm. The non-compliance with the density will have a adverse visual impact on the neighbouring dwelling to the north and south. In order to reduce the bulk / density (GFA) of the

Control	Required	Proposed	Compliance
			two storey building / pavilion from the adjoining dwellings a condition requires an additional 500mm setback to the mid section from the north and south boundaries for a length of 7.1 m along the mid-point of the side elevations.
Landscaped area	30% of the site area is to be landscaped.	35% (493sqm) of site area is landscaped	Complies
Deep soil zone	15% of the site area deep soil (190 sqm). Two-thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	16% (203sqm) of site area is deep soil of 1m depth or more. The majority of deep soil planting is provided to the rear and has a minimum dimension of 3m.	Complies
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter.	Three (3) hours direct light between midday to 3pm 21 June available is available to the living rooms and private open space to units 1, 2,3,4 and 6. Two (2) hours direct light between 9am to 12pm 21 June available to the living rooms and private open space of unit 5.	Complies for 83% of the units. It is noted that the private open space to unit 5 is partly shadowed by the adjoining Unit and by being east facing receiving less afternoon sun to the courtyard.
Private open space	15sqm of private open space per dwelling not less than 3 metres long and 3 metres wide.	Unit 1: 43 sqm Unit 2: 33 sqm Unit 3: 19 sqm Unit 4: 19 sqm Unit 5: 85 sqm Unit 6: 84 sqm	Complies
Parking	0.5 spaces per bedroom. (16 bedrooms proposed – 8 carparking spaces	8 carspaces for 16 bedrooms.	Complies

Control	Required	Proposed	Compliance
	required)		
Visitor parking	Visitor car parking is not required for developments with less than 8 units.	A total of eight (8) car parking spaces are provided in the basement which are annotated on the basement plan as seven (7) residential car parking spaces and one (1) visitor car parking space. The basement area also provides for storage areas with dimension of 2.4m x 5.4m. In order to address the concerns of neighbours in regards to the impact of the development on the availability of kerb side parking a condition requires that eight (8) resident car parking spaces and an additional two (2) visitor parking spaces, in lieu of storage space, be provided to serve the needs of health visitors and the like.	Complies

Chapter 4 – Miscellaneous
Comment: No miscellaneous provisions apply to the proposal.

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.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings*:	8.5m	7.7m	N/A	Yes

SEPP HSPD *prevails* over the WLEP 2011 and the development is permissible, and prevails over the height development standard. The proposed height of 7.7m is compliant with the 8m height control in the SEPP. Refer to the heading SEPP HSPD within this assessment report.

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R2 Low Density Residential

*The proposal is permissible under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

6.2 Earthworks

Detailed Assessment

Clause 3 requires the consent authority to consider the following before granting development consent:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,

Comment:

The application is supported with a geotechnical report prepared by White Geotechnical Group (WGG) which was peer reviewed by JK Geotechnics (JK). JK identified that the depth of excavation referenced in the WGG report as 4.7m is incorrect. The JK report correctly identifies that the proposal includes bulk

excavation of approximately 6.2m depth in the south-east corner of the site, reducing to approximately 3m depth in the north-east corner to construct the basement car park. The WGG Report had underestimated the excavation by approximately 1.5m. The proposed basement will be setback approximately 3.3m, 7.9m, 3m and 16.3m from the north, east, south and west boundaries respectively. Notwithstanding the error in the WGG report the JK peer review generally considers the WGG report suitable for the proposed development in addition to further recommendations including vibration monitoring and dust suppression. In addition, the JK report requires additional investigations comprising 2 cored boreholes to confirm the depth of the bedrock and assessment of the suitability of the sandstone bedrock to be vertically excavated.

The site owners engaged Council's independent consultant (JK) to undertake the detailed investigation work which was recommended by JK. The results of this additional bore hole investigation was detailed in a report from JK dated 20 January 2020. In order to ensure the independent peer review process is not compromised and maintain public confidence Council engaged another independent consultant, Crozier Geotechnical, to review all three reports. Croziers, in a report dated 7 February 2020, summaries the relevant applicable Council policy, detailed investigations, risk analysis and recommendations of the WGG and JK reports.

Council Policy
Section E10 Landslip Policy, refer to discussion under the heading E10 Landslip Policy.

Investigations
The investigation by WGG are noted as being extremely limited and involve one hand auger borehole and a series of dynamic penetromter tests to interpret the bedrock surface at between 0.60m abd 1.50 depth.

The JK borehole investigations involved coring into the bedrock extending to between 8.63m depth (R.L. 68.87 - BH 1010) and 6.64m depth (R.L. 68.56 - BH 102). The details are of this testing confirmed that the subsurface profile comprises shallow sand fill from the surface to 0.2m below existing surface level with residual clayey sand below the fill. Sandstone bedrock was identified at between 1.0m and 1.80m depth with the bedrock below this level logged as medium to high strength and then medium strength to the base of each borehole. The investigation then encountered significant zones of "no core" during the drilling process which is explained as “usually the result of poor quality extremely weathered shale or sandstone with soil properties or bands of clayey sands which have been washed away by the drill flush water”. The boreholes also identified some sub-horizontal bedding defects and joint defects dipping at 50 to 90°.

Risk assessment
A risk analysis was undertaken by WGG and it assessed the Risk to Property and Risk to Life related to Hazard One - Ground Vibrations and Hazard Two – Excavation Collapse. The assessment examined landslip impact to the work site and determined that each hazard would result in “Unacceptable” risk levels unless the recommendations of the report were followed.

The JK “Peer Review Report” also undertook a risk analysis with the Risk to Property and Risk to Life assessed for several hazards including “Instability of Existing Retaining Walls”, Instability of Existing Natural Hill Side” and “Instability of Basement Excavation”. The assessments were based on “all geotechnical recommendations followed during construction” and identified risk levels at ≤ 9.165 x 10-9 forLife and ≤ “Low” for Property.

Recommendations
Detailed construction recommendations were made within the WGG report in relation to Vibrations, Excavation Support Requirements, Retaining Walls and Foundations. Detailed construction recommendations were also supplied within the JK Investigation report in relation to Dilapidation

Surveys, Excavation Methods, Potential Vibration Risk, Retention Systems, Hydrogeological Considerations, Footings, Basement Slab, Earthquake Design Factors and Further Geotechnical Input.

Peer Assessment
Crozier conclude that the risk analysis of landslip in relation to both property and life in both reports appear in general accordance with the guidelines published in the Australian Geomechanics Society "Practice Note Guidelines for Landslide Risk Management 2007. However, Crozier notes that both assessments have deficiencies.

Crozier notes that the detailed investigation by JK involved a better assessment of the bedrock profile than occurred by WGG, however, numerous zones of up to 1.0m in length during drilling returned “no core”, as such significant sections of the geological profile are undefined or assumed to be due to “poor quality” rock. This information has not been incorporated into the risk analyses. Crozier notes that these poor-quality zones create some concern for the stability of the excavation and the potential risk to persons within the site during the excavation. Crozier advises that neither report provides a risk analysis of landslip risk to neighbouring properties. However, it is acknowledged that the separation distances of the excavation from side boundaries along with the shallow depth to bedrock and its strength and condition where returned indicates that risk levels will remain low for instability impacting neighbouring properties, structures or persons within these areas.

Crozier confirms that the JK investigation report recommendations are detailed and are considered to address the actual ground conditions identified, including areas of poor-quality rock. The recommended ground vibration limit is conservative but takes into account the variable aspects of ground vibration and should ensure a very low likelihood of impact to property whilst maintaining reasonable conditions for persons during the rock excavation phase. The report also details a geotechnical inspection/monitoring program that will allow for identification of ground variations and potential landslip hazards. They are therefore considered suitable to maintain excavation stability and protection of neighbouring properties.

Crozier concluded that all three reports, when combined, provide sufficient detail that will ensure geotechnical stability and allow the development to be undertaken in accordance with good engineering practice. The JK investigation report recommendations are considered the most suitable for development of an excavation and construction methodology by the builder.

The recommendations of all three reports have been included as conditions of consent. Subject to the recommendation of the WGG report and the JK reports the proposal is unlikely to result in the disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height (Measured to underside of ceiling along outer wall plane)	7.2m	6.2m 6.9m (to clerestory)	N/A N/A	Yes Yes
B3 Side Boundary Envelope	45 degrees at 4.0m	Within envelope	N/A	Yes
B3 Side Boundary Envelope	45 degrees at 4.0m	Within envelope	N/A	Yes

B5 Side Boundary Setbacks - North	0.9m	Basement wall 3.0m to 4.6m	N/A	Yes
		Ground Floor 1.7m to terrace of unit 2 2.5m to 3.0m to building	N/A	Yes
		First Floor 2.0m to deck to unit 4 2.5m to 3.0m	N/A	Yes
B5 Side Boundary Setbacks - South	0.9m	Basement wall 3.0m	N/A	Yes
		Ground Floor 1.5m to the terrace of unit 1 and between 2.5m to 3.0m to the external wall	N/A	Yes
		First Floor 2.0m to the deck of unit 3 and between 2.5m to 3.0m to the external wall	100%	No A condition requires the bin store area to be set back a minimum of 0.9m from the southern boundary.
		Bin storage area ground floor - zero		
B7 Front Boundary Setbacks	6.5m	Basement wall 16.3m	N/A	Yes
		Terrace structure 9.4m to 12.6m	N/A	Yes
		Ground Floor 16.7 to 17.7m	N/A	Yes
		Entry portico over letterbox / entry gate -zero	100%	No
B9 Rear Boundary Setback	6.0m	Basement wall 7.9m	Yes	Yes

		Terrace area 3.0m Rear wall 5.0m to 6.7m	<50% rear setback 9%	No (Assessed on merit as acceptable) No (Assessed on merit as acceptable)
D1 Landscaped Open Space (LOS) and Bushland Setting* (Site area 1269sqm)	40% 507sqm	35% 493sqm	19%	No

*SEPP HSPD *prevails* over *Part D1 Landscaped Open Space*. The SEPP requires 30% of the site to be landscaped. Refer to the heading SEPP HSPD within this assessment report.

The SEPP *does not* prevail against any setback, building envelope or wall height controls. Subject to conditions requiring the increased setback of ancillary structures (bin storage), the minor breach of the rear set back is considered to be acceptable. The proposal complies with all other built form controls. Refer to discussion below.

Note: Footpaths, steps etc are exempt in the side setback if less than 1m above existing ground level.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	No	Yes
D8 Privacy	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D9 Building Bulk	No	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Clause B5 requires all structures to be set back 0.9m from the side boundaries.

Description of non-compliance

As discussed above, the waste storage area is sited with no set back to the southern boundary. In addition, a retaining wall is proposed along part of the southern boundary towards the rear of the site with no set back. In order to comply with the clause B5, a condition requires the waste storage area to be re-located 1.0m from the southern boundary which will reduce the potential impacts on the neighbouring property at No 5 Berith Street and provide opportunity for landscape planting to screen the structure. A condition also requires that there be no earthworks or retaining wall within 1.0m from the southern boundary in order to maintain the continuity of the existing ground levels for natural runoff, residential amenity and screen planting.

Merit consideration

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

- *To provide opportunities for deep soil landscape areas.*

  Comment:

  Compliant deep soil planting is provided on the site. The re-location of the waste storage area and the retaining wall will allow for screen planting along the southern boundary.

- *To ensure that development does not become visually dominant.*

  Comment:

The re-location of the waste storage area and retaining wall will reduce the visual dominance of the structures from the neighbouring property to the south.

- *To ensure that the scale and bulk of buildings is minimised.*

  Comment:

  Increasing the setback of the earthworks 1.0m from the southern boundary will ensure that the scale of the retaining wall with fence above is minimised to the neighbouring property. Council's Waste Officer has confirmed that the bulk recycle storage is not required. This combined with the increased setback, will help ensure that the scale and bulk of the waste storage area is reduced.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

  Comment:

  The increased separation of the waste storage area and retaining wall will help ensure reasonable levels of neighbouring residential amenity.

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

  Comment:

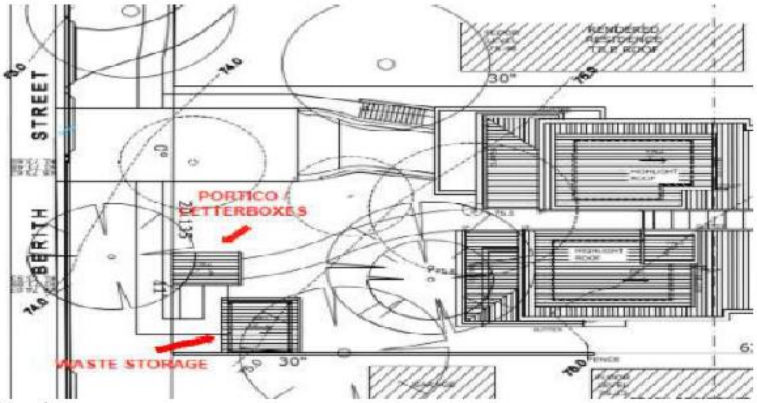
  There are no impacts on view sharing relating to the location of the waste storage area and the retaining wall adjacent to the southern boundary.

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

B7 Front Boundary Setbacks

Description of non-compliance

Clause B7 requires a 6.5m front setback with the area to be landscaped and generally free of any structures, basements, car parking or site facilities other than driveways, letter boxes, garbage storage areas and fences. The proposal provides a generous front setback with the ground floor wall being located between 16.7m - 17.7m from Berith Street. The front setback is generally landscaped and with the exception of a portico structure, the site facilities proposed within the 6.5m front setback are those which are noted as being exempt, namely, the driveways, letter boxes and storage area, see image below.



Site plan

Merit consideration:

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

- *To create a sense of openness.*

  Comment:
  The portico is associated with the letterboxes, it is a lightweight structure comprising four posts which provides some protection / cover at the entrance. The Seniors Housing SEPP requires letterboxes to be located to the frontage and given the open lightweight design of the portico structure it is considered acceptable as it meets the objectives of the control.

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

  Comment:
  As noted above, the portico entry is a relatively modest lightweight structure which is integrated into the front setback with landscaping. It is also noted that a carport, is located to the frontage of No. 8 Berith Street on the opposite side of the road.

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

  Comment:

  The lightweight portico structures will not impact on the visual quality of the streetscape or public spaces. The portico is integrated with the letterboxes which are required under SEPP HSPD to be located in an accessible location adjacent to the street entry. It is noted that the SEPP takes precedence over the controls of the WDCP.

- *To achieve reasonable view sharing.*

  Comment:
  The entry portico does not have an unreasonable impact on view sharing.

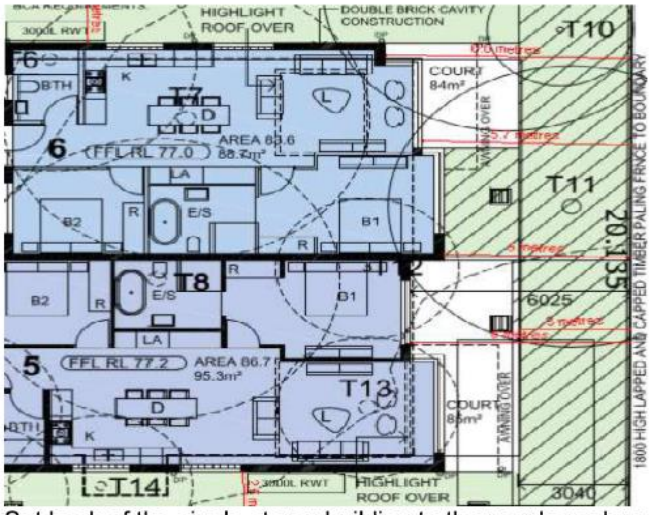
Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the

proposal is supported , in this particular circumstance.

B9 Rear Boundary Setbacks

Description of non-compliance

Clause B9 requires a minimum 6.0m setback to the rear boundary. The proposed single storey building is setback between 5.0m to 6.0m from the rear boundary and the private courtyards, including a retaining wall to unit 5 set back 3.0m from the rear boundary, see image below.



Set back of the single storey building to the rear boundary.

Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

  Comment:

  The proposal maintains 50% of the rear setback (3.0m) as deep soil planting with the excavation of the basement being located 7.9m from the rear boundary. It is noted that the proposal includes earthworks including the construction of a retaining wall along the courtyard to unit 5 positioned 3.0m from the rear boundary.

  In order to reduce any adverse impacts of earthworks to the occupiers of the proposed development and adjoining land uses, Wheeler Heights Public School and neighbouring residential properties, it is recommended that a condition be imposed requiring no excavation or earthworks within 1.0m of the north and south side boundaries.

- *To create a sense of openness in rear yards.*

  Comment:

The rear yard is adjacent to the tennis courts of Wheeler Height Public School. The proposal includes the retention of three canopy trees (T9, T10 and T11) adjacent to the rear boundary. The 3.0m wide area of deep soil allows for supplementary planting along this rear boundary. The proposal will retain a sense of openness in rear yards.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

  Comment:

  The setback of the single storey building and courtyards to the rear boundary will not impact on the amenity of the school or the adjoining dwellings in terms of visual privacy. The site levels, screen planting and fencing will ensure that there is no overlooking.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

  Comment:

  The existing sub-division pattern along the east side of Berith Street generally comprises large rear gardens, some with swimming pools and ancillary structures such as sheds. The exception to this occurs along the southern end of the street where some sites have been sub-divided e.g. at No 11 Berith Street. The siting of the development with the single storey dwelling in the rear portion of the site is consistent with the Seniors Housing SEPP which takes precedence over the WDCP.

- *To provide opportunities to maintain privacy between dwellings.*

  Comment:

  As noted above, the minor breach in the rear setback control will not have any unreasonable impacts on privacy between dwellings.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

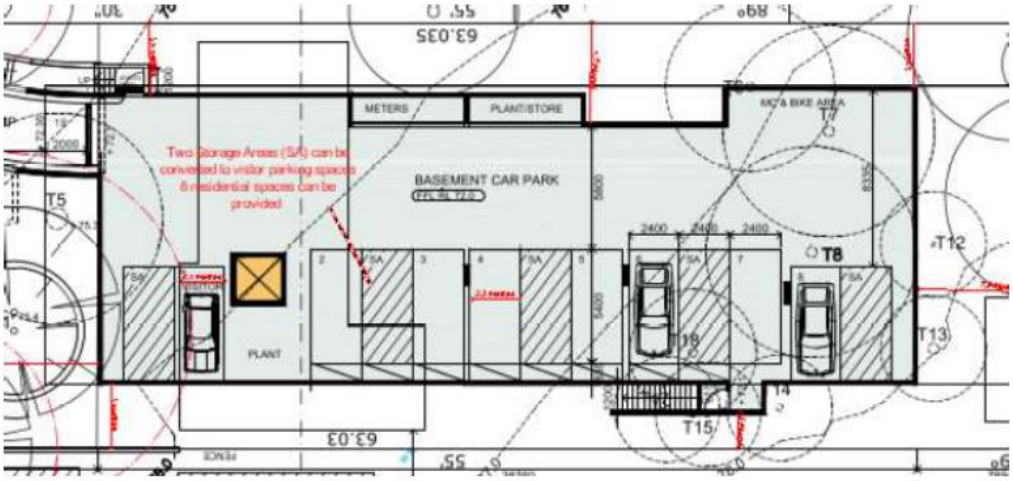
- *To provide adequate off street carparking.*

  Comment:

  Under Appendix 1, of the WDCP the following parking rates are required for multi-dwelling units and residential flat buildings: one (1) space per one (1) bedroom dwelling, 1.2 spaces per two (2) bedroom dwelling and 1.5 spaces per three (3) bedroom dwellings. The development includes four (4) units of three (3) bedrooms and two (2) units of two (2) bedrooms as such a

total of 9 residential car parking spaces and two (2) visitor spaces would be required for a multi dwelling development or residential flat building.

Clause 50 of SEPP HSPD requires 0.5 car parking spaces per bedroom. The proposal provides a total of sixteen (16) bedroom and eight (8) car parking spaces are therefore required. Eight (8) car parking spaces are provided including one visitor space. While the proposed car parking technically complies with clause 50 of the SEPP, the basement provides sufficient space, in the form of large storage areas, to accommodate two (2) extra visitors spaces to service the needs of health, community and family visitors. The increase in the visitor parking spaces will reduce the demand for kerb side parking which is a major concern for neighbouring residents. In this regard, a condition is recommended requiring a total of ten (10) car parking spaces, eight (8) residential car parking spaces, two (2) visitor spaces, one (1) residential car park space to be design to be increased to 3.8m in width and all car parking to comply with the requirements for parking with a disability as set out in AS 2890.



Storage Areas (hatched) in the basement can be converted to visitor parking spaces.

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

Comment:

The car parking is provided within the basement which will not be visible from the street frontage.

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

Comment:

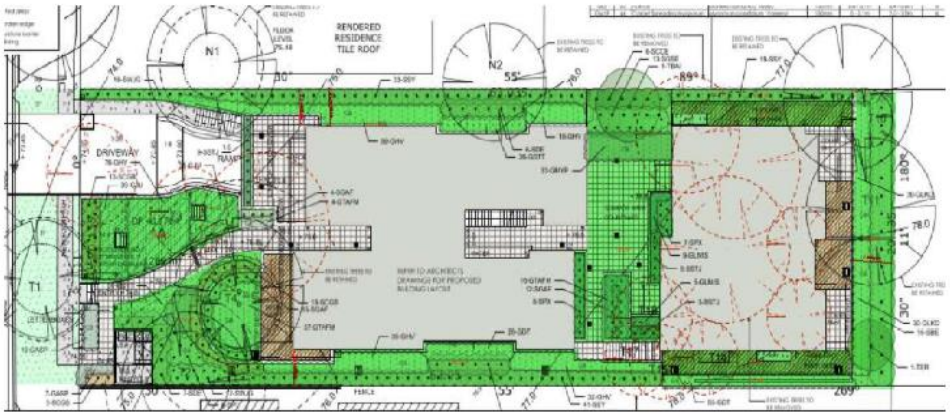
The access to the basement car parking is retained in line with the existing driveway on the northern side of the site. The driveway door will be visible from the street frontage, however, it is integrated into the design of the building facade with a 16.0m set back from the street (6.5m

set back is required) and any perceived visual impact will be reduced with landscape planting.

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

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance
Clause D1 requires 40% of the site to be landscaped open space, 35% of the site is provided as landscaped open space. Under SEPP Seniors Living, the proposal cannot be refused if the development includes 30% landscaped open space with 15% of that area as deep soil zone (with two-thirds of the deep soil at the rear of the site). The proposal is compliant with the landscaping controls of the SEPP HSPD. Total landscaping on the site is 493 sqm (35%) with the deep soil zones exceeding 15%.



Proposed landscape plan showing areas of open space.

Merit consideration

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

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

  Comment:

  An average 14.0m setback is provided between the frontage and the private terraces which allows for landscape planting at the street frontage comprising some existing canopy trees and other small feature trees supplemented with additional plantings to provide a suitable landscape setting for the buildings. Conditions are recommended to assist protection of selected trees. The existing mature street trees will be retained along Berith Street and lawn areas within the front setback areas are also provided to support a landscaped setting for the development consistent with the streetscape. Sandstone walls define garden areas and maintains visibility of the front of the building in a landscape setting and passive observation of the street.

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

  Comment:

  Canopy trees are retained to the front and rear of the site, however, trees and vegetation are to be removed from the centre and rear of the site to accommodate the excavation and the footprint of the buildings. The proposal includes new landscape planting comprising a mix of native and exotic vegetation to provide screen planting and habitat for native wildlife. Landscaping is provided around the perimeter of the site and also in open space areas adjacent the buildings to enhance the landscape setting of the development.

- *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.*

  Comment:

  Plants selected range in height from existing canopy trees of 15.0m in height, to medium trees 6.0m in height to small shrubs and ground cover of less than 1.0m in height. Where planting spaces of approximately 1.0m-2.0 wide are available shrubs and screen planting with a mature height of 2.0 to 4.0+m are appropriate to be used. The plant selection and landscape design is suitable to provide plants that are commensurate with the height and setbacks available to reduce the impacts of visual bulk and scale of the buildings and assist privacy.

- *To enhance privacy between buildings.*

  Comment:

  Screen planting and fencing is provided around the perimeter of the site to ensure that visual privacy is protected to neighbouring dwellings and the school.

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

  Comment:

  The proposal is for housing for aged and disabled persons and therefore extensive landscaped private open space areas for active recreation are not needed to suit the needs of the occupants. Nonetheless, each dwelling has generous private outdoor spaces in the form of ground floor courtyards and upper floor decks to meet the needs of the occupants. The areas of private open space face the street or the rear boundary and to ensure privacy is protected. In addition, a communal courtyard area is located between the two buildings and the perimeter of the building also contains planting and landscape areas.

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

  Comment:

  All dwellings are provided with their own private outdoor courtyards and decks which can be used as clothes drying areas. The landscaped areas are adequate to accommodate service functions for maintenance access, provision of drainage, waste collection area, pathways and carparking within a landscaped setting.

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

  Comment:

  On-site detention will be provided in a landscaped onsite detention basin in the font setback that drains to Council infrastructure in Berith Street to manage stormwater effectively. Conditions are recommended requiring the re-design of stormwater management.

Having regard to the above assessment, it is concluded that subject to conditions the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D6 Access to Sunlight

Merit consideration

D6 requires at least 50% of the required private open space of adjoining dwellings to receive a minimum 3 hours of sunlight between 9am and 3pm on June 21.

The development complies with the control and the underlying Objectives of the Control as discussed below:

- *To ensure that reasonable access to sunlight is maintained.*

  Comment:

  The shadow diagrams have been amended to illustrate the shadow impact in plan, elevation and section to include an assessment of the adjoining dwelling to the south at No 5. Berith Street. The diagrams illustrate that the first floor north facing windows to the living room and sitting room of No. 5 Berith Street will not be affected by shadow between 9am, noon and 3pm mid-Winter. The diagrams illustrate that the west elevation of 5 Berith Street is currently in shade between 9am and 11.30am and the proposal will cast some additional shadow to the ground floor sidelight windows to the entry door at 12 noon, refer to images below.

  In respect of impacts to private open space, the shadow diagrams illustrate that at least 50% of the rear garden (private open space) of No 5 will retain access to sunlight for a minimum 3 hour period in mid-Winter. In summary, the proposal complies with the solar provisions contained in Clause D6 of the WDCP and the development generally complies with the numerical built form controls contained in the SEPP, the WLEP and WDCP. In order to help reduce the building bulk to the side and assist with solar access, it is recommended that part of the side wall (mid-section) of the proposed front two storey building is setback an additional 500mm from the north and south boundaries. The proposal complies with the control with more than 50% of the private open space receiving a minimum 3 hours of sunlight between 9am and 3pm on June 21, refer to images below. As such, the proposal ensure reasonable access to sunlight is maintained to neighbouring properties.



Shadow diagrams in plan and elevation

To encourage innovative design solutions to improve the urban environment.

Comment:

The design will not cause unreasonable impacts on access to sunlight.

To maximise the penetration of mid winter sunlight to windows, living rooms, and high use indoor and outdoor areas.

Comment:

The elevations show that the proposal will not overshadow the north facing upper floor windows which provide access to sunlight and daylight to the main habitable room. In addition, more than 50% of the

rear garden will have access to sunlight for 3 hours during June 21, refer to images above.

- *To promote passive solar design and the use of solar energy.*

  Comment:

  The proposal includes the installation of solar PV panels on the roof to capture solar energy.

- *To minimise the need for artificial lighting.*

  Comment:

  The proposal is BASIX compliant which includes the need to minimise the need for artificial lighting.

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

D7 Views

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To allow for the reasonable sharing of views.*

  Comment:

  In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

  1. Nature of the views affected

  "*The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured*".

  Comment to Principle 1:

  The views that will be affected from 5 Berith Street are district views to the northern escarpment and the Bahai Temple at Ingleside observed from the two (2) first floor north facing living room windows, the first floor deck and the west facing windows looking obliquely across the site boundary.

  2. What part of the affected property are the views obtained

  "The second step is to consider from what part of the property the views are obtained. For

example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment to Principle 2:

As noted above, the district views to the northern escarpment are obtained from across a side boundary from two (2) north facing living / dining room windows, the first floor deck and from the west facing dining / siting room windows looking obliquely across the subject site. Views are enjoyed from both a standing and siting position, although best observed from a standing position, refer to photos below. In detail window one (1) is the first floor north facing window to the informal dining, living room and kitchen. Window No. 2 is the first floor north facing window to the formal dining / sitting room which is positioned over the stairwell. Window No 3 relates to the west facing first floor windows to the dining / siting room.



External image of north facing upper floor windows, the balcony and west facing window.



Window 1 - North facing, standing view, from living / dining room.



East facing windows and doors to living / dining room.



Window 2 - North facing window over stairwell to formal dining and siting room.



Windows 3 - West facing windows to formal dining room and window 2 over the stairwell.



First floor deck and west facing dining and siting room windows.

3. Extent of impact

"*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating*"

Comment to Principle 3:

The district northern view to the escarpment enjoyed from the first floor north facing windows, the first floor deck and western windows looking obliquely across the side boundary will be lost as a result of the development, refer to section below. However, the western district escarpment views from the west facing dining / siting room windows and first floor deck across the front of

No 5 Berith Street will be retained, see photo below. Overall, the impact has been assessed as being moderate.

- 

Section showing impact on view from north facing window at 5 Berith Street.



West district view from the first floor balcony / windows to living and dining room.

- **4. Reasonableness of the proposal that is causing the impact**

"*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*"

Comment to Principle 4:

The height of the proposed two storey building is generally between 5.6m and 6.2m in height, although elements, such as the pitch of the highlight window and the lift over-run will extend to 7.0m and 7.7m respectively. The height is fully compliant with the maximum 8.0m height limit in the SEPP and the 8.5m development standard in the WLEP, refer to section above. In addition, the proposal fully complies with the built form controls of the WDCP in terms of wall height, building envelope and setbacks. As such, while it is acknowledged that the northern district view across the side boundary to the escarpment will be lost, the development has been assessed as

reasonable.

As a complying development, the next stage in the assessment is to examine *whether a more skillful design could provide the applicant with the same development potential and amenity and reduce impacts on the views of neighbours.* The siting of the two storey building, in the centre of the site, is generally in line with the siting of other developments along the east side of Berith Street, including No. 5 Berith Street. The siting of the two storey building allows for the best use of the site and is compliant with the relevant SEPP controls which recommends that a higher density be located to the front of the site. Furthermore, shifting the development away from the southern boundary will not have any reduced impacts on view loss given the length of the footprint.

The existing views to the north, which are currently enjoyed from No. 5 Berith Street, are due to the reduced height of the existing dwelling which sits below the 8.5m height limit permitted in the WLEP. It is note that a detached two storey dwelling sited in a similar position on the subject site and complying with the 8.5m height limit would give rise to similar view loss issues. In summary, the development is considered to be reasonable in this context and a more skillful design resulting in the same development yield would not and result in any reduced impacts on view sharing observed from the north facing first floor windows, balcony and west facing windows looking obliquely across the site. As noted above, the district views to the western escarpment from the two large windows to the formal dining room and from the front first floor balcony will be retained.

(Objectives of the clause D7 continued)

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

  Comment:

  The contemporary design is generally supported, however, in order to improve the urban environment particularly with respect to the neighbouring dwellings, a condition requires the first floor of the front building to have an increased set back from the north and south boundary to reduce the bulk and massing of the development and address amenity impacts. Refer to detailed discussion under clause D9 below.

- *To ensure existing canopy trees have priority over views.*

  Comment:

  The proposal retains canopy trees to the front of the site that will remain to be visible from the windows of No. 5 Berith Street.

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

D8 Privacy

Merit consideration

Clause D8 requires building layout to be designed to optimise privacy, windows to be orientated to limit overlooking, windows to be located a minimum of 9.0m from windows in other dwellings and the use of

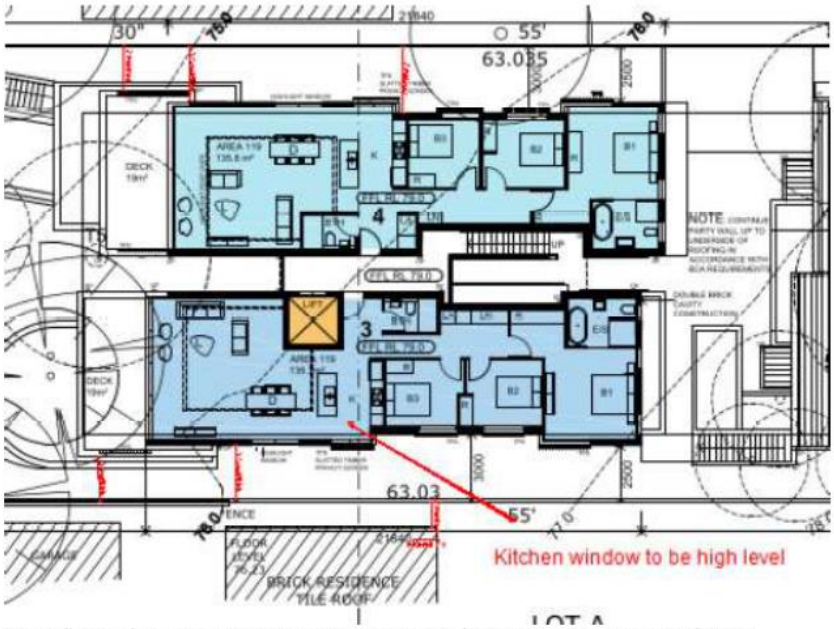
screening devices to prevent overlooking. With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

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

  Comment:

  The ground floor windows to habitable rooms will be screened by the replacement 1.7m high timber fence and screen planting and will not result in overlooking to the neighbouring dwellings. In addition, some of the finished site levels for ground level areas are excavated / levels and where they are below existing ground level this may assist privacy, subject to conditions to ensure excavation works do not have an adverse impact on adjacent tree roots or drainage management or building foundations.

  The first floor level windows to unit 4 in the north elevation will overlook the roof of the dwelling at No. 1 Berith Street. The first floor dining and kitchen windows to unit 3 in the south elevation are setback 2.5m from the side boundary and 3.7m from the north facing upper floor windows to No. 5 Berith Street. These windows are either high level windows or have been fitted with external slatted privacy screens. Given the close proximity of these windows to the existing north facing living room windows at No. 5 Berith Street a condition requires both the the kitchen and living room windows to unit 3 to be high level, refer to plan below.



First floor plan showing the windows in relation to No. 5 Berth Street

It is proposed that the bedroom windows to unit 3 will be fitted with fixed timber privacy screens. Bedrooms are less frequently occupied during the day compared to living / kitchen areas the windows. Despite this, a condition will require that the first floor level of the development is set back an additional 500mm from the side boundaries which will result in a setback of 4.7m to the north facing window of No 5 Berith Street. Given the increased separation, the privacy treatment and the fact that bedroom is less intensely used than a living room, the windows have been assessed as acceptable. Conditions are recommended to ensure the privacy measures

detailed above are applied. As such, privacy considerations have been addressed in accordance with this objective and are satisfactory, subject to conditions.

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

  Comment:

  The proposal has been designed to ensure a principal outlook toward the street elevation or the rear yard for outdoor open space areas. Design solutions have been used to ensure privacy is maintained to adjoining properties. Subject to conditions, the design of the building has been assessed as acceptable in the urban environment.

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

  Comment:

  The site will have suitable boundary fencing to the rear and side setbacks to assist security and privacy. The design also allows for passive surveillance from the front observation to the public areas of the site from the dwellings. The proposal is satisfactory having regard to Crime Prevention Through Environmental Design considerations to ensure reasonable personal and property security for occupants and visitors.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the relevant objectives of WDCP and the objectives specified in section 5 (a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D9 Building Bulk

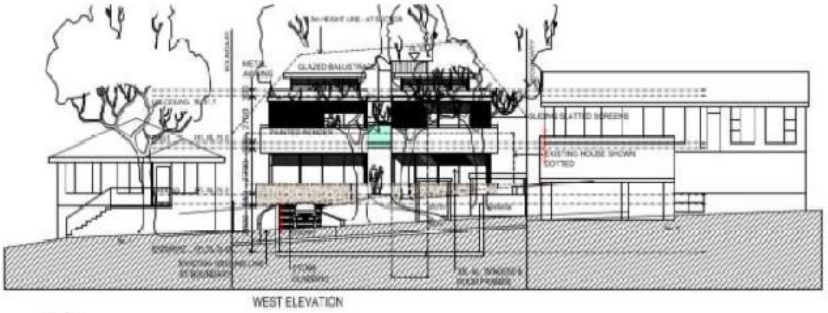
Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

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

  Comment:

  The notification of the DA has raised concerns with regard to building bulk and scale and adverse impacts on the amenity of adjacent properties. The rear single storey building it is considered reasonable in terms of building bulk despite the minor non-compliance with the 6.0m rear setback control. The front two storey building, despite being a larger building, is compliant with the height, building, envelopes, wall heights and setbacks controls. The building is orientated to address Berith Street and setback over 14.0m from the street frontage in a landscape setting which also reduces the perceived bulk of the building, refer to discussion elsewhere in this report.



West elevation showing the proposal in context with the adjacent dwellings.

However, the building presents a long wall plane, 21.8m in length, to the side elevations which will be perceived as being visually dominant to neighbouring properties, see south elevation below. In order to reduce the visual impact of the continuous wall plane and improve the urban environment for the adjacent properties, a condition is recommended requiring bedrooms 2 and 3 to units 3 and 4 to be recessed a further 500mm.



South elevation

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

Comment:

The front building is well articulated to the street frontage and the use of earthy colours and materials help reduce the buildings bulk. The visual impact of the wide and solid, double front balconies (reference A in image below) is considered to warrant a minor change to minimize impact when viewed from the street frontage. In this regard, a condition is recommended for the balcony balustrade to include more lightweight elements (up to 50%) that may be a glazed section, or other suitable lightweight suitable open-style balustrade material. Furthermore, a condition requires the materials and finishes to the single storey dwelling to be further considered and amended in order to reduce the visual impact to adjoining properties.



Materials and finishes to front facade

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

E10 Landslip Risk

Clause E10 requires the applicant to demonstrate that – The proposed development is justified in terms of geotechnical stability; and The development will be undertaken in accordance with good engineering practice". Also, that "A risk assessment of landslip in relation to both property and life, prepared in accordance with the guidelines published by the Australian Geomechanics Society must be submitted".

This site is located within landslip risk Area 'D' defined as Collaroy Plateau Flanking Slopes 5° to 15°, in Landslip Risk Map Sheet LSR_009 of the E10 Landslip Risk policy. A review of the policies preliminary checklist and the proposed works identified that the proposed development involves works which exceed the preliminary assessment guidelines therefore, a geotechnical report is required in support of the DA.

The applicant has submitted a geotechinical report prepared by White Geotechnical Group (WGG) which has been peer by JK Geotechnics (JK). The JK peer review recommended further investigation for which the site owners subsequently engaged JK to undertake the work. Council engaged a further cnsulatant to review the WGG and JK reports. A detailed discussion of these reports is contained within this report under Clause 3 of the WLEP. In summary, subject to the recommendations of WGG and JK Crozier has confirmed that the proposed development is justified in terms of geotechnical stability and will be undertaken in accordance with good engineering practice. Conditions are included to require compliance with all three geotechnical reports.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of $28,299 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $2,829,900.

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, 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

In summary, the principal issues with the development, including the issues raised in the submissions are:

Bulk and massing and impact on the streetscape and existing character.

The proposal generally complies with the built form controls of the SEPP HSPD, the WLEP and WDCP. There is a minor 9% exceedance of the 0.5:1 FSR control which results in the bulk and massing of the two storey building being visually dominant to neighbouring dwellings to the north and south. In order to address this issue, a condition requires the upper floor to be set back an additional 500mm for a length of 7.1m at the mid point along the north and south elevations. It has been assessed that the articulation and modulation of the two storey building, combined with the significant setback and landscaped setting to the frontage will reduce the bulk and massing in the streetscape. Despite this, a condition requires the materials of the upper floor balconies to be modified to help reduce any perceived bulk of this element.

Impacts in residential amenity

Subject to conditions relating to window design and treatment, the proposal will not result in visual privacy issues. In addition, the proposal will not result in unreasonable impacts on solar access to

neighbouring dwellings. It is accepted that the north facing side windows to No. 5 Berith Street will lose some views, however the proposal is fully compliant with the height limit and the view sharing is assessed as acceptable.

Excavation, demolition and asbestos

The White Geotechnical report has been peer reviewed by JK Geotechnics who recommended further investigations. The results of the additional investigations reported by JK and the original White Report were peer reviewed by Crozier who confirmed that subject to compliance with the recommendations of all geotechnical reports there will be no unreasonable impacts to neighbouring properties. In response to issues relating to demolition, conditions are imposed requiring the safe removal of asbestos. In regards to issues relating to stormwater, engineering conditions require the design of stormwater management to comply with Council's Policy.

Road safety and parking

The proposal complies with the parking requirements of the SEPP HSPD. Despite this in order to address concerns regarding the availability of kerbside parking, a condition requires 2 visitor parking spaces to be provided. Council's Transport Unit have raised no objections to the proposal subject to conditions; including the requirement for a Construction Traffic Management Plan which will address concerns about road safety in the school zone.

Accessibility

The Access Report confirms that the site complies with the access requirements of the SEPP HSPD including being within 400m of services, shops and public transport. A condition requires an accessible footpath to be provided along Berith Street to connect to Rose Avenue and to be designed to include the recommendations of the arborist with respect to tree protection. Subject to conditions, Council's Landscape Officer supports the proposal.

In summary, the proposal is recommended for deferred commencement approval subject to conditions, provided in accordance with the Environmental Planning and Assessment Act 1979 and Regulations. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

DEFERRED COMMENCEMENT APPROVAL

A. THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant a Deferred Commencement Development Consent being subject to a three (3) month time frame for Deferred Commencement Consents detailed within Section 95 of the EPA Act 1979 to DA2019/1173 for Demolition of existing development and construction of a Seniors Housing development comprising 6 x infill self care housing units and basement parking, and strata subdivision on land at Lot A DP 411784,3 Berith Street, WHEELER HEIGHTS, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

DEFERRED COMMENCEMENT CONDITIONS

1. **Deferred Commencement Approval - Surrender Consent**
The applicant shall surrender to Council Development Consent No: DA2018/1828 in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within three (3) months of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review
Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. **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**
A03 Basement Floor Plan	7.11.2018	Barry Rush & Associates Pty Ltd
A05 Site / Ground Floor Plan*	7.11.2018	Barry Rush & Associates Pty Ltd
A06 First Floor Plan	7.11.2018	Barry Rush & Associates Pty Ltd
A07 Roof Plan	7.11.2018	Barry Rush & Associates Pty Ltd

A08 Elevations	7.11.2018	Barry Rush & Associates Pty Ltd
A09 Elevations* & Sections A-A	7.11.2018	Barry Rush & Associates Pty Ltd
A11 External Colour Schedule*	7.11.2018	Barry Rush & Associates Pty Ltd

*Subject to consistency between plans and schedule details shown on the architectural plans and conditions of consent.

Engineering Plans		
Drawing No.	**Dated**	**Prepared By**
A04 Footpath Plan (subject to conditions requiring amendment)	7.11.2018	Barry Rush & Associates Pty Ltd
Sheet 1A Stormwater Management Plan (subject to conditions requiring amendment)	10.9.2018	Taylor Consulting
Sheet 2 Stormwater Management Details (subject to conditions requiring amendment)	21.8.2018	Taylor Consulting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
Arborist Report - 3 Berith Street	12.6.2019	Ross Jackson
Basix Certificate 952573M_03	18.11.2019	Building Sustainability Assessments
Geotechnical Assessment	17.10.2019	White Geotechnical Group
Peer Review of the White Geotechnical Report Ref: 32859YFlet	13.12.2019	JK Geotechnics
Additional Geotechnical Report Ref:32859SFrpt	20.01.2020	JK Geotechnics
Access Report - 3 Berith Street	15.10.2018	Accessibility Solutions
Design Compliance Report V2	1.10.2018	Private Certifiers Australia

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	**Dated**	**Prepared By**
1921.GD01 Landscape Plan (subject to amendments to address earthworks and accessible footpath conditions)	10.9.2018	Greenland Design
192.GD.02 Landscape Details and	10.9.2018	Greenland Design

Specification		

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.

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.

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**
Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of $28,299.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of $2,829,900.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website

at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. **Security Bond**

A bond (determined from cost of works) of $10,000 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.

7. **Construction, Excavation and Associated Works Bond (Drainage works)**
The applicant is to lodge a bond of $ 5500 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

8. **Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)**
The applicant is to lodge a Bond of $ 40000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

9. **Construction, Excavation and Associated Works (Failure to remove waste)**
A bond of $ 5000 as security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to

the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

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

10. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**
The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Investiation Report; White Group, Reference No: J2436, Dated: 17 October 2019, the JK Geotechnical Peer Review Report Ref: 32859YFlet dated 13 December 2019 and the JK Geotechnical Investigation Report Ref: 32859SFrpt, Dated: 20 January 2020 are to be incorporated into the construction plans.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **Amendments to the Approved Plans**
The following amendments to the approved plans are to be included:

a) Excavation

i) No excavation for retaining walls / terraces within 1.0m of the north and south side boundaries, or within 3.0m of the east (rear) boundary.

b) Ancillary Structures
i) The waste room shall be redesigned to comply with Councils Waste Management Plan, noting that bulky goods storage is not required, and be setback 1.0m from the southern side boundary.

ii) Plans detailing the footpath installation along Berith Street are to be amended to reflect the recommendations of the Arboricultural Impact Assessment Report dated 12 June 2019 prepared by Jackson Nature Works with regards to tree protection, offsets from trees and pavement materials to be used. Amended landscape plans are required to show the revision to the accessible footpath.

c) Seniors Living Buildings
i) The outer wall & roof recess for bedrooms 'B2' and 'B3' for Units 3 and 4 (upper storey) shall be setback an additional 500mm from the side boundaries.

ii) The front balconies for the upper level to Units 3 and 4 are to include 50% open style or glazed or lightweight (infill) balustrade sections facing the street to reduce visual impact on the streetscape.

iii) Secondary colours and material change is to be made to the upper wall side walls for Units 5 and Unit 6 to improve visual interest and design, consistent with the external colours and materials used for Unit 1 to Unit 4.

iv) Privacy treatment to windows and balconies. The kitchen window to Unit 3 on the southern elevation shall be modified to a high level window. Fixed privacy screens angled to prevent

direct overlooking to neighbours shall be installed on the following windows / balconies: Unit 3 and 4 bedrooms 1,2 and 3 and Units 5 and 6 the kitchen and living room windows. The northern and southern edge of the balconies to Units 3 and 4.

v) The basement car park design shall be amended to requiring a total of ten (10) car parking spaces, eight (8) residential car parking spaces, two (2) visitor spaces, one (1) residential car park space to be increased to 3.8m in width and all car parking spaces to comply with the requirements for parking with a disability as set out in AS 2890.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue the Construction Certificate

Reason: Reasons: In the interest of protecting residential amenity, the quality of the steetscape and the natural environment and maintaining the requirements of the WDCP and SEPP HSPD.

12. **Boundary Identification Survey**
A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

13. **Building Code of Australia Report**

The details and recommendations contained in the Building Code of Australia Report prepared Private Certifiers Australia, dated 1 October 2018 (received by Council on 12 November 2019) are to be taken into consideration as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

14. **On-site Stormwater Detention Details**
The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's WATER MANAGEMENT POLICY, and generally in accordance with the concept drainage plans prepared by Taylor Consulting with the submission of the proposal and including required redesigned of the stormwater drainage is required to be provided by a suitably qualified engineer.

The required re-design of stormwater drainage shall implement the following:
1) The site stormwater discharge by gravity shall be directed to a boundary control pit, located

within the property and outside of the driveway, and shall be piped from the control pit to a new pit constructed over the existing Council pipeline in Berith Street;
2) Connection to Council's pipeline must be in accordance with Council's standard drawing A2 5476/A and a new pit must include a minimum of 1.8 m kerb inlet/lintel;
3) The new pit shall be located to the south of a new layback, with a minimum of 1.0 m distance between the new layback wing and the new lintel;
4) Where there are any conflicts between the proposed stormwater drainage pipeline from the site and any utility services within the road reserve, all costs related to a potential re-location or lowering of affected utility services shall be borne by the applicant;

Details demonstrating compliance are to be to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

15. **Submission Roads Act Application for Civil Works in the Public Road**
The Applicant is to submit an application for approval for Infrastructure works on Councils roadway, including engineering design plans shall be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering design plans for the design of civil works required for the development (as outlined below) which are to be generally in accordance with the approved consent and Council's specification for engineering works as per Council's AUSPEC and Minor Works Policy. The design plan shall be prepared by a qualified structural engineer.

The civil design must include the following information:

1) Detail design for a 1.5 m wide concrete footpath along the full frontage of the development site on Berith Street and must extend to the existing footpath in Rose Avenue. The design shall include a longitudinal section and cross sections taken at every few meters. The sections shall show all existing, proposed levels and if necessary transition works designed in accordance with Council requirements;

2) Detail design for a 5.5 m wide vehicular crossing incorporating Council's standard 'Normal' driveway profile. The crossing shall be placed for a minimum of 1.0 m away from the existing Power Pole/Street light. A minimum of three long sections shall be presented on the plans showing all existing, proposed levels and if necessary transition works designed in accordance with Council requirements. The long sections shall be taken from the center line of the road through the end of the parking area. A long section of the new footpath shall have clearly indicated intersection points with long sections taken through the crossing; and

3) Detail design for a new stormwater pit with a 1.8m long lintel, shall be in accordance with Council's standard drawing A2 5476/A. The pit must be located to the south of the new layback, with implemented a minimum of 1.0 m distance between the new layback wing and the lintel.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. An approval is to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To provide public and private safety.

16. **Structural Adequacy and Excavation Work**
Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

17. **Sub-Soil Seepage**
The Applicant is to submit plans demonstrating that all sub-soil seepage drainage is discharged via a suitable silt arrester pit, directly to Council's nearest stormwater drainage line and is to be carried out in accordance with relevant Australian Standards. (Note: At the time of determination the following (but not limited to) Standards applied:

- Australian/New Zealand Standard AS/NZS 3500.3 - 2003 Plumbing and drainage - Stormwater drainage
- Australian/New Zealand Standard AS/NZS 3500.3 - 2003 / Amdt 1 - 2006 Plumbing and drainage - Stormwater drainage.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate drainage and Stormwater management on site to protect amenity of residents.

18. **Shoring of Adjoining Property**
Should the proposal require shoring to support an adjoining private property or Council's land, owner's consent for the encroachment onto the affected property shall be provided with the engineering drawings. Council approval is required if any temporary ground anchors are proposed to be installed within the Council's land/road reserve.
A Temporary Ground Anchors Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

19. **Pre-Construction Stormwater Assets Dilapidation Report**
The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available on our web site.

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

20. **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.

21. **Requirements for Seniors Housing or Housing for Persons with a Disability**
The development is for the purposes of Seniors Housing or Housing for Persons with a Disability and is required to comply with all the standards specified in Schedule 3 - "*Standards concerning accessibility and useability for hostels and self-contained dwellings*".

Details demonstrating compliance with the above requirement are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure public safety and equitable access for seniors or people with a disability. (DACPLC16)

22. **Condition for prior to construction certificate**
Construction of Footpath:
A tootpath with minimum width of 1.5m shall be constructed along all frontage of site continuing to Rose Avenue to connect the site to the existing footpath on Rose Avenue.

Reason: To provide seniors and people with disabilities a convenient access to the adjacent bus stops.

Car Park Design:
In accordance with AS2890.1:2004, the proposed single-sided aisle within the basement car parking area is to be minimum 6.1m wide.

Reason: Compliance with Australian Standards.

23. **Construction Traffic Management Plan**
A Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Certifying Authority prior to issue of any Construction Certificate. The CTMP shall address the safety around the school and minimise any adverse impact on the school. Due to the proximity of the site adjacent to Wheeler Heights Primary School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;

- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck rates through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available;
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Due to the proximity of the site adjacent to Wheeler Heights Primary School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays);
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic;
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure;
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site;
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council;
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent;
- Proposed protection for Council and adjoining properties, and
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS' Manual – "Traffic Control at Work Sites".

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason**:** To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

24. **Waste and Recycling Requirements**
Details demonstrating compliance with Warringah Development Control Plan – Part C9 Waste Management, including the required Warringah Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Warringah Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided. (DACWTC01)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

25. **Pre-Construction Dilapidation Report**
Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

1 Berith Street, Wheeler Heights
5 Berith Street, Wheeler Heights

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

26. **Public Liability Insurance - Works on Public Land**
Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of $20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

27. **Notification of Rock-breaking Activities**

The activity of rock-breaking associated with the development of the site, must only occur between the hours of:

- 9.00 AM – 5.00 PM on weekdays (Monday – Friday).

Rock-breaking activities must not occur on weekends or public holidays. Adjoining properties must be notified in writing of the times and days in which rock-breaking activities will be carried out. Notices must be distributed at least seven (7) days before the activity is to occur.

Reason: To protect the acoustic amenity of neighbouring properties and the public. (DACHPDPC6)

28. **Tree protection**

(a)Existing trees which must be retained

i) All trees not indicated for removal in the Arboricultural Impact Assessment report dated 12 June 2019 prepared by Jacksons Nature Works , unless exempt under relevant planning instruments or legislation

ii) Trees located on adjoining land

(b) Tree protection

i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.
ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by the Project Arborist on site.
iii) All tree protection to be in accordance with the Arboricultural Impact Assessment report dated 12 June 2019 prepared by Jacksons Nature Works and 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.
vi) Footpath installation in Berith Street is to be supervised by the Project Arborist and include paving material as specified in the Arboricultural Impact Assessment

report dated 12 June 2019 prepared by Jacksons Nature Works

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

29. **Project Arborist**
i) A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.
ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the Arboricultural Impact Assessment report dated 12 June 2019 prepared by Jacksons Nature Works and AS4970-2009 Protection of trees on development sites.
iii) The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

30. **Road Reserve**
The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

31. **Removing, Handling and Disposing of Asbestos**
Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:
- Work Health and Safety Act
- Work Health and Safety Regulation
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005.
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

32. **Demolition Works - Asbestos**
Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

33. **Survey Certificate**
A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

34. **Installation and Maintenance of Sediment Control**
Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

35. **Civil Works Supervision**
The Applicant shall ensure all civil works approved in the Construction Certificate are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

36. **Footpath Construction**
The applicant shall construct a 1.5 m wide footpath for the purpose of providing an access of the subject site to Rose Avenue. The works shall be in accordance with the following:

(a) All footpath works are to be constructed in accordance with Council's Specification for an access appropriate to Seniors Living development and include widening of the existing connection to the bus (shelter) stops in Wheelers Parade within 400m of the site, and Clauses

26(2) and 38 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;
(b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are to be completed in accordance with the Council's specification for footpath. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of footpath works with Council's specification for engineering works.

37. **Notification of Inspections (Infrastructure works to be handed over to Council)**
Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:
(a) Installation of Silt and Sediment control devices
(b) Prior to backfilling of pipelines
(c) Prior to pouring of stormwater gully pits
(d) Prior to pouring of kerb and gutter
(e) Subgrade level / basecourse level / subbase
(f) Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

38. **Traffic Control During Road Works**
Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

39. **Vehicle Crossings**
The Applicant is to construct one vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

40. **Stormwater Pipeline Construction/Connection**
Where connection to Council's nearest stormwater drainage system is required, being in Berith Street fronting the site, the applicant shall construct the pipeline in accordance with AUSPEC specification and Council's Minor Works Policy for engineering works (see

www.northernbeaches.nsw.gov.au), including reconstruction of all affected kerb and gutter, bitumen reinstatements, adjustments of any vehicular crossings for paths, grass verges and household stormwater connections to suit the kerb and gutter levels. All works shall be undertaken at the applicant's cost, and upon completion shall be certified by an appropriately qualified and practicing Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of drainage works with Council's specification for engineering works.

41. **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.

42. **Protection of rock and sites of significance**

a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

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.

43. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: to ensure compliance of the developer/builder in adhering to the Construction Traffic

Management procedures agreed and are held liable to the conditions of consent.

44. **Waste/Recycling Requirements (Waste Plan Submitted)**
During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled Waste Minimisation and Management Plan and dated 7 November 2019.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

45. **Waste/Recycling Requirements (Materials)**
During demolition and/or construction the following materials are to be separated for recycling – timber – bricks – tiles – plasterboard – metal – concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible. (DACWTE02)

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

46. **Landscape completion certification**
a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.
b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the approved landscape plan.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

47. **Condition of retained vegetation**
Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist, shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

a) Compliance to Arborist recommendations for tree protection and excavation works.
b) Extent of damage sustained by vegetation as a result of the construction works.
c) Any subsequent remedial works required to ensure the long term retention of the vegetation.

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

48. **A post-construction Dilapidation Survey of Council's Stormwater Assets**
A post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation

Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available on our web site.

The post construction dilapidation report must be submitted to the Council for review and the Certifying Authority prior to the issue of the Occupation Certificate. Any damaged to Council's stormwater infrastructure is to be rectified in accordance with Council's technical specifications prior to the release of the security bond.

Reason: Protection of Council's Infrastructure

49. **Post-Construction Dilapidation Report**
Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

50. **Positive Covenant for the Maintenance of Stormwater Pump-out Facilities**
The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard.

51. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**
The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council

and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.
A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

52. **Geotechnical and structural Certification**
All civil works approved in this Development Consent shall be certified as compliant with all relevant Australian Standards and Codes by an appropriately qualified and practising Civil Engineer.

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

Reason: Public and Private Safety

53. **Certification of Civil Works and Works as Executed Data on Council Land**
The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138. Works as Executed data certified by a registered surveyor in relation to boundaries, prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Assets' in an approved format shall be submitted to Council and the Principal Certifying Authority for approval prior to the issue of the Occupation Certificate.

Reason: To ensure compliance of works with Council's specification for engineering works.

54. **Environmental Reports Certification**
Written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations in the following reports have been completed:

(a) Arborist Report prepared dated 12 June 2019 by Ross Jackson
(b) Geotechnical Report dated 17/10/2019 prepared by White Geotechnical Group
(c) Peer Review of the White Geotechnical report dated 13 December 2019 prepared by JK Geotechnics
(d) Additional Geotechnical Investigation Report dated 20 January 2020 Ref 32859SFrpt prepared by JK Geotechnics
(e) Design Compliance Report V2 dated 1/10/2018 prepared by Private Certificers Australia

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To ensure compliance with standards.

55. **Required Planting**
a) Trees shrubs and ground-covers shall be planted in accordance with the Landscape Plan Dwg No.1921.GD.01 Issue A dated 10.09.18 prepared by Greenland Design
b)Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity.

56. **Garbage and Recycling Facilities**
All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

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

Reason: To prevent pollution of the environment and to protect the amenity of the area. (DACPLF03)

57. **House / Building Number**
House/building number is to be affixed to the building / letterbox to be readily visible from the public domain.

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

Reason: Proper identification of buildings. (DACPLF04)

58. **Sydney Water**
A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <http://www.sydneywater.com.au> then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

Reason: To ensure compliance with the statutory requirements of Sydney Water.

59. **Occupation of Seniors Housing or Housing for Persons with a Disability**

A positive covenant pursuant to s88E of the Conveyancing Act 1919 is to be registered on the title of the land to which this development consent applies.

The covenant shall stipulate that Council is the sole authority to release or modify the covenant and that the development is only permitted to be occupied by persons detailed as follows:

(a) seniors or people who have a disability;
(b) people who live within the same household with seniors or people who have a disability;
(c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

(Note: Under State Environmental Planning Policy (Housing for Seniors or People with a Disability 2004):

Seniors are people aged 55 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 http://www.comlaw.gov.au/ of the Commonwealth) is provided and/or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

AND

People with a disability are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.)

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue any Interim / Final Occupation Certificate.

Reason: Statutory requirements. (DACPLF11)

60. **Fire Safety Matters**
At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

61. **Side and rear boundary fencing**
The applicant is to replace all side and rear boundary fencing (above ground) with the agreement and at no cost to, the adjoining property owners with 1.8m lapped and capped timber paling fencing as indicated on the plans. Any fence forward of the building line shall be 1.2m in height. Details to be provided to the satisfaction of the Certifying Authority prior to any Occupation Certificate.

Reason: To maintain visual privacy.

62. **Waste and Recycling Facilities Certificate of Compliance**
The proposal shall be constructed in accordance with Warringah Development Control Plan – Part C9 Waste Management

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

Reason: To ensure waste and recycling facilities are provided. (DACWTF01)

63. **Waste/Recycling Compliance Documentation**
Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

64. **Positive Covenant for Waste Services**
A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF03)

65. **Authorisation of Legal Documentation Required for Waste Services**
The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land. (DACWTF04)

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

66. **Landscape maintenance**
i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.

ii) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity.

67. **Allocation of Spaces**
Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

8 - Residential (6 spaces are to be for persons with a disability)
2 - Residential - Visitors

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

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

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)

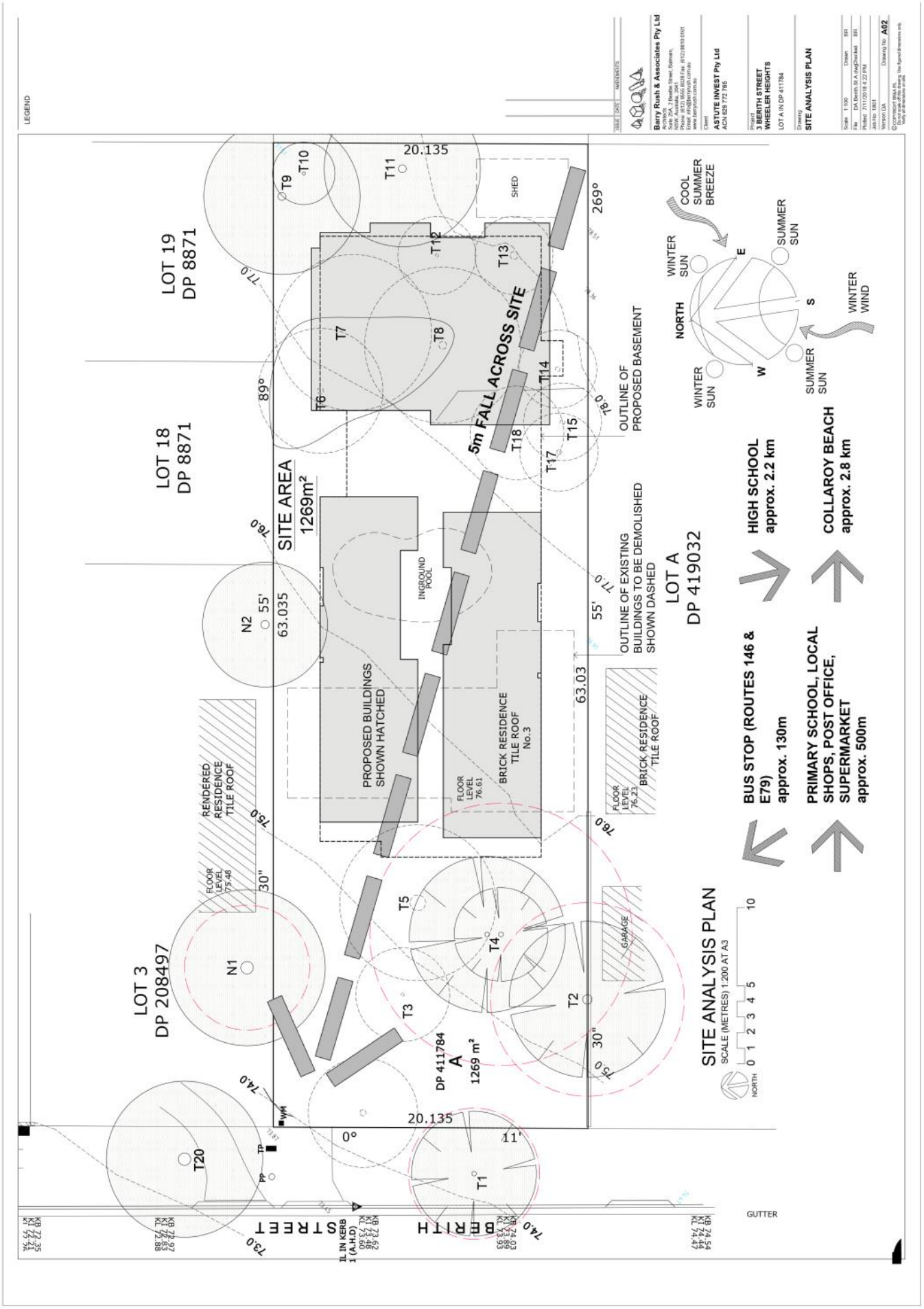
CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

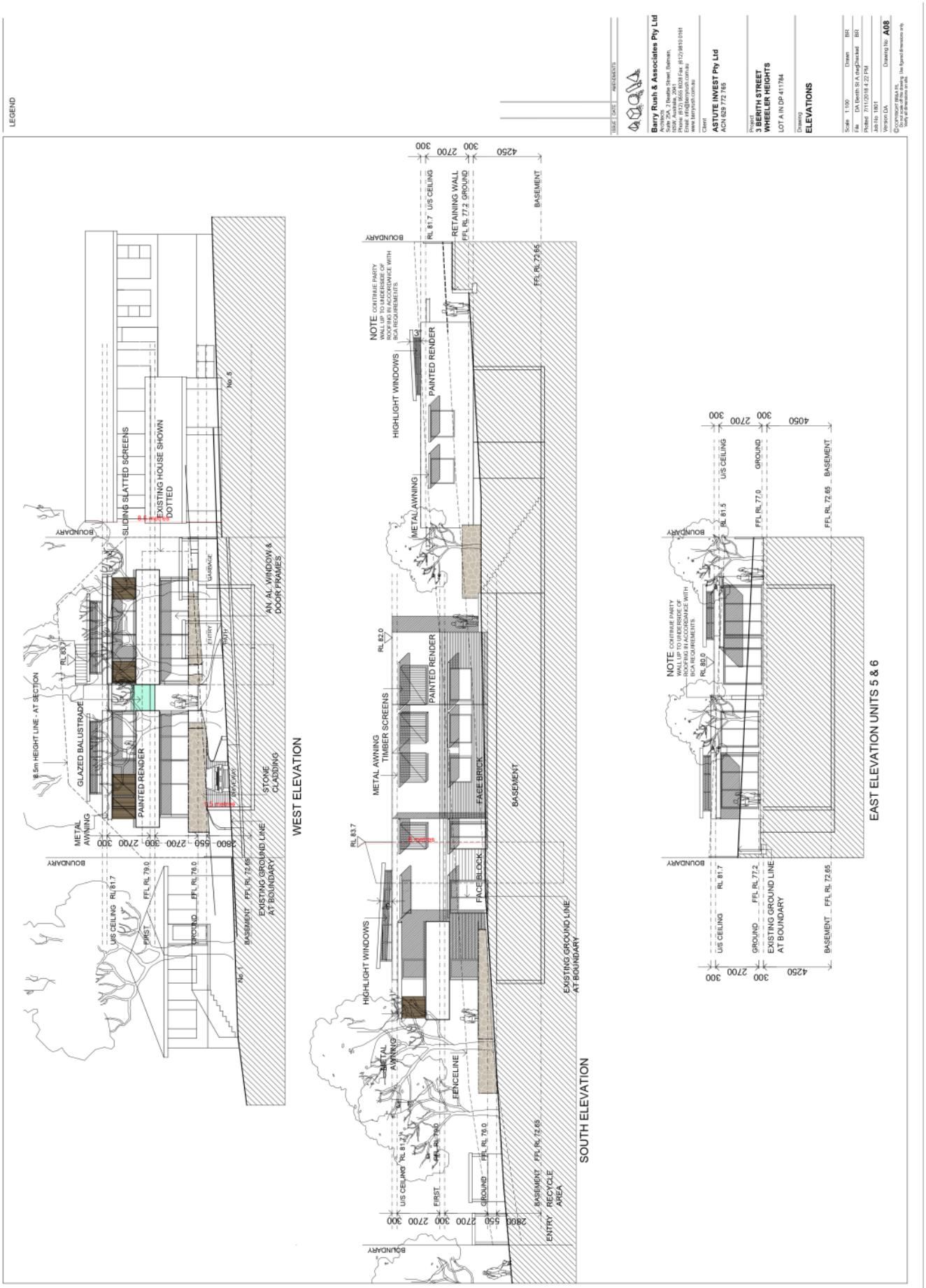
68. **Sydney Water Compliance Certification**
The Applicant shall submit a Section 73 Compliance Certificate under the Sydney Water Act 1994 issued by Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <http://www.sydneywater.com.au> then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

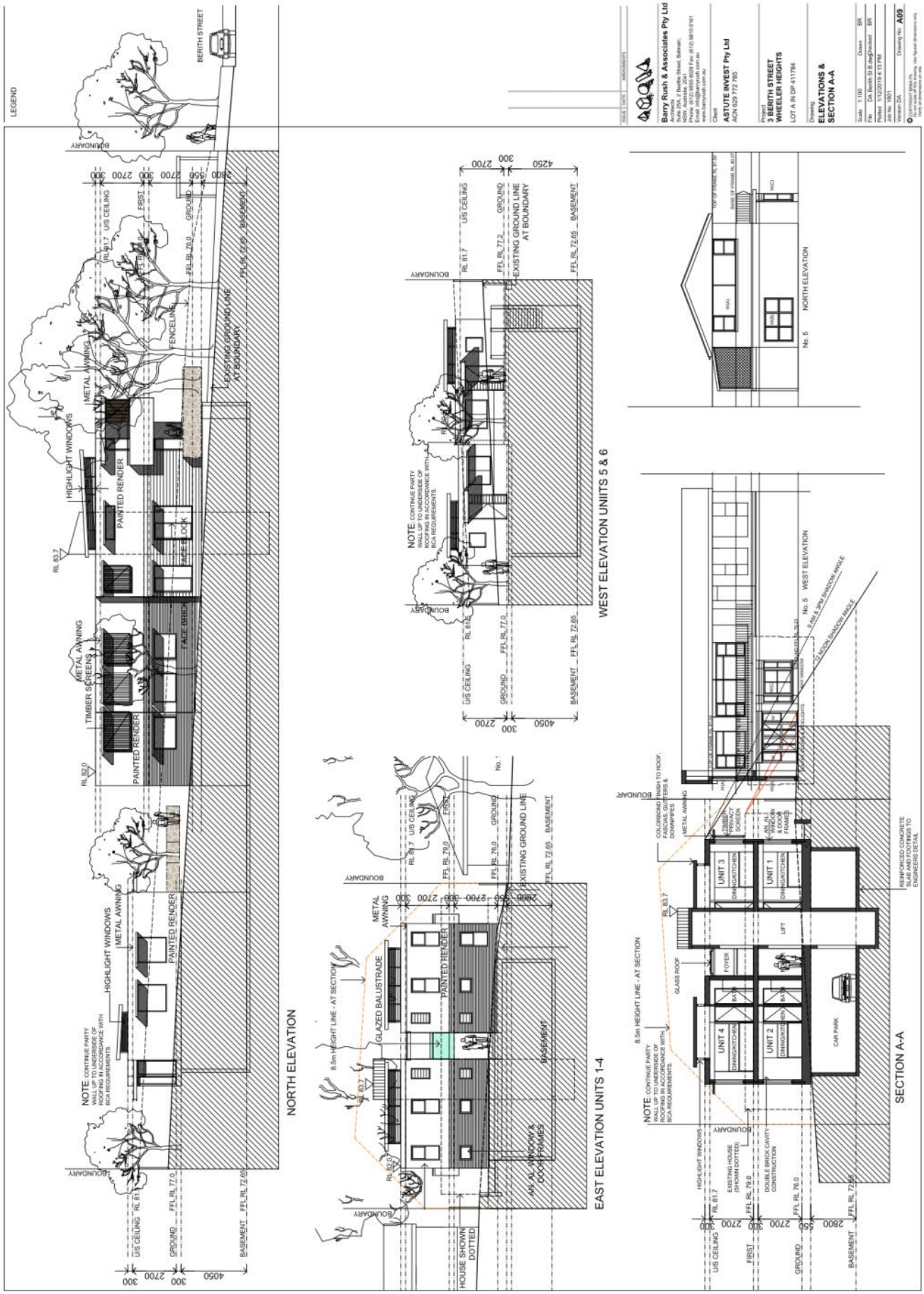
Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and fees to be paid. Please make early contact with the coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water.


SITE ANALYSIS PLAN
SCALE (METRES) 1:200 AT A3
LOT 19 DP 8871
LOT 18 DP 8871
LOT 3 DP 208497
LOT A DP 419032
SITE AREA 1269m²
5m FALL ACROSS SITE
OUTLINE OF PROPOSED BASEMENT
OUTLINE OF EXISTING BUILDINGS TO BE DEMOLISHED SHOWN DASHED
PROPOSED BUILDINGS SHOWN HATCHED
BRICK RESIDENCE TILE ROOF No.3
RENDERED RESIDENCE TILE ROOF
BRICK RESIDENCE TILE ROOF
INGROUND POOL
SHED
GARAGE
FLOOR LEVEL 76.61
FLOOR LEVEL 75.46
FLOOR LEVEL 76.23
DP 411784 A 1269 m²
20.135
63.035
63.03
55'
30"
11'
89°
269°
0°
NORTH
COOL SUMMER BREEZE
WINTER SUN
SUMMER SUN
WINTER WIND
HIGH SCHOOL approx. 2.2 km
COLLAROY BEACH approx. 2.8 km
BUS STOP (ROUTES 146 & E79) approx. 130m
PRIMARY SCHOOL, LOCAL SHOPS, POST OFFICE, SUPERMARKET approx. 500m
STREET
BERITH
GUTTER
Barry Rush & Associates Pty Ltd
ASTUTE INVEST Pty Ltd
ACN 629 772 765
3 BERITH STREET
WHEELER HEIGHTS
LOT A IN DP 411784
SITE ANALYSIS PLAN
A02


LEGEND
WEST ELEVATION
SOUTH ELEVATION
EAST ELEVATION UNITS 5 & 6
SLIDING SLATTED SCREENS
EXISTING HOUSE SHOWN DOTTED
GLAZED BALUSTRADE
PAINTED RENDER
METAL AWNING
STONE CLADDING
ALUM. WINDOW & DOOR FRAMES
EXISTING GROUND LINE AT BOUNDARY
HIGHLIGHT WINDOWS
TIMBER SCREENS
FACE BRICK
FACE BLOCK
FENCELINE
RETAINING WALL
U/S CEILING
BASEMENT
GROUND
FIRST
ENTRY
RECYCLE AREA
GARAGE
BOUNDARY
NOTE CONTINUE PARTY WALL UP TO UNDERSIDE OF ROOFING IN ACCORDANCE WITH BCA REQUIREMENTS
Barry Rush & Associates Pty Ltd
ASTUTE INVEST Pty Ltd
ACN 629 772 765
3 BERITH STREET
WHEELER HEIGHTS
LOT A IN DP 411784
ELEVATIONS
A08


NORTH ELEVATION
EAST ELEVATION UNITS 1-4
WEST ELEVATION UNITS 5 & 6
SECTION A-A
NORTH ELEVATION
WEST ELEVATION
LEGEND
BERITH STREET
BOUNDARY
HIGHLIGHT WINDOWS
METAL AWNING
PAINTED RENDER
TIMBER SCREEN
FENCELINE
EXISTING GROUND LINE AT BOUNDARY
GLAZED BALUSTRADE
HOUSE SHOWN DOTTED
NOTE CONTINUE PARTY WALL UP TO UNDERSIDE OF ROOFING IN ACCORDANCE WITH BCA REQUIREMENTS.
US CEILING
GROUND
FIRST
BASEMENT
UNIT 1
UNIT 2
UNIT 3
UNIT 4
LIFT
FOYER
CAR PARK
GLASS ROOF
REINFORCED CONCRETE SLAB AND FOOTINGS TO ENGINEERS DETAIL
DOUBLE BRICK CAVITY CONSTRUCTION
EXISTING HOUSE (SHOWN DOTTED)
Barry Rush & Associates Pty Ltd
ASTUTE INVEST Pty Ltd
ACN 629 772 765
3 BERITH STREET
WHEELER HEIGHTS
LOT A IN DP 411784
ELEVATIONS & SECTION A-A
A09

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J2436.
17th October, 2019.
Page 1.

GEOTECHNICAL INVESTIGATION:

New Apartment Block and Basement Carpark at **3 Berith Street, Wheeler Heights**

1. Proposed Development

1.1 Demolish the existing house and construct a new two-storey apartment block and basement car park by excavating to a maximum depth of 4.7m.

1.2 Details of the proposed development are shown on 7 drawings prepared by Barry Rush and Associates, job number 1801, drawings numbered A03, A05, A06-9 and A011 all dated 7/11/18.

2. Site Description

2.1 The site was inspected on the 17th October, 2019.

2.2 This residential property is on the high side of the road and has an NW aspect. The block is located on the gently graded upper reaches of a hillslope. The slope falls across the site at an average angle of ~3°. The slope above and below the property continue at similar angles.

2.3 A concrete driveway and lawn run from the road frontage to the foot of the house (Photo 1). The part two storey brick house is supported on brick walls. The walls show no visible signs of movement and are considered stable. This house is to be demolished as part of the proposed works and a new two storey apartment block constructed. A concrete path runs along the N common boundary providing access to the rear of the house. A partially in ground pool is located upslope of the house with the fill used to level the area supported by a 0.8m high brick retaining wall in good condition (Photo 2). A gently sloping lawn extends upslope of the pool to the rear common boundary (Photo 3). A timber shed is located along this boundary (Photo 4).

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3. Geology

The Sydney 1:100 000 Geological sheet indicates the site is underlain by Hawkesbury Sandstone. It is described as a medium to coarse grained quartz sandstone with very minor shale and laminite lenses.

4. Subsurface Investigation

One auger hole was put down to identify soil materials. Six Dynamic Cone Penetrometer (DCP) tests were put down to determine the relative density of the overlying soil and the depth to bedrock. The locations of the tests are shown on the site plan. It should be noted that a level of caution should be applied when interpreting DCP test results. The test will not pass through hard buried objects so in some instances it can be difficult to determine whether refusal has occurred on an obstruction in the profile or on the natural rock surface. This is not expected to be an issue for the testing on this site and the results are as follows:

AUGER HOLE 1 (~RL76.0) – AH1 (Photo 5)

Depth (m)	Material Encountered
0.0 to 0.5	**TOP SOIL**, sandy soil, dark brown medium grained with trace organic matter.
0.5 to 1.0	**SANDY CLAY**, brown, medium to coarse grained with rock fragments.

Refusal @ 1.0m in rock fragments. No watertable encountered.

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DCP TEST RESULTS – Dynamic Cone Penetrometer						
Equipment: 9kg hammer, 510mm drop, conical tip.					Standard: AS1289.6.3.2 - 1997	
Depth(m) Blows/0.3m	**DCP 1** (~RL75.0)	**DCP 2** (~RL75.8)	**DCP 3** (~RL76.4)	**DCP 4** (~RL77.0)	**DCP 5** (~RL78.0)	**DCP 6** (~RL77.4)
0.0 to 0.3	8	7	10	2	10	6
0.3 to 0.6	7	11	10	7	30	8
0.6 to 0.9	7	8	9	10	5	#
0.9 to 1.2	31	21	14	#	#	
1.2 to 1.5	14	22	8			
1.5 to 1.8	#	#	#			
	Refusal on rock @ 1.4m	Refusal on rock @ 1.5m	Refusal on rock @ 1.5m	Refusal on rock @ 0.8m	Refusal on rock @ 0.6m	Refusal on rock @ 0.6m

#refusal/end of test. F = DCP fell after being struck showing little resistance through all or part of the interval.

DCP Notes:

DCP1 – Refusal on rock @ 1.4m, DCP bouncing off rock surface, maroon dust on wet tip
DCP2 - Refusal on rock @ 1.5m, DCP bouncing off rock surface, maroon dust on wet tip
DCP3 – Refusal on rock @ 1.5m, DCP bouncing off rock surface, white fragments on wet tip.
DCP4 – Refusal on rock @ 0.8m, DCP bouncing off rock surface, white dust on dry tip.
DCP5 – Refusal on rock @ 0.6m, DCP bouncing off rock surface, muddy tip.
DCP6 – Refusal on rock @ 0.6m, DCP bouncing off rock surface, muddy tip.

5. Geological Observations/Interpretation

The surface features of the block are controlled by the underlying sandstone bedrock that steps down the property forming sub-horizontal benches between the steps. Where the grade is steeper, the steps are larger, and the benches narrower. Where the slope eases, the opposite is true. Where the rock is not exposed, it is overlain by natural sandy soils and firm to stiff sandy clays that fill the bench step formation. In the test locations rock was encountered at depths of between 0.6 to 1.5m below the current surface. See Type Section attached for a diagrammatical representation of the expected ground materials.

6. Groundwater

Normal ground water seepage is expected to move over the buried surface of the rock and through the cracks.

Due to the slope and elevation of the block, the water table is expected to be many metres below the base of the proposed excavations.

7. Surface Water

No evidence of significant surface flows were observed on the property during the inspection. Normal sheet wash from the slope above is expected to flow over the site.

8. Geotechnical Hazards and Risk Analysis

No geotechnical hazards were observed above, below or beside the property. The vibrations from the proposed excavations are a potential hazard (**Hazard One**). The proposed excavation is a potential hazard until retaining walls are in place (**Hazard Two**).

Risk Analysis Summary on the Next Page

Risk Analysis Summary

HAZARDS	Hazard One	Hazard Two
TYPE	The vibrations produced during the proposed excavations impacting on the supporting walls of the neighbouring houses.	The proposed excavation collapsing onto the work site before retaining walls are in place.
LIKELIHOOD	'Possible' (10^{-3})	'Possible' (10^{-3})
CONSEQUENCES TO PROPERTY	'Medium' (15%)	'Medium' (15%)
RISK TO PROPERTY	'Moderate' (2×10^{-4})	'Moderate' (2×10^{-4})
RISK TO LIFE	5.3×10^{-7}/annum	8.9×10^{-6}/annum
COMMENTS	This level of risk to property is '**UNACCEPTABLE**'. To move risk to 'ACCEPTABLE' levels the recommendations in **Section 12** are to be followed.	This level of risk to life and property is '**UNACCEPTABLE**'. To move the risk to 'ACCEPTABLE' levels the recommendations in **Section 13** are to be followed.

(See Aust. Geomech. Jnl. Mar 2007 Vol. 42 No 1, for full explanation of terms)

9. Suitability of the Proposed Development for the Site

The proposed development is suitable for the site. No geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of this report and good engineering and building practice.

10. Stormwater

The fall is to the street. Roof water from the proposed development is to be piped to the street drainage system through any tanks that may be required by the regulating authorities.

11. Excavations

An excavation to a maximum depth of ~4.7m is required to construct the basement level of the proposed apartment block. The excavation is expected to be through sandy soil and sandy clay over Medium Strength Sandstone. Sandstone is expected to be encountered on the

downhill side of the block at 1.5m and on the uphill side at 0.6m below the existing ground level.

It is envisaged that excavations through sandy soil and sandy clays can be carried out with a bucket and excavations through rock will require grinding or rock sawing and breaking.

12. Vibrations

Possible vibrations generated during excavations through sandy soil, and sandy clays will be below the threshold limit for building damage. The majority of the proposed excavations are expected to be through Medium Strength Sandstone.

Excavations through Medium Strength Sandstone or better should be carried out to minimise the potential to cause vibration damage to the neighbouring houses. The supporting walls of the neighbouring house to the N will be as close as ~4.0m and the supporting walls of the neighbouring house to the S will be as close as ~3.5m from the edges of the proposed excavations. Close controls by the contractor over rock excavation are recommended so excessive vibrations are not generated.

Excavation methods are to be used that limit peak particle velocity to 10mm/sec at the common boundaries. Vibration monitoring will be required to verify this is achieved.

If a milling head is used to grind the rock, vibration monitoring will not be required. Alternatively, if rock sawing is carried out around the perimeter of the excavation boundaries in not less than 1.0m lifts, a rock hammer up to 300kg could be used to break the rock without vibration monitoring. Peak particle velocity will be less than 10mm/sec at the common boundaries using this method provided the saw cuts are kept well below the rock to broken.

It is worth noting that vibrations that are below thresholds for building damage may be felt by the occupants of the neighbouring houses.

13. Excavation Support Requirements

No structures or boundaries will be within the zone of influence of any excavations. In this instance, the zone of influence is the area above a theoretical 30° line through soil, and a 45° line through clay from the top of Medium Strength Sandstone towards the surrounding structures and boundaries.

The proposed excavation reach a maximum depth of ~4.7m along the boundaries but will taper away slightly in height downslope. The excavation will be taken through a maximum of ~1.5m of soil and clay over Medium Strength Sandstone.

The excavation through soil and clay is to be scraped back from the excavation line at least 0.5m and battered at 1.0 Vertical to 1.7 Horizontal (30°) prior to the excavation through rock commencing. Alternatively, the soil and clay is to be temporarily or permanently supported before excavation through rock commences. The temporary or permanent support is to be designed by the structural engineer in consultation with the geotechnical consultant. Excavations through Medium Strength Sandstone or better will stand at vertical angles unsupported subject to approval by the geotechnical consultant.

Upslope runoff is to be diverted from the cut faces by sandbag mounds or other diversion works. Unsupported cut batters through soil and clay are to be covered to prevent access of water in wet weather and loss of moisture in dry weather. The covers are to be tied down with metal pegs or other suitable fixtures so they can't blow off in a storm. The materials and labour to construct the retaining structures are to be organised so on completion of the excavations they can be constructed as soon as possible. The excavations are to be carried out during a dry period. No excavations are to commence if heavy or prolonged rainfall is forecast.

During the excavation process, the geotechnical consultant is to inspect the cut faces in 1.5m intervals as they are lowered or after encountering softer sections of rock, while the machine is on site to ensure the ground materials are as expected and no wedges or other geological

defects are present that could require additional support. Should any weak sections of rock be encountered, works are to stop until temporary or permanent support is installed. This is likely to be rock anchors, bolts, sprayed concrete, or similar support specified by the Geotechnical Consultant and designed by the structural engineer.

Upon completion of the excavations, it is recommended all cut faces be supported with retaining walls to prevent any potential future movement of joint blocks in the cut faces that can occur over time, when unfavourable jointing is obscured behind the excavation faces. Additionally, retaining walls will help control seepage and to prevent minor erosion and sediment movement.

Excavation spoil can be used as filing on site provided it is supported by retaining walls. Alternatively it is to be removed from the site following the NSW Environmental Protection Agency (EPA) Waste Classification Guidelines.

14. Retaining Walls

For cantilever or singly-propped retaining walls, it is suggested the design be based on a triangular pressure distribution of lateral pressures using the parameters shown in Table 1.

Table 1 – Likely Earth Pressures for Retaining Walls

Unit	Earth Pressure Coefficients		
	Unit weight (kN/m^3)	'Active' K_a	'At Rest' K_0
Sandy Soil, and Residual Clay	20	0.4	0.55
Medium Strength Sandstone	24	0.00	0.01

For rock classes refer to Pells et al "Design Loadings for Foundations on Shale and Sandstone in the Sydney Region". Australian Geomechanics Journal 1978.

It is to be noted that the earth pressures in Table 1 assume a level surface above the wall, do not account for any surcharge loads, and assume retaining walls are fully drained. Rock

strength and relevant earth pressure coefficients are to be confirmed on site by the geotechnical consultant.

All retaining walls are to have sufficient back-wall drainage and be backfilled immediately behind the wall with free-draining material (such as gravel). This material is to be wrapped in a non-woven Geotextile fabric (i.e. Bidim A34 or similar), to prevent the drainage from becoming clogged with silt and clay. If no back-wall drainage is installed in retaining walls, the likely hydrostatic pressures are to be accounted for in the structural design.

15. Foundations

A concrete slab supported directly off Medium Strength Sandstone is a suitable footing for the proposed basement and apartment block. This material is expected to be exposed across most of the base of the excavation. Where it is not exposed, and where the footprint of the proposed apartment block does not fall over the excavation, piers will be required to maintain a uniform bearing material. A maximum allowable bearing pressure of 1000kPa can be assumed for footings on Medium Strength Sandstone.

Naturally occurring vertical cracks known as joints commonly occur in sandstone. These are generally filled with soil and are the natural seepage paths through the rock. They can extend to depths of several metres and are usually relatively narrow but can range between 0.1 to 0.8m wide. If a pad footing falls over a joint in the rock, the construction process is simplified if with the approval of the structural engineer the joint can be spanned or, alternatively, the footing can be repositioned so it does not fall over the joint.

NOTE: If the contractor is unsure of the footing material required, it is more cost effective to get the geotechnical consultant on site at the start of the footing excavation to advise on footing depth and material. This mostly prevents unnecessary over excavation in clay like shaly rock but can be valuable in all types of geology.

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16. Inspections

The client and builder are to familiarise themselves with the following required inspections as well as council geotechnical policy. We cannot provide geotechnical certification for the owner or the regulating authorities if the following inspections have not been carried out during the construction process.

- During the excavation process, the geotechnical consultant is to inspect the cut faces as they are lowered in 1.5m intervals to ensure ground materials are as expected and that there are no wedges or other defects present in the rock that may require additional support.

- All footings are to be inspected and approved by the geotechnical consultant while the excavation equipment is still onsite and before steel reinforcing is placed or concrete is poured.

White Geotechnical Group Pty Ltd.



Ben White M.Sc. Geol.,
AusIMM., CP GEOL.
No. 222757
Engineering Geologist

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Photo 1



Photo 2

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Photo 3



Photo 4

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Photo 5 – AH1

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Important Information about Your Report

It should be noted that Geotechnical Reports are documents that build a picture of the subsurface conditions from the observation of surface features and testing carried out at specific points on the site. The spacing and location of the test points can be limited by the location of existing structures on the site or by budget and time constraints of the client. Additionally, the test themselves, although chosen for their suitability for the particular project, have their own limiting factors. The testing gives accurate information at the location of the test, within the confines of the test's capability. A geological interpretation or model is developed by joining these test points using all available data and drawing on previous experience of the geotechnical consultant. Even the most experienced practitioners cannot determine every possible feature or change that may lie below the earth. All of the subsurface features can only be known when they are revealed by excavation. As such, a Geotechnical report can be considered an interpretive document. It is based on factual data but also on opinion and judgement that comes with a level of uncertainty. This information is provided to help explain the nature and limitations of your report.

With this in mind, the following points are to be noted:

- If upon the commencement of the works the subsurface ground or ground water conditions prove different from those described in this report, it is advisable to contact White Geotechnical Group immediately, as problems relating to the ground works phase of construction are far easier and less costly to overcome if they are addressed early.

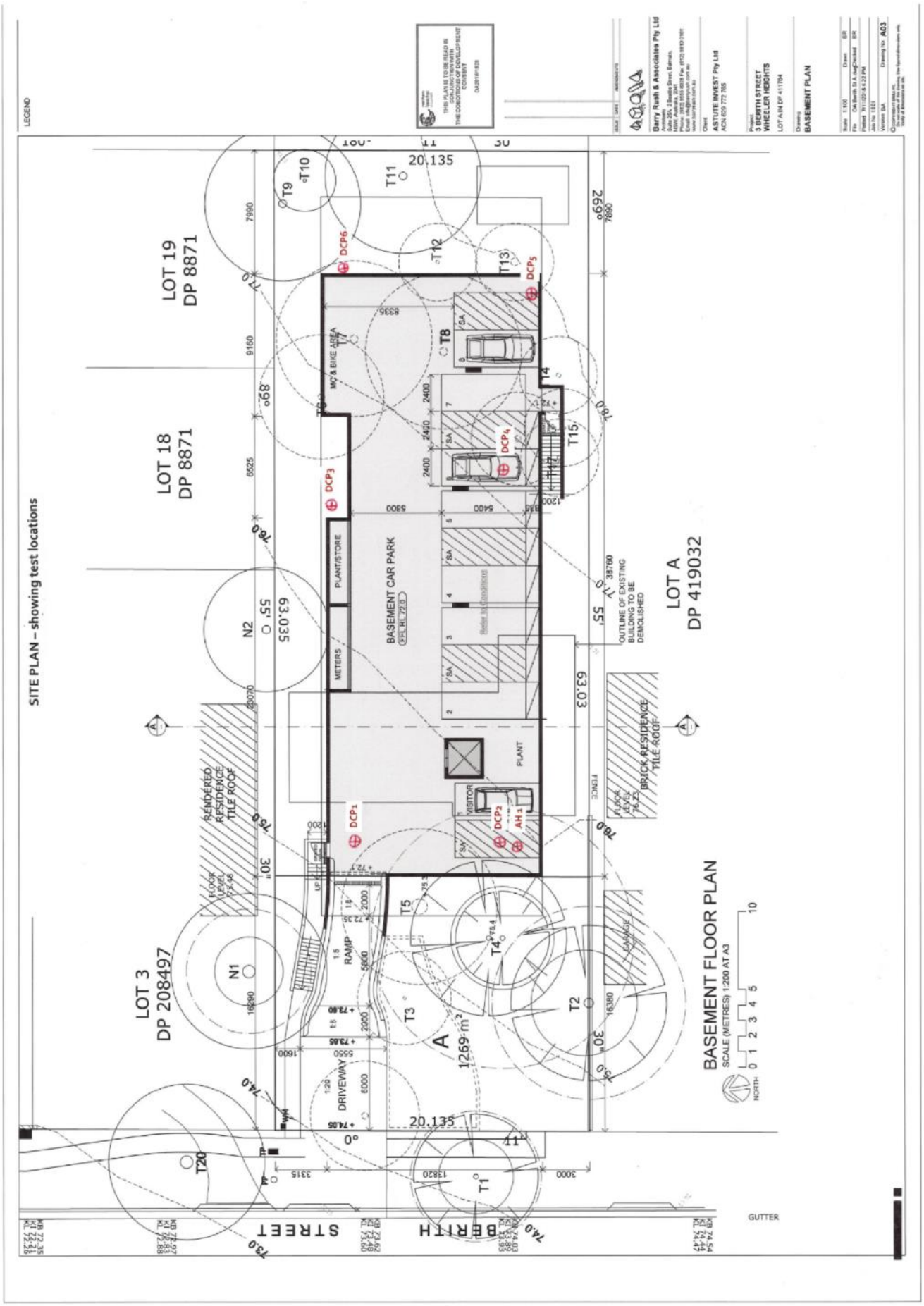
- If this report is used by other professionals during the design or construction process, any questions should be directed to White Geotechnical Group as only we understand the full methodology behind the report's conclusions.

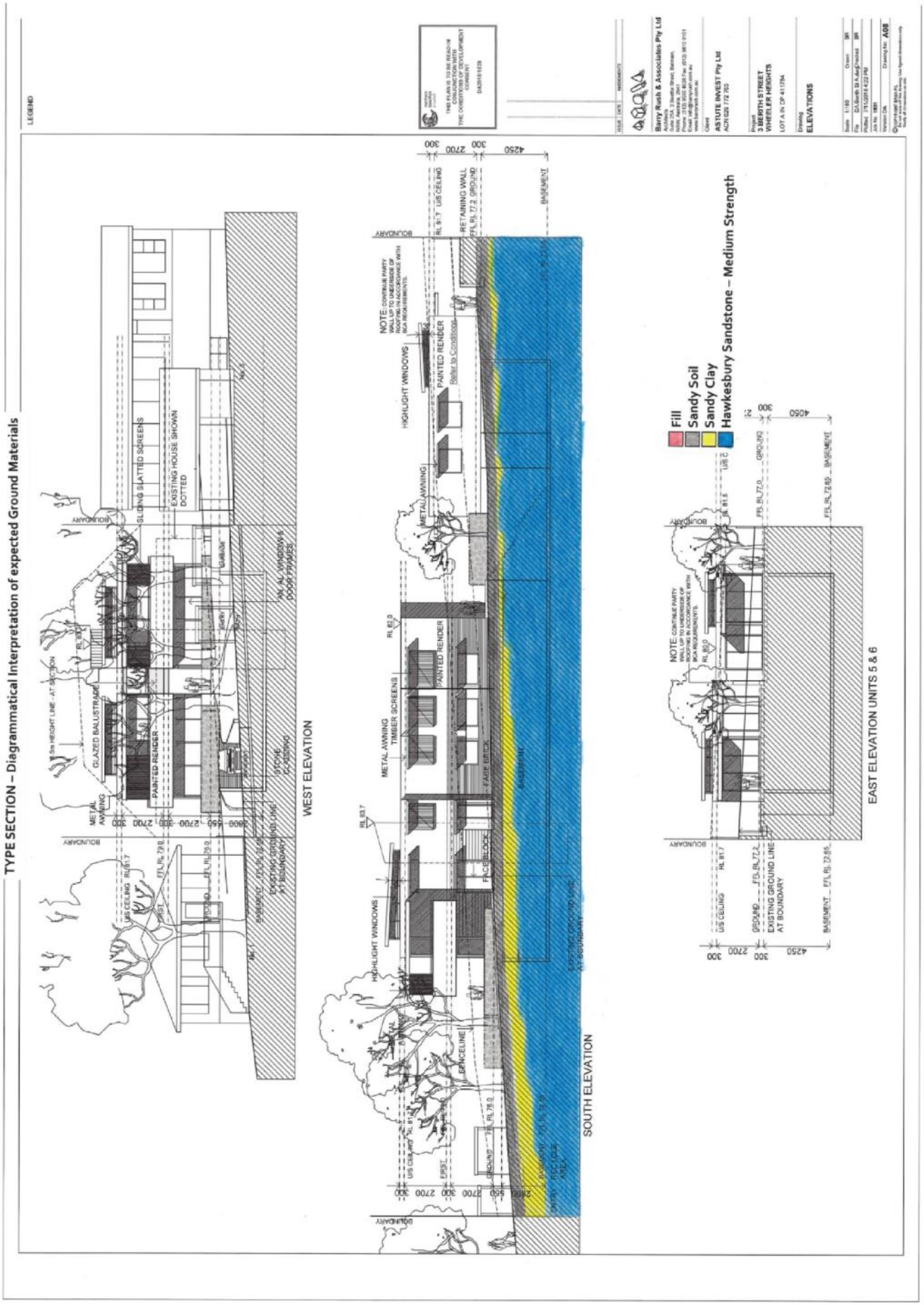
- The report addresses issues relating to your specific design and site. If the proposed project design changes, aspects of the report may no longer apply. Contact White Geotechnical if this occurs.

- This report should not be applied to any other project other than that outlined in section 1.0.

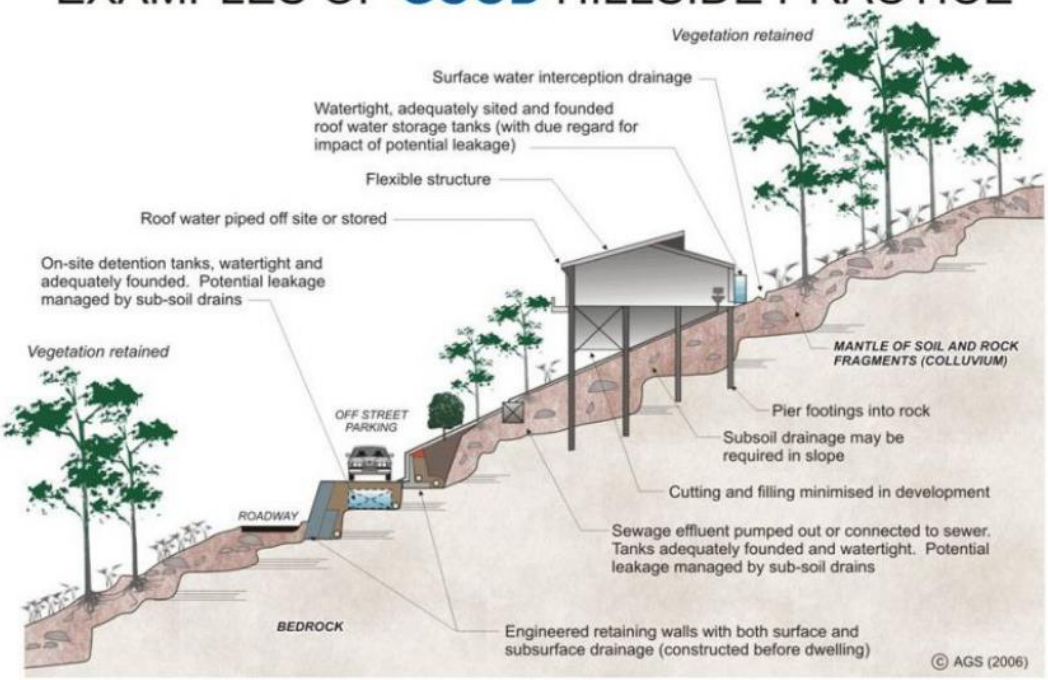
- This report is to be read in full and should not have sections removed or included in other documents as this can result in misinterpretation of the data by others.

- It is common for the design and construction process to be adapted as it progresses (sometimes to suit the previous experience of the contractors involved). If alternative design and construction processes are required to those described in this report, contact White Geotechnical Group. We are familiar with a variety of techniques to reduce risk and can advise if your proposed methods are suitable for the site conditions.

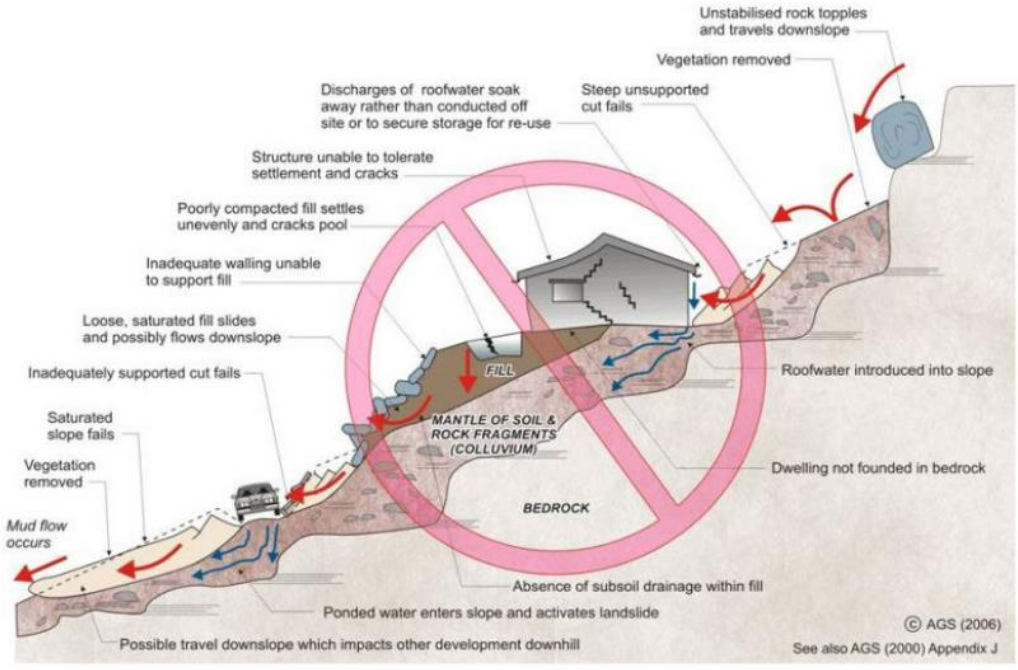

SITE PLAN – showing test locations
BASEMENT FLOOR PLAN
SCALE (METRES) 1:200 AT A3
LOT 19 DP 8871
LOT 18 DP 8871
LOT 3 DP 208497
LOT A DP 419032
BASEMENT CAR PARK
RAMP
DRIVEWAY
PLANT/STORE
METERS
PLANT
VISITOR
OUTLINE OF EXISTING BUILDING TO BE DEMOLISHED
RENDERED RESIDENCE TILE ROOF
BRICK RESIDENCE TILE ROOF
GARAGE
FENCE
GUTTER
STREET
BERITH
20.135
63.03
DCP1
DCP2
DCP3
DCP4
DCP5
DCP6
AH 1
T1
T2
T3
T4
T5
T8
T10
T11
T12
T13
T15
T20
N1
N2
A
1269 m²
Barry Rush & Associates Pty Ltd
ASTUTE INVEST Pty Ltd
3 BERITH STREET
WHEELER HEIGHTS
BASEMENT PLAN


TYPE SECTION – Diagrammatical Interpretation of expected Ground Materials
Fill
Sandy Soil
Sandy Clay
Hawkesbury Sandstone – Medium Strength
WEST ELEVATION
SOUTH ELEVATION
EAST ELEVATION UNITS 5 & 6
LEGEND
Barry Rush & Associates Pty Ltd
ASTUTE INVEST Pty Ltd
3 BERITH STREET
WHEELER HEIGHTS
ELEVATIONS

EXAMPLES OF GOOD HILLSIDE PRACTICE



EXAMPLES OF POOR HILLSIDE PRACTICE



Date: 13 December 2019
Ref: 32859YFlet

Northern Beaches Council
125 Pittwater Road
DEE WHY NSW 2099

Attention: Anne-Marie Young
Email: Anne-Marie.Young@northernbeaches.nsw.gov.au

GEOTECHNICAL PEER REVIEW
PROPOSED RESIDENTIAL DEVELOPMENT
3 BERITH STREET, WHEELER HEIGHTS, NSW

1 INTRODUCTION

We have been requested to carry out a peer review of a geotechnical report prepared by White Geotechnical Group, Ref: J2436, dated 17 October 2019 for the proposed residential development at 3 Berith Street, Wheeler Heights, NSW.

We have also been provided with the following documents to assist with our peer review:

- Architectural Drawings prepared by Barry Rush& Associates Pty Ltd, Job No. 1801, Dwg. A01 to A12, Version DA dated 7 November 2018.
- Survey Plan prepared by Donovan Associates, Job Ref: 1297/147760 dated 16 May 2017.

From the provided documents above, we understand that it is proposed to demolish the existing site structures and construct a two storey residential development over one basement level. The basement level has a proposed Finished Floor Level (FFL) of RL72.0m resulting in excavations of approximately 3.0m in the north-west corner and 6.2m in the south-east corner of the subject site, although some locally deeper excavations will occur, such as for the lift pit. This is based upon an estimated Bulk Excavation Level (BEL) of RL71.8m which allows for the assumed drainage blanket and basement slab. We note the Elevations drawing from the architectural drawings specify a basement FFL of RL72.65m however we have adopted the deeper level shown on the Basement Plan for the purposes of this review. The proposed basement will be setback from the common boundaries by approximately 3.3m, 7.9m, 3.0m and 16.3m from the northern, eastern, southern and western boundaries, respectively.

2 REPORT REVIEW

The following summaries our comments from our peer review of the geotechnical report prepared by White Geotechnical Group.

Section 1 – Proposed Development

1. The maximum excavation depth stated in the report is incorrect. The proposed maximum excavation depth is 6.2m, i.e. the stated depth is underestimated by approximately 1.5m.
2. No comment is made regarding the setback of the proposed basement from the common boundaries.

Section 4 – Subsurface Investigation

1. We consider the upper soil layer logged as 'Top Soil' encountered at 0m to 0.5m depth should be logged as 'Fill' given it has been placed by anthropogenic process (by man) as defined by the Australian Standard 1726:2017, *'Geotechnical Site Investigations'*.
2. The soils appear to have not been logged in accordance with the AS1726:2017 given the omission of the plasticity, moisture condition and strength of the Sandy Clay soil which was encountered at 0.5m to 1.0m depth.
3. We note that no borehole log was provided with the geotechnical report, only a summary within the report text.

Section 8 – Geotechnical Hazards and Risk Analysis

1. The geotechnical hazard assessment should consider the natural hillside above, on and below the site and carry out a risk assessment, this includes all existing retaining walls. Notwithstanding, based on our assessment we consider the likelihood of natural hillside instability to be 'Barely Credible' and therefore the level of risk would be considered 'Acceptable' to property and life which is perhaps why it was omitted from the report. In addition, due to the limited height of the retaining walls, the risk posed by these walls is similarly considered acceptable.
2. No details are provided on how the value for 'Risk to Life' was calculated, such as vulnerability, temporal spatial probability values, etc, and therefore it is difficult to review the provided value. Notwithstanding, we agree that the level of risk is 'Unacceptable' during the construction phase and therefore recommendations contained in the report must be executed.
3. Reference should be made to the attached Tables 1 and 2 for our risk analysis of the subject site.

Section 11 - Excavations

1. The recommendations provided are based upon an incorrect maximum excavation depth of 4.7m which should be 6.2m. However, despite this, we consider the comments generally acceptable.
2. The report states the bedrock will be 'Medium Strength' however provides no justification for this statement. Given the limited subsurface investigation carried out, there is no information supplied on the bedrock strength. We assume it is either based on past experience or local observations of sandstone exposures. Notwithstanding, based upon our site observations made as part of this review, sandstone bedrock of at least medium strength was observed at 44 Rose Avenue (about

150m north) and also 4 Ettalong Street (about 300m south-east), and therefore we consider this a reasonable assumption.

Section 12 - Vibrations

1. The report states 'Excavation methods are to be used that limit peak particle velocity to 10mm/sec at the common boundaries'. Whilst we consider this a widely used general rule of thumb, the safe peak particle velocity is directly related to the frequency, and therefore a limit peak particle velocity as low as 5mm/sec may apply if frequencies are less than 10Hz. This is addressed further in Section 3 below.
2. We do not agree with the comment "Alternatively, if rock sawing is carried out around the perimeter of the excavation boundaries in not less than 1.0m lifts, a rock hammer up to 300kg could be used to break the rock without vibration monitoring". From our experience, saw cuts around the perimeter do very little to mitigating vibrations through the rock mass. Therefore, we recommend that vibration monitoring still be carried out.
3. Where hydraulic hammers will be used for excavation, consideration should be given to full-time vibration monitoring, if initial quantitative monitoring finds vibrations to be excessive.

Section 13 – Excavation Support Requirements

1. We do not agree with the comment "...all cut faces be supported with retaining walls to prevent any potential future movement of joint blocks in the cut faces that can occur over time". Whilst we agree that this is an option, we do not consider it compulsory given the sandstone bedrock is inferred to be self-supporting provided it is inspected by an experienced geotechnical engineer and where adverse defects are present they are identified and any potential instabilities stabilised.

Section 15 - Foundations

1. We do not understand the comment "This material [medium strength sandstone] is expected to be exposed across most of the base of the excavation". From our assessment and reference to the 'Type Section' contained in their report, the bedrock should be uniformly exposed over the entire basement footprint, unless they are also referring to excavations outside the basement.

Section 16 - Inspections

1. The requirement for vibration monitoring should also be included in the list of inspection required during construction.

3 COMMENTS AND RECOMMENDATIONS

Section 3 above details our review of the geotechnical report prepared by White Geotechnical Group. Generally, we consider the report suitable for the proposed development at the subject site, although potentially too brief in parts. We provide further comments and recommendations below that should be considered as part of the development.

Given the expected basement excavation down to 6.2m depth and the proposed vertical excavation of the sandstone bedrock, we recommend undertaking additional investigations comprising of at least 2 cored boreholes. The reasoning for this recommendation is as follows:

- The cored boreholes will confirm the depth to bedrock and assess the suitability of the sandstone bedrock to be vertically excavated. Currently the depth to bedrock is based upon preliminary subsurface information which is inferred to have refused on the top of bedrock and the quality of the bedrock based upon past experience and local observations. If it is unsuitable for unsupported vertical excavations, a full height retention system will need to be installed prior to the commencement of excavation.
- The information will prove useful for the excavation contractor to ensure the most suitable equipment is utilised to limit the impact on neighbouring properties.

We recommend that initial quantitative vibration monitoring be carried out when using hydraulic rock hammers to determine if the transmitted vibrations are within an acceptable limit for the nearby structures and services. Reference should be made to the attached Vibration Emission Design goals sheet for acceptable limits of transmitted vibrations. We note full-time vibratory monitoring may be required if transmitted vibrations are found to be excessive. Furthermore, during construction, due to the expected 'hard rock' excavation techniques (hydraulic hammers, rock saws and grinders, etc.) consideration should be given to dust suppression.

Should you require any further information regarding the above, please do not hesitate to contact the undersigned.

Yours faithfully
For and on behalf of
JK GEOTECHNICS

Owen Fraser
Senior Geotechnical Engineer

Reviewed By:

Woodie Theunissen
Principal | Geotechnical Engineer

Encl: Table A: Summary of Risk Assessment to Property
Table B: Summary of Risk Assessment to Life
Vibration Emission Design Goals
Geotechnical Report prepared by White Geotechnical Group

TABLE A

SUMMARY OF RISK ASSESSMENT TO PROPERTY

POTENTIAL HAZARD	Instability of Existing Retaining Walls	Instability of Existing Natural Hillside			Instability of Basement Excavation
		Below Site	Within Site	Above Site	
Assessed Likelihood	Unlikely	Barely Credible	Barely Credible	Barely Credible	Barely Credible
Assessed Consequence	Minor	Major	Major	Major	Medium
Risk	Low	Very Low	Very Low	Very Low	Very Low
Comments	Relatively low height retaining wall so low debris volumes which are unlikely to impact neighbouring property	Given the gentle slope and no signs of instability, landslides, if they occur are expected to be relatively small and exhibit creep behaviour.	Given the gentle slope and no signs of instability, landslides, if they occur are expected to be relatively small and exhibit creep behaviour.	Given the gentle slope and no signs of instability, landslides, if they occur are expected to be relatively small and exhibit creep behaviour.	Assumes all geotechnical recommendations followed during construction.

TABLE B

SUMMARY OF RISK ASSESSMENT TO LIFE

POTENTIAL LANDSLIDE HAZARD	Instability of Existing Retaining Walls	Instability of Existing Natural Hillside			Instability of Basement Excavation
		Below Site	Within Site	Above Site	
Assessed Likelihood	Unlikely	Barely Credible	Barely Credible	Barely Credible	Barely Credible*
Indicative Annual Probability	$1x10^{-4}$	$1x10^{-6}$	$1x10^{-6}$	$1x10^{-6}$	$1x10^{-6}$
Duration of Use of area Affected (Temporal Probability)	5.95×10^{-3} (1 hour per week)	0.04 (1 hour per day)	0.5 (12 hours per day)	0.04 (1 hour per day)	0.167 (4 hours per day)
Probability of not Evacuating Area Affected	(i) Above Wall 1 No warning Likely (ii) Below Wall 0.1 Warning likely	0.1 Warning Likely	0.9 Little warning likely	0.3 Warning likely	0.5 Some warning likely
Spatial Probability	0.5	0.25	0.5	0.25	0.1
Vulnerability to Life if Failure Occurs Whilst Person Present	(i) Above Wall 0.01 Likely to ride failure down (ii) Below Wall 0.1 Unlikely to be buried	0.01 Unlikely to be buried	0.01 Unlikely to be buried	0.01 Unlikely to be buried	0.1 May be injured but unlikely to be killed
Risk for Person most at Risk	(i) 2.975×10^{-9} (ii) 2.975×10^{-9}	$1x10^{-11}$	$2.25x10^{-9}$	$1.2x10^{-10}$	$8.35x10^{-10}$
Total Risk for Person Most at Risk	9.165×10^{-9}				

* Assumes all geotechnical recommendations followed during construction

VIBRATION EMISSION DESIGN GOALS

German Standard DIN 4150 – Part 3: 1999 provides guideline levels of vibration velocity for evaluating the effects of vibration in structures. The limits presented in this standard are generally recognised to be conservative.

The DIN 4150 values (maximum levels measured in any direction at the foundation, OR, maximum levels measured in (x) or (y) horizontal directions, in the plane of the uppermost floor), are summarised in Table 1 below.

It should be noted that peak vibration velocities higher than the minimum figures in Table 1 for low frequencies may be quite 'safe', depending on the frequency content of the vibration and the actual condition of the structure.

It should also be noted that these levels are 'safe limits', up to which no damage due to vibration effects has been observed for the particular class of building. 'Damage' is defined by DIN 4150 to include even minor non-structural effects such as superficial cracking in cement render, the enlargement of cracks already present, and the separation of partitions or intermediate walls from load bearing walls. Should damage be observed at vibration levels lower than the 'safe limits', then it may be attributed to other causes. DIN 4150 also states that when vibration levels higher than the 'safe limits' are present, it does not necessarily follow that damage will occur. Values given are only a broad guide.

Table 1: DIN 4150 – Structural Damage – Safe Limits for Building Vibration

Group	Type of Structure	Peak Vibration Velocity in mm/s			
		At Foundation Level at a Frequency of:			Plane of Floor of Uppermost Storey
		Less than 10Hz	10Hz to 50Hz	50Hz to 100Hz	All Frequencies
1	Buildings used for commercial purposes, industrial buildings and buildings of similar design.	20	20 to 40	40 to 50	40
2	Dwellings and buildings of similar design and/or use.	5	5 to 15	15 to 20	15
3	Structures that because of their particular sensitivity to vibration, do not correspond to those listed in Group 1 and 2 and have intrinsic value (eg. buildings that are under a preservation order).	3	3 to 8	8 to 10	8

Note: For frequencies above 100Hz, the higher values in the 50Hz to 100Hz column should be used.

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J2436.
17th October, 2019.
Page 1.

GEOTECHNICAL INVESTIGATION:

New Apartment Block and Basement Carpark at **3 Berith Street, Wheeler Heights**

1. Proposed Development

1.1 Demolish the existing house and construct a new two-storey apartment block and basement car park by excavating to a maximum depth of 4.7m.

1.2 Details of the proposed development are shown on 7 drawings prepared by Barry Rush and Associates, job number 1801, drawings numbered A03, A05, A06-9 and A011 all dated 7/11/18.

2. Site Description

2.1 The site was inspected on the 17th October, 2019.

2.2 This residential property is on the high side of the road and has an NW aspect. The block is located on the gently graded upper reaches of a hillslope. The slope falls across the site at an average angle of ~3°. The slope above and below the property continue at similar angles.

2.3 A concrete driveway and lawn run from the road frontage to the foot of the house (Photo 1). The part two storey brick house is supported on brick walls. The walls show no visible signs of movement and are considered stable. This house is to be demolished as part of the proposed works and a new two storey apartment block constructed. A concrete path runs along the N common boundary providing access to the rear of the house. A partially in ground pool is located upslope of the house with the fill used to level the area supported by a 0.8m high brick retaining wall in good condition (Photo 2). A gently sloping lawn extends upslope of the pool to the rear common boundary (Photo 3). A timber shed is located along this boundary (Photo 4).

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3. Geology

The Sydney 1:100 000 Geological sheet indicates the site is underlain by Hawkesbury Sandstone. It is described as a medium to coarse grained quartz sandstone with very minor shale and laminite lenses.

4. Subsurface Investigation

One auger hole was put down to identify soil materials. Six Dynamic Cone Penetrometer (DCP) tests were put down to determine the relative density of the overlying soil and the depth to bedrock. The locations of the tests are shown on the site plan. It should be noted that a level of caution should be applied when interpreting DCP test results. The test will not pass through hard buried objects so in some instances it can be difficult to determine whether refusal has occurred on an obstruction in the profile or on the natural rock surface. This is not expected to be an issue for the testing on this site and the results are as follows:

AUGER HOLE 1 (~RL76.0) – AH1 (Photo 5)

Depth (m)	Material Encountered
0.0 to 0.5	**TOP SOIL**, sandy soil, dark brown medium grained with trace organic matter.
0.5 to 1.0	**SANDY CLAY**, brown, medium to coarse grained with rock fragments.

Refusal @ 1.0m in rock fragments. No watertable encountered.

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DCP TEST RESULTS – Dynamic Cone Penetrometer						
Equipment: 9kg hammer, 510mm drop, conical tip.					Standard: AS1289.6.3.2 - 1997	
Depth(m) Blows/0.3m	**DCP 1** (~RL75.0)	**DCP 2** (~RL75.8)	**DCP 3** (~RL76.4)	**DCP 4** (~RL77.0)	**DCP 5** (~RL78.0)	**DCP 6** (~RL77.4)
0.0 to 0.3	8	7	10	2	10	6
0.3 to 0.6	7	11	10	7	30	8
0.6 to 0.9	7	8	9	10	5	#
0.9 to 1.2	31	21	14	#	#	
1.2 to 1.5	14	22	8			
1.5 to 1.8	#	#	#			
	Refusal on rock @ 1.4m	Refusal on rock @ 1.5m	Refusal on rock @ 1.5m	Refusal on rock @ 0.8m	Refusal on rock @ 0.6m	Refusal on rock @ 0.6m

#refusal/end of test. F = DCP fell after being struck showing little resistance through all or part of the interval.

DCP Notes:

DCP1 – Refusal on rock @ 1.4m, DCP bouncing off rock surface, maroon dust on wet tip
DCP2 - Refusal on rock @ 1.5m, DCP bouncing off rock surface, maroon dust on wet tip
DCP3 – Refusal on rock @ 1.5m, DCP bouncing off rock surface, white fragments on wet tip.
DCP4 – Refusal on rock @ 0.8m, DCP bouncing off rock surface, white dust on dry tip.
DCP5 – Refusal on rock @ 0.6m, DCP bouncing off rock surface, muddy tip.
DCP6 – Refusal on rock @ 0.6m, DCP bouncing off rock surface, muddy tip.

5. Geological Observations/Interpretation

The surface features of the block are controlled by the underlying sandstone bedrock that steps down the property forming sub-horizontal benches between the steps. Where the grade is steeper, the steps are larger, and the benches narrower. Where the slope eases, the opposite is true. Where the rock is not exposed, it is overlain by natural sandy soils and firm to stiff sandy clays that fill the bench step formation. In the test locations rock was encountered at depths of between 0.6 to 1.5m below the current surface. See Type Section attached for a diagrammatical representation of the expected ground materials.

6. Groundwater

Normal ground water seepage is expected to move over the buried surface of the rock and through the cracks.

Due to the slope and elevation of the block, the water table is expected to be many metres below the base of the proposed excavations.

7. Surface Water

No evidence of significant surface flows were observed on the property during the inspection. Normal sheet wash from the slope above is expected to flow over the site.

8. Geotechnical Hazards and Risk Analysis

No geotechnical hazards were observed above, below or beside the property. The vibrations from the proposed excavations are a potential hazard (**Hazard One**). The proposed excavation is a potential hazard until retaining walls are in place (**Hazard Two**).

Risk Analysis Summary on the Next Page

Risk Analysis Summary

HAZARDS	Hazard One	Hazard Two
TYPE	The vibrations produced during the proposed excavations impacting on the supporting walls of the neighbouring houses.	The proposed excavation collapsing onto the work site before retaining walls are in place.
LIKELIHOOD	'Possible' (10^{-3})	'Possible' (10^{-3})
CONSEQUENCES TO PROPERTY	'Medium' (15%)	'Medium' (15%)
RISK TO PROPERTY	'Moderate' (2×10^{-4})	'Moderate' (2×10^{-4})
RISK TO LIFE	5.3×10^{-7}/annum	8.9×10^{-6}/annum
COMMENTS	This level of risk to property is '**UNACCEPTABLE**'. To move risk to 'ACCEPTABLE' levels the recommendations in **Section 12** are to be followed.	This level of risk to life and property is '**UNACCEPTABLE**'. To move the risk to 'ACCEPTABLE' levels the recommendations in **Section 13** are to be followed.

(See Aust. Geomech. Jnl. Mar 2007 Vol. 42 No 1, for full explanation of terms)

9. Suitability of the Proposed Development for the Site

The proposed development is suitable for the site. No geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of this report and good engineering and building practice.

10. Stormwater

The fall is to the street. Roof water from the proposed development is to be piped to the street drainage system through any tanks that may be required by the regulating authorities.

11. Excavations

An excavation to a maximum depth of ~4.7m is required to construct the basement level of the proposed apartment block. The excavation is expected to be through sandy soil and sandy clay over Medium Strength Sandstone. Sandstone is expected to be encountered on the

downhill side of the block at 1.5m and on the uphill side at 0.6m below the existing ground level.

It is envisaged that excavations through sandy soil and sandy clays can be carried out with a bucket and excavations through rock will require grinding or rock sawing and breaking.

12. Vibrations

Possible vibrations generated during excavations through sandy soil, and sandy clays will be below the threshold limit for building damage. The majority of the proposed excavations are expected to be through Medium Strength Sandstone.

Excavations through Medium Strength Sandstone or better should be carried out to minimise the potential to cause vibration damage to the neighbouring houses. The supporting walls of the neighbouring house to the N will be as close as ~4.0m and the supporting walls of the neighbouring house to the S will be as close as ~3.5m from the edges of the proposed excavations. Close controls by the contractor over rock excavation are recommended so excessive vibrations are not generated.

Excavation methods are to be used that limit peak particle velocity to 10mm/sec at the common boundaries. Vibration monitoring will be required to verify this is achieved.

If a milling head is used to grind the rock, vibration monitoring will not be required. Alternatively, if rock sawing is carried out around the perimeter of the excavation boundaries in not less than 1.0m lifts, a rock hammer up to 300kg could be used to break the rock without vibration monitoring. Peak particle velocity will be less than 10mm/sec at the common boundaries using this method provided the saw cuts are kept well below the rock to broken.

It is worth noting that vibrations that are below thresholds for building damage may be felt by the occupants of the neighbouring houses.

13. Excavation Support Requirements

No structures or boundaries will be within the zone of influence of any excavations. In this instance, the zone of influence is the area above a theoretical 30° line through soil, and a 45° line through clay from the top of Medium Strength Sandstone towards the surrounding structures and boundaries.

The proposed excavation reach a maximum depth of ~4.7m along the boundaries but will taper away slightly in height downslope. The excavation will be taken through a maximum of ~1.5m of soil and clay over Medium Strength Sandstone.

The excavation through soil and clay is to be scraped back from the excavation line at least 0.5m and battered at 1.0 Vertical to 1.7 Horizontal (30°) prior to the excavation through rock commencing. Alternatively, the soil and clay is to be temporarily or permanently supported before excavation through rock commences. The temporary or permanent support is to be designed by the structural engineer in consultation with the geotechnical consultant. Excavations through Medium Strength Sandstone or better will stand at vertical angles unsupported subject to approval by the geotechnical consultant.

Upslope runoff is to be diverted from the cut faces by sandbag mounds or other diversion works. Unsupported cut batters through soil and clay are to be covered to prevent access of water in wet weather and loss of moisture in dry weather. The covers are to be tied down with metal pegs or other suitable fixtures so they can't blow off in a storm. The materials and labour to construct the retaining structures are to be organised so on completion of the excavations they can be constructed as soon as possible. The excavations are to be carried out during a dry period. No excavations are to commence if heavy or prolonged rainfall is forecast.

During the excavation process, the geotechnical consultant is to inspect the cut faces in 1.5m intervals as they are lowered or after encountering softer sections of rock, while the machine is on site to ensure the ground materials are as expected and no wedges or other geological

defects are present that could require additional support. Should any weak sections of rock be encountered, works are to stop until temporary or permanent support is installed. This is likely to be rock anchors, bolts, sprayed concrete, or similar support specified by the Geotechnical Consultant and designed by the structural engineer.

Upon completion of the excavations, it is recommended all cut faces be supported with retaining walls to prevent any potential future movement of joint blocks in the cut faces that can occur over time, when unfavourable jointing is obscured behind the excavation faces. Additionally, retaining walls will help control seepage and to prevent minor erosion and sediment movement.

Excavation spoil can be used as filing on site provided it is supported by retaining walls. Alternatively it is to be removed from the site following the NSW Environmental Protection Agency (EPA) Waste Classification Guidelines.

14. Retaining Walls

For cantilever or singly-propped retaining walls, it is suggested the design be based on a triangular pressure distribution of lateral pressures using the parameters shown in Table 1.

Table 1 – Likely Earth Pressures for Retaining Walls

Unit	Earth Pressure Coefficients		
	Unit weight (kN/m^3)	'Active' K_a	'At Rest' K_0
Sandy Soil, and Residual Clay	20	0.4	0.55
Medium Strength Sandstone	24	0.00	0.01

For rock classes refer to Pells et al "Design Loadings for Foundations on Shale and Sandstone in the Sydney Region". Australian Geomechanics Journal 1978.

It is to be noted that the earth pressures in Table 1 assume a level surface above the wall, do not account for any surcharge loads, and assume retaining walls are fully drained. Rock

strength and relevant earth pressure coefficients are to be confirmed on site by the geotechnical consultant.

All retaining walls are to have sufficient back-wall drainage and be backfilled immediately behind the wall with free-draining material (such as gravel). This material is to be wrapped in a non-woven Geotextile fabric (i.e. Bidim A34 or similar), to prevent the drainage from becoming clogged with silt and clay. If no back-wall drainage is installed in retaining walls, the likely hydrostatic pressures are to be accounted for in the structural design.

15. Foundations

A concrete slab supported directly off Medium Strength Sandstone is a suitable footing for the proposed basement and apartment block. This material is expected to be exposed across most of the base of the excavation. Where it is not exposed, and where the footprint of the proposed apartment block does not fall over the excavation, piers will be required to maintain a uniform bearing material. A maximum allowable bearing pressure of 1000kPa can be assumed for footings on Medium Strength Sandstone.

Naturally occurring vertical cracks known as joints commonly occur in sandstone. These are generally filled with soil and are the natural seepage paths through the rock. They can extend to depths of several metres and are usually relatively narrow but can range between 0.1 to 0.8m wide. If a pad footing falls over a joint in the rock, the construction process is simplified if with the approval of the structural engineer the joint can be spanned or, alternatively, the footing can be repositioned so it does not fall over the joint.

NOTE: If the contractor is unsure of the footing material required, it is more cost effective to get the geotechnical consultant on site at the start of the footing excavation to advise on footing depth and material. This mostly prevents unnecessary over excavation in clay like shaly rock but can be valuable in all types of geology.

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16. Inspections

The client and builder are to familiarise themselves with the following required inspections as well as council geotechnical policy. We cannot provide geotechnical certification for the owner or the regulating authorities if the following inspections have not been carried out during the construction process.

- During the excavation process, the geotechnical consultant is to inspect the cut faces as they are lowered in 1.5m intervals to ensure ground materials are as expected and that there are no wedges or other defects present in the rock that may require additional support.

- All footings are to be inspected and approved by the geotechnical consultant while the excavation equipment is still onsite and before steel reinforcing is placed or concrete is poured.

White Geotechnical Group Pty Ltd.



Ben White M.Sc. Geol.,
AusIMM., CP GEOL.
No. 222757
Engineering Geologist



Photo 1



Photo 2



Photo 3



Photo 4

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Photo 5 – AH1

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Important Information about Your Report

It should be noted that Geotechnical Reports are documents that build a picture of the subsurface conditions from the observation of surface features and testing carried out at specific points on the site. The spacing and location of the test points can be limited by the location of existing structures on the site or by budget and time constraints of the client. Additionally, the test themselves, although chosen for their suitability for the particular project, have their own limiting factors. The testing gives accurate information at the location of the test, within the confines of the test's capability. A geological interpretation or model is developed by joining these test points using all available data and drawing on previous experience of the geotechnical consultant. Even the most experienced practitioners cannot determine every possible feature or change that may lie below the earth. All of the subsurface features can only be known when they are revealed by excavation. As such, a Geotechnical report can be considered an interpretive document. It is based on factual data but also on opinion and judgement that comes with a level of uncertainty. This information is provided to help explain the nature and limitations of your report.

With this in mind, the following points are to be noted:

- If upon the commencement of the works the subsurface ground or ground water conditions prove different from those described in this report, it is advisable to contact White Geotechnical Group immediately, as problems relating to the ground works phase of construction are far easier and less costly to overcome if they are addressed early.

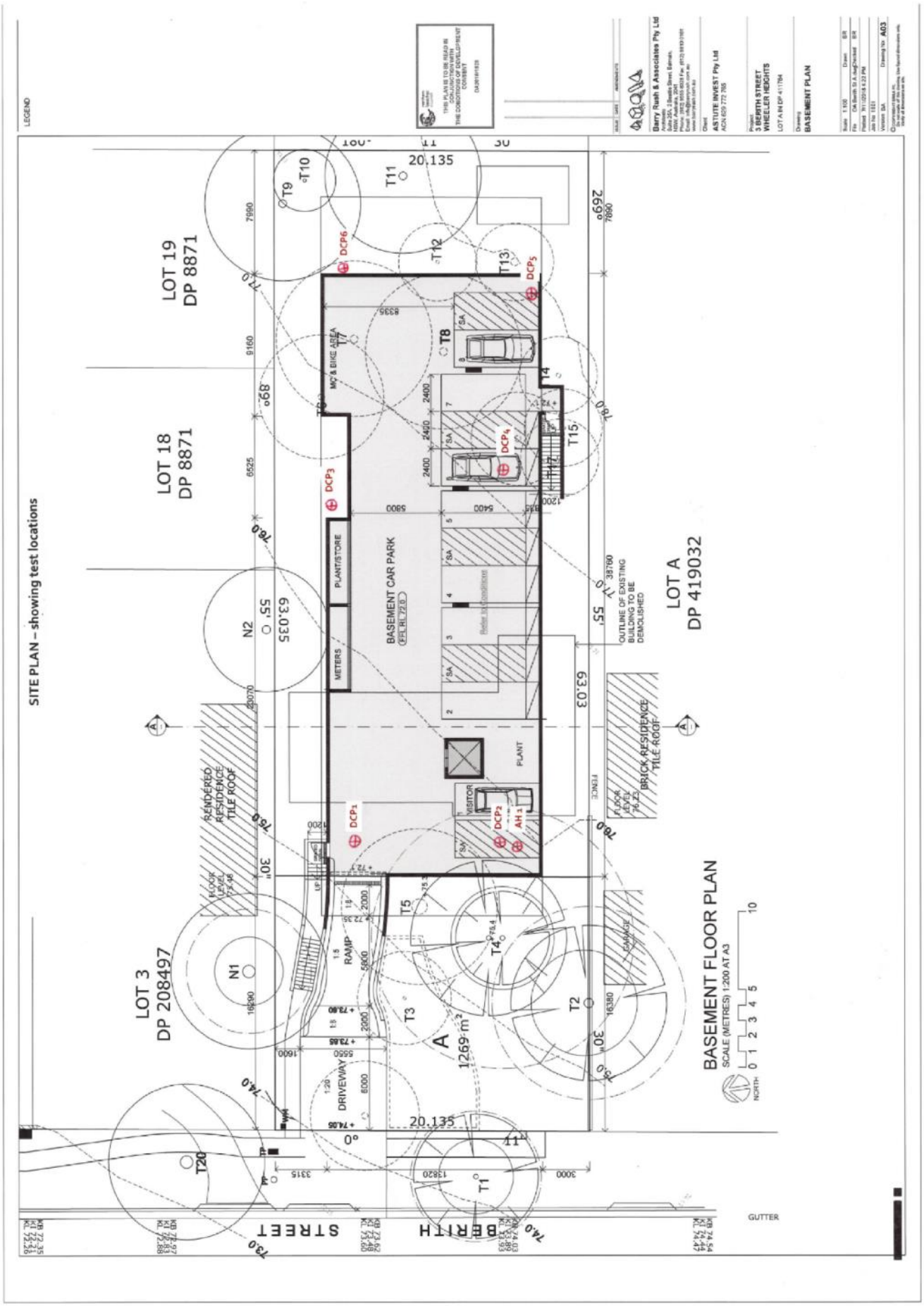
- If this report is used by other professionals during the design or construction process, any questions should be directed to White Geotechnical Group as only we understand the full methodology behind the report's conclusions.

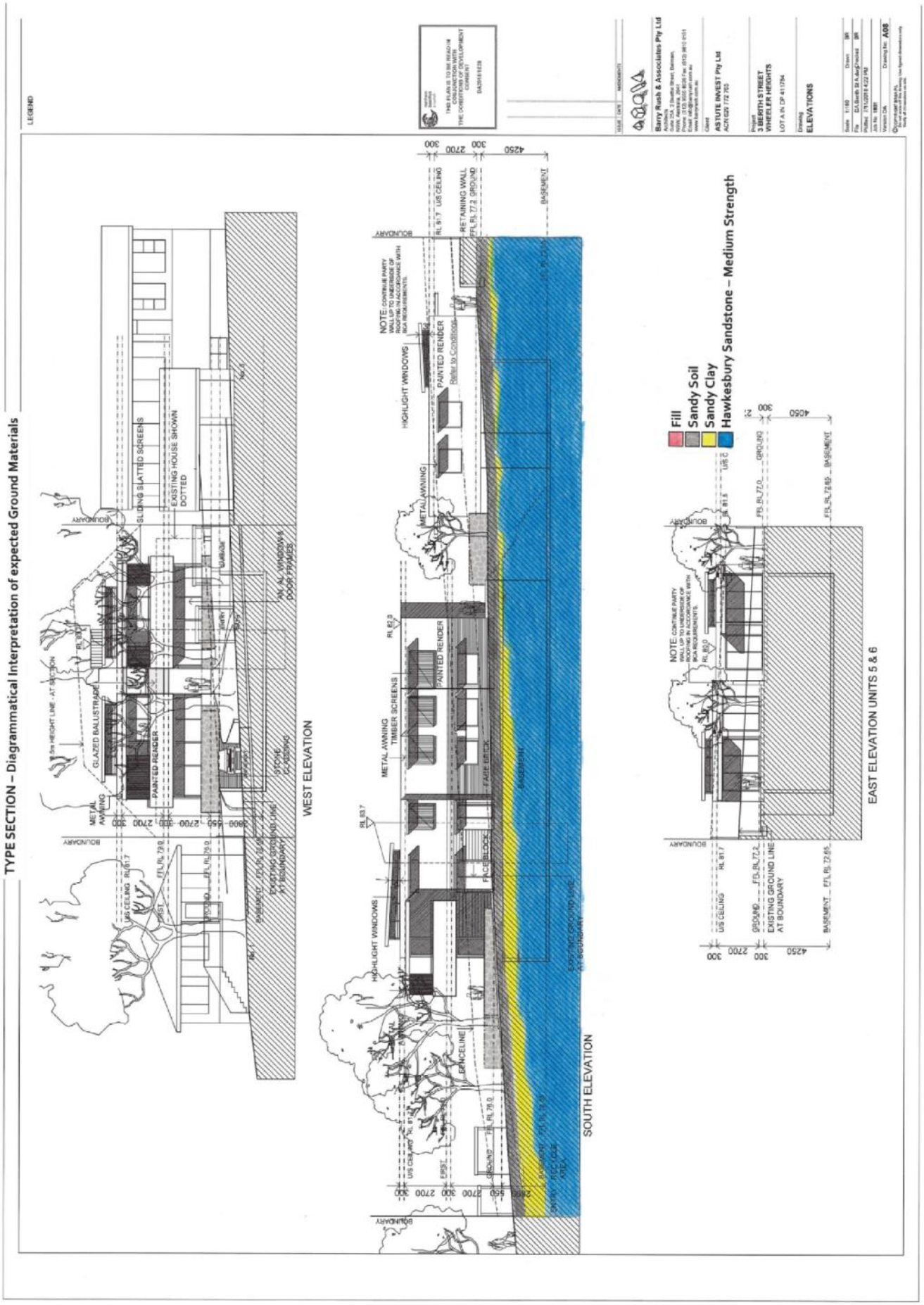
- The report addresses issues relating to your specific design and site. If the proposed project design changes, aspects of the report may no longer apply. Contact White Geotechnical if this occurs.

- This report should not be applied to any other project other than that outlined in section 1.0.

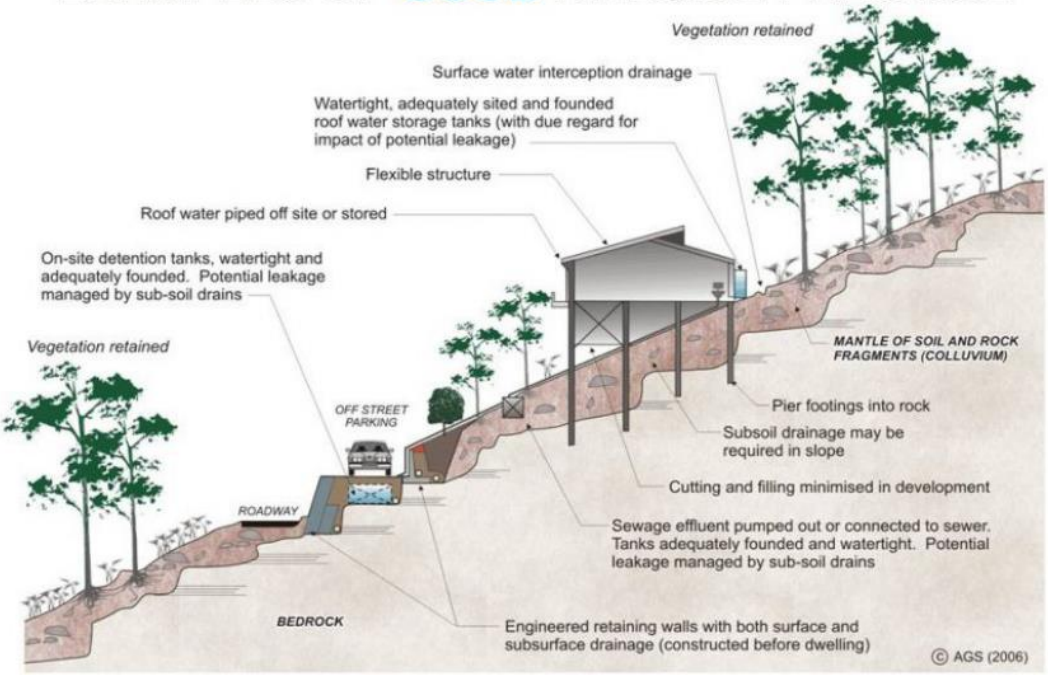
- This report is to be read in full and should not have sections removed or included in other documents as this can result in misinterpretation of the data by others.

- It is common for the design and construction process to be adapted as it progresses (sometimes to suit the previous experience of the contractors involved). If alternative design and construction processes are required to those described in this report, contact White Geotechnical Group. We are familiar with a variety of techniques to reduce risk and can advise if your proposed methods are suitable for the site conditions.

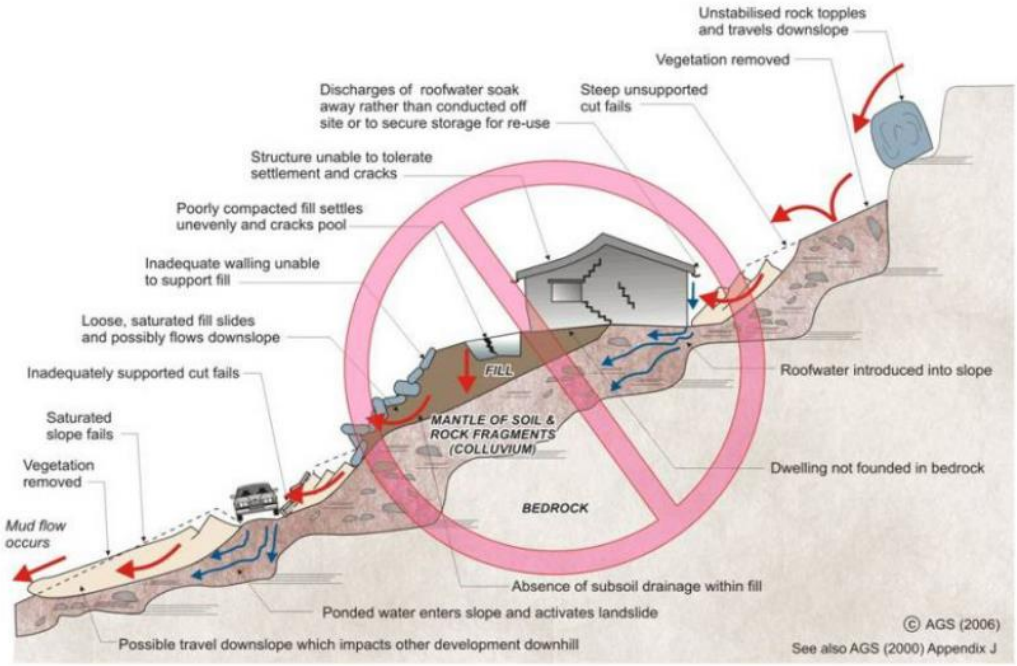

SITE PLAN – showing test locations
BASEMENT FLOOR PLAN
SCALE (METRES) 1:200 AT A3
LOT 19 DP 8871
LOT 18 DP 8871
LOT 3 DP 208497
LOT A DP 419032
BASEMENT CAR PARK
PLANT/STORE
METERS
PLANT
VISITOR
RAMP
DRIVEWAY
GARAGE
FENCE
RENDERED RESIDENCE TILE ROOF
BRICK RESIDENCE TILE ROOF
OUTLINE OF EXISTING BUILDING TO BE DEMOLISHED
MC'S & BIKE AREA
DCP1
DCP2
DCP3
DCP4
DCP5
DCP6
AH 1
20.135
63.03
269°
89°
30°
A
1269 m²
STREET
BERITH
GUTTER
NORTH


TYPE SECTION – Diagrammatical Interpretation of expected Ground Materials
Fill
Sandy Soil
Sandy Clay
Hawkesbury Sandstone – Medium Strength
WEST ELEVATION
SOUTH ELEVATION
EAST ELEVATION UNITS 5 & 6
LEGEND
Barry Rush & Associates Pty Ltd
Client
ASTUTE INVEST Pty Ltd
ACN 629 772 763
Project
3 BEDITH STREET
WHEELER HEIGHTS
LOT A IN DP 411794
Drawing
ELEVATIONS

EXAMPLES OF GOOD HILLSIDE PRACTICE



EXAMPLES OF POOR HILLSIDE PRACTICE



REPORT TO

MELISSA ZHOU

ON

GEOTECHNICAL INVESTIGATION

FOR

PROPOSED RESIDENTIAL DEVELOPMENT

AT

3 BERITH STREET, WHEELER HEIGHTS, NSW

Date: 20 January 2020
Ref: 32859SFrpt

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DOCUMENT REVISION RECORD

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ATTACHMENTS

STS Table A: Point Load Strength Index Test Report
Borehole Logs 101 to 102 Inclusive (With Core Photographs)
Dynamic Cone Penetration Test Results
Figure 1: Site Location Plan
Figure 2: Borehole Location Plan
Vibration Emission Design Goals
Report Explanation Notes

1 INTRODUCTION

This report presents the results of a geotechnical investigation for a proposed residential development at 3 Berith Street, Wheeler Heights, NSW. The investigation was commissioned by Mr Barry Rush of Barry Rush & Associates Pty Ltd on behalf of Ms Melissa Zhou (client) by email dated 3 January 2020. The investigation was carried out in accordance with our proposal, Ref: P50954YF, dated 2 January 2020. The location of the site is shown in Figure 1.

We were supplied with the following relevant documents:

- Architectural drawings by Barry Rush & Associates Pty Ltd (Job No. 1715, Version DA, dated 7 November 2018);
- Landscape plan by Greenland Design (Ref.: 3 Berith Street, Wheeler Heights, NSW, Issue A, Drawing No. 1921.GD.01 to 02, dated September 2018);
- Survey plan by Donovan & Associates (Ref.: 1297/147760, survey dated 16 may 2017).
- Geotechnical Investigation report prepared by White Geotechnical Group (WGG), Ref: J2436, dated 17 October 2019.
- Reference should also be made to our previous geotechnical letter, Ref: 32859YFlet, dated 13 December 2019 which contains our peer review of the report by WGG and also our slope risk assessment for the site.

From the provided documents above, we understand that it is proposed to demolish the existing site structures and construct a two storey residential development over one basement level. The basement level has a proposed Finished Floor Level (FFL) of RL72.0m resulting in excavations of approximately 3.0m in the north-west corner and 6.2m in the south-east corner of the subject site, although some locally deeper excavations will occur, such as for the lift pit. This is based upon an estimated Bulk Excavation Level (BEL) of RL71.8m which allows for the assumed drainage blanket and basement slab. We note the Elevations drawing from the architectural drawings specify a basement FFL of RL72.65m however we have adopted the deeper level shown on the Basement Plan for the purposes of this report. The proposed basement will be set back from the common boundaries by approximately 3.3m, 7.9m, 3.0m and 16.3m from the northern, eastern, southern and western boundaries, respectively.

The purpose of the investigation was to obtain geotechnical information on subsurface conditions and to use this as a basis for comments and recommendations on excavation conditions, retention systems, hydrogeological considerations, footings, subgrade preparation and basement slabs.

2 INVESTIGATION PROCEDURE

The fieldwork for the investigation comprised drilling of two boreholes (BH101 and BH102) initially drilled using hand auger to 0.5m to 1.0m below existing surface. The boreholes then extended to depths ranging from 8.83m and 6.64m below surface level in BH101 and BH102, respectively, using a TT56 double tube barrel fitted with a diamond coring bit and water flush.

The boreholes were augmented by two Dynamic Cone Penetrometer (DCP) tests (DCP101 and DCP102) extending to refusal depths of 0.5m and 1.0m below existing surface level. The purpose of the DCP tests was to interpret the degree of compaction/relative density of the soil profile, with the hand augering used to identify the soils present.

Where bedrock was diamond cored, the recovered core was returned to our NATA registered laboratory (Soil Test Services (STS)) for photographing and Point Load Strength Index (Is_{50}) testing. Using established correlations the Unconfined Compressive Strength (UCS) of the bedrock was then calculated from the Is_{50} results. Copies of the colour photographs are provided with the borehole logs.

The fieldwork was completed in the full-time presence of our geotechnical engineer who set out the borehole locations, nominated the testing and sampling, and prepared the attached borehole logs and DCP sheet. The borehole locations are shown on the attached Figure 2, and these were set out by taped measurements from assumed site boundaries as shown on survey plan. The relative levels shown on the attached logs were interpolated from spot heights shown on the survey plan and are therefore approximate. The height datum used is the Australian Height Datum (AHD). For more details of the investigation procedures and their limitations, reference should be made to the attached Report Explanation Notes.

3 RESULTS OF INVESTIGATION

3.1 Site Description

The site location is shown in Figure 1. The site is located within hilly topography on the Collaroy Plateau and is situated on a north-west facing hill that slopes down at about 4°. The site itself is rectangular in plan measuring about 63m (east-west) by 20.1m (north-south) with surface levels ranging from RL78.7m at the south-eastern corner to RL74m at the north-western corner, which is an overall fall of about 4°.

The site contains a two-storey brick residence with tile roof and a nearly oval shape inground pool centrally positioned within the site. In front of the residence there is a concrete driveway along the northern boundary. In the backyard there is a detached timber shed located in the south-eastern corner of the site. Apart from these structures mentioned above, the external areas of the site predominantly comprise of grassed areas with patches of shrubs and medium to large sized trees. The building, driveway and pool are generally in good external condition; however, the timber shed is in a poor condition.

Two thirds of the northern site boundary (timber paling fence in moderate condition) is bounded by the long-axis side of 1 Berith Street while the remainder is bounded by the short-axis sides of 25 and 27 Rose Avenue. 1 Berith Street contains a single level rendered brick residence with a setback of about 1.2m from

site boundary. The timber shed in 27 Rose Avenue backyard is setback by about 2m from site boundary. The rear of 25 Rose Avenue is a garden area with some large trees. Landform and ground levels remain similar across the site boundaries when viewed within our site.

To the south of the site is 5 Berith Street which contains a centrally positioned single storey brick residence and a detached brick garage. The buildings appear in good external condition. There is a swimming pool in the back yard. Along the southern site boundary there is low 0.5m high brick retaining wall which covers the western one-third portion of the boundary. The retaining wall appears to lean towards the subject site at 2° to 3°. The retaining wall is then followed to the east by timber paling fence in moderate condition and extend to the eastern end of the site. Ground levels remain similar across the site boundary when viewed within our site.

The site is bounded by a basketball court to the east. Ground levels remain similar across the site boundary (timber paling fence) when viewed within our site.

The site also has a western frontage to Berith Street, which is a two lanes asphaltic concrete paved road in moderate to good condition. The pavement falls towards north at about 3°.

3.2 Subsurface Conditions

3.2.1 Current Investigation

The 1:100,000 Geological Map of Sydney indicates the site to be underlain by Hawkesbury Sandstone of the Wianamatta Group comprising medium to coarse grained quartz sandstone with very minor siltstone lenses and laminite lenses.

In summary, both boreholes disclosed a similar subsurface profile generally comprising shallow sand fill and residual clayey sand overlying relatively shallow sandstone bedrock. Reference should be made to the borehole logs for detailed descriptions of the subsurface conditions encountered. A summary of the encountered subsurface conditions is provided below.

Fill

Silty sandy fill was encountered in both boreholes from the surface to 0.2m below existing surface level. The fill in BH101 contained root inclusions. The fill was generally assessed to be poorly compacted based on DCP test results.

Residual Clayey Sand

Residual clayey sand was encountered below the fill in both boreholes. Based on the results from DCP tests, the sandy soils were assessed to be dense. The residual soils contained varying proportions of extremely weathered sandstone bands and sandstone gravels. The soils were assessed to be dry.

Sandstone Bedrock

Initially in both boreholes, sections of "no core" were encountered at the commencement of core drilling at 0.50m (≈RL77.0m) in BH101 and 1.0m (≈RL74.2m) in BH102. These "no core" sections are usually the result of poor quality extremely weathered shale or sandstone with soil properties or bands of clayey sands which have been washed away by the drill flush water.

Following the "no core" sections, sandstone of medium strength or better was then encountered at depths of 0.9m, or about RL76.6m, in BH101 and 1.8m, or about RL73.4m, in BH102 indicating the bedrock is sloping down similar to the natural hillside. Notwithstanding, a number of no core sections were also encountered in both boreholes ranging in thickness of 0.1m to 1.0m.

Apart from the no core sections, most defects contained within the rock core are sub-horizontal bedding partings and a number of extremely weathered seams. Three joints with inclination ranging from 50° to 90° were encountered in the boreholes at 3.5m, 8.36m (BH101) and 6.06m (BH102).

3.2.2 Previous Investigation by WGG

The previous investigation undertaken by White Geotechnical Group was limited to handheld equipment comprising of one hand auger borehole augmented by six DCP tests. The auger borehole extended to inferred bedrock at a refusal depth of 1.0m below surface level, or about RL75.0m. The DCP tests extended to refusal depths between 0.6m and 1.5m below existing surface level, or between RL77.4m in the south-east corner of the site to RL73.6m in the north-west corner of the site. No groundwater was encountered during the investigation. As the investigation was limited to handheld equipment, no proving of the bedrock was carried out. We note, the results of the WGG investigation correlate well with the results from our investigation.

3.3 Laboratory Test Results

The results of the of the Point Load Strength Index test correlated well with the field logging assessments of the rock strength. The correlated Unconfined Compressive Strength (UCS) tests on the intact rock core indicated the bedrock ranges from 6MPa to 36MPa.

4 COMMENTS AND RECOMMENDATIONS

4.1 Excavation Conditions

All excavation recommendations should be complemented by reference to the latest version of Safe Work Australia's '*Excavation Work Code of Practice*' and by reference to AS3798-2007 '*Guidelines on Earthworks for Commercial and Residential Developments*'.

4.1.1 Dilapidation Surveys

Prior to the commencement of excavation, we recommend that dilapidation surveys be completed on the neighbouring buildings to the north at 1 Berith Street and the south at 5 Berith Street given the subsurface conditions and the proposed excavation depth.

The dilapidation surveys should include internal and external inspections of the buildings, where all defects including defect location, type, length and width are described and photographed. The respective owners of the neighbouring buildings should be asked to confirm that the dilapidation survey reports present a fair record of existing conditions. The dilapidation survey reports may be used as a benchmark against which to assess possible future claims for damage arising from the works and protect against spurious claims for existing damage.

4.1.2 Excavation Methods

We expect an excavation depth between 3.0m and 6.2m below existing surface level will be required in order to achieve the Bulk Excavation Level of about RL71.8m. Based on the results of the investigation, the basement excavation will encounter pavements, fill, natural clayey sands and sandstone bedrock. An assessment of the excavation characteristics of the various strata is presented below.

Excavation of the soils and up to very low strength sandstone will be achievable using conventional excavation equipment, such as the buckets of hydraulic excavators. Excavation of the sandstone bedrock of low strength or better will require the use of rock excavation equipment, such as hydraulic rock hammers, rotary grinders, ripping hooks and rock saws. Sandstone of high strength is likely to be encountered and will represent 'hard rock' excavation conditions. The excavator contractor should be made aware of this by being supplied with all geotechnical information; low productivity and increased equipment wear should be expected due to the rock strength.

4.1.3 Potential Vibration Risk

If rock hammers are to be used, we recommend that the initial excavation in rock be commenced away from likely critical areas, with electronic vibration monitoring undertaken. Trial excavations can then be undertaken together with vibration monitoring to assess how close the hammer can operate to any critical boundary, while maintaining transmitted vibrations within acceptable levels. Guideline levels of vibration velocity for evaluating the effects of vibration in structures are given in the attached Vibration Emission Design Goals sheet. We recommend that the acceptable limit for transmitted vibrations be set at quite a low peak particle velocity of 5mm/s for frequencies of less than 10Hz at foundation level.

To fall within these limits, we recommend that the size of rock hammers initially used during the trial not exceed medium sized rock hammer say 900kg such as Krupp 580. If it is found that transmitted vibrations are unacceptable, then it would be necessary to change to a smaller excavator with a smaller rock hammer, or to a rotary grinder, rock saws, or jackhammers. Should this monitoring indicate that transmitted vibrations are trending towards the predetermined limits provided in the attached 'Vibration Emission Design Goals'

then continuous vibration monitoring should be carried out for the remainder of all percussive rock excavation.

The use of a rotary rock grinders or grid rock sawing in conjunction with ripping and/or hammering also provides relatively low vibration excavation techniques. When using a rock saw or rotary rock grinder, the resulting dust must be suppressed by spraying with water.

Only excavation contractors with experience in similar work using a competent supervisor who is aware of vibration damage risks and rock face instability issues, etc. should be used. The contractor should have all appropriate statutory and public liability insurances.

4.2 Retention Systems

Given the proposed basement set back from the common boundaries and the expected depth to top of bedrock, we expect that temporary batters and then vertical excavation of the sandstone bedrock is feasible. Based on the expected soils, temporary batters should be formed no steeper than 1 Vertical (V) to 1.5 Horizontal (H). If more sandy soils are encountered, then we recommend the batters are flattened to 1V:2H.

The sandstone bedrock of low strength or better can be cut vertically, but must be progressively inspected by a geotechnical engineer at no more than 1.5m depth increments to assess the need for temporary support (e.g. rock bolts, dowels, shotcrete etc.) of potentially unstable rock wedges or extremely weathered bands. We note bedrock potentially suitable for vertical excavation was encountered below approximately RL76.6m in BH101 and RL73.1m in BH102.

The boreholes indicated frequent seams of extremely weathered and/or clay bands up to 1.0m thick that will require support. If exposed rock faces are proposed in the car park (with dish drains accessible for cleaning then) then we recommend installing reinforced shotcrete dowelled into the stronger material, including strip drains to prevent the build-up of any hydrostatic pressures behind the shotcrete face. Thin seams may simply be grubbed out to a depth equal to the height of the seam and non-shrink grout applied to prevent fretting of the material in the long-term (with weep holes at regular intervals to allow hydrostatic pressures to dissipate). A provision should be made in the contract documents (budget and program) for the above inspections and stabilisation measures, noting that a substantial amount of shotcreting should be anticipated unless full height retaining walls are adopted.

Alternatively to the above treatment, full height retaining walls could be completed when the excavation is completed, with only essential short-term stabilisation works carried out during excavation. This will reduce (possibly greatly) the excavation time and the permanent walls will present a better, lower maintenance, finish in the basement. Suitable wall types include reinforced blockwork, Dincel and CSR Rediwall. Provided no major instability is present due to adverse jointing, the walls could be designed for an earth pressure of 10kPa. Walls should be backfilled with 'blue metal' or no-fines concrete with sub-soil drains around the base.

Note that in the (unlikely) event that a major wedge instability is present then whichever means of excavation support is adopted, the design would have to be adjusted to provide the required support in the long-term to replace temporary rock bolts, etc.

4.3 Hydrogeological Considerations

Groundwater was not encountered during the investigation however we expect some groundwater inflow into the excavation will occur as local seepage flows at the soil/rock interface, as well as through joints and bedding partings within the bedrock profile, particularly during and immediately following periods of rainfall.

In the event that groundwater is encountered during construction we expect the inflows could be controlled by conventional sump and pump drainage. In the long term, drainage should be provided around the final excavation perimeter and below the floor slabs. The completed excavation should be inspected by the hydraulic engineer to confirm that the designed drainage is sufficient for the actual seepage flows. If rock faces are left exposed then access to clean out dish drains should be provided. We caution against placing dry walls in front of the rock face as removal of the debris that inevitably frets from the rock faces into drains becomes problematic and will lead to dampness. A possible solution would be to apply shotcrete to all rock faces (with appropriate drainage provisions), noting that the fractured nature of the rock and significant thicknesses of weathered seams will require substantial areas be shotcreted anyway, unless full height retaining walls are adopted.

Over the long term the proposed provision of effective drainage of all sub-structures will allow 'through-flow' of groundwater with no build-up of groundwater levels to the extent that neighbouring properties will be adversely affected. In view of the above, the proposed development will have negligible effects on the groundwater regime above and below the site and the neighbouring buildings and structures. However, we recommend that the proposed excavations be monitored to confirm groundwater conditions. We also note that effective control of surface run-off will be required both during and after construction.

4.4 Footings

Based on the results of the investigation, it appears sandstone of medium to high strength will be encountered at the bulk excavation level. However, the investigation results also indicate the presence of extremely weathered and/or clay seams that will likely fall within the footings zone of influence. As such, we recommend the footing bearing pressures are limited to an Allowable Bearing Pressure of 1,000kPa. Given the presence of the weathered and/or clay seams, we recommend all footings are inspected by a geotechnical engineer prior to pouring concrete.

4.5 Basement Slab

Based on the investigation results, the proposed basement floor slab will directly overlie sandstone bedrock. We therefore recommend that underfloor drainage blanket be provided. The underfloor drainage should comprise a strong, durable, single-sized washed aggregate such as 'blue metal' gravel. The underfloor

drainage should connect with the perimeter drains and lead groundwater seepage to a sump for pumped disposal to the stormwater system.

Joints in the basement concrete on-grade floor slabs should be designed to accommodate shear forces but not bending moments by using dowelled or keyed joints.

4.6 Earthquake Design Factors

For earthquake design for the proposed residential development in accordance with AS1170.4-2007 'Structural Design Actions, Part 4: Earthquake Actions in Australia', the following design parameters should be adopted, provided there is no more than 3m of soil above bedrock:

- Hazard Factor (Z) = 0.08
- Site Subsoil Class = Class B_e

4.7 Further Geotechnical Input

The following is a summary of the further geotechnical input which is required and which has been detailed in the preceding sections of this report:

- Dilapidation surveys for the neighbouring structures, especially as rock hammers are almost certain to be used.
- Monitoring of groundwater seepage into the excavation to confirm drainage requirements.
- At least initial Vibration Monitoring during bulk excavation.
- Progressive inspection of excavated cut faces to confirm if additional support or treatment is required.
- Footing inspections and testing

5 GENERAL COMMENTS

The recommendations presented in this report include specific issues to be addressed during the construction phase of the project. In the event that any of the construction phase recommendations presented in this report are not implemented, the general recommendations may become inapplicable and JK Geotechnics accept no responsibility whatsoever for the performance of the structure where recommendations are not implemented in full and properly tested, inspected and documented.

Occasionally, the subsurface conditions between the completed boreholes may be found to be different (or may be interpreted to be different) from those expected. Variation can also occur with groundwater conditions, especially after climatic changes. If such differences appear to exist, we recommend that you immediately contact this office.

This report provides advice on geotechnical aspects for the proposed civil and structural design. As part of the documentation stage of this project, Contract Documents and Specifications may be prepared based on our report. However, there may be design features we are not aware of or have not commented on for a variety of reasons. The designers should satisfy themselves that all the necessary advice has been obtained. If required, we could be commissioned to review the geotechnical aspects of contract documents to confirm the intent of our recommendations has been correctly implemented.

A waste classification is required for any soil and/or bedrock excavated from the site prior to offsite disposal. Subject to the appropriate testing, material can be classified as Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM), General Solid, Restricted Solid or Hazardous Waste. Analysis can take up to seven to ten working days to complete, therefore, an adequate allowance should be included in the construction program unless testing is completed prior to construction. If contamination is encountered, then substantial further testing (and associated delays) could be expected. We strongly recommend that this requirement is addressed prior to the commencement of excavation on site.

This report has been prepared for the particular project described and no responsibility is accepted for the use of any part of this report in any other context or for any other purpose. If there is any change in the proposed development described in this report then all recommendations should be reviewed. Copyright in this report is the property of JK Geotechnics. We have used a degree of care, skill and diligence normally exercised by consulting engineers in similar circumstances and locality. No other warranty expressed or implied is made or intended. Subject to payment of all fees due for the investigation, the client alone shall have a licence to use this report. The report shall not be reproduced except in full.

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SOIL TEST SERVICES

TABLE A
POINT LOAD STRENGTH INDEX TEST REPORT

Client:	JK Geotechnics	**Ref No:**	32859YF
Project:	Proposed Residential Development	**Report:**	A
Location:	3 Berith Street, Wheeler Heights, NSW	**Report Date:**	8/01/2020
		Page 1 of 1	

BOREHOLE NUMBER	DEPTH m	$I_{S(50)}$ MPa	ESTIMATED UNCONFINED COMPRESSIVE STRENGTH (MPa)
101	1.03 - 1.06	1.6	32
	1.60 - 1.64	0.5	10
	2.44 - 2.47	1.7	34
	2.87 - 2.91	0.8	16
	3.14 - 3.18	0.7	14
	3.70 - 3.74	0.4	8
	5.24 - 5.28	0.5	10
	5.71 - 5.75	0.8	16
	6.59 - 6.63	0.5	10
	7.08 - 7.12	0.7	14
	7.68 - 7.72	1.6	32
	8.4 - 8.48	1.0	20
102	2.03 - 2.06	1.8	36
	2.80 - 2.84	1.8	36
	3.36 - 3.40	4.6	92
	4.65 - 4.68	1.3	26
	5.33 - 5.36	0.7	14
	5.79 - 5.83	0.3	6
	6.12 - 6.16	0.6	12
	6.39 - 6.44	0.4	8

NOTES:

1. In the above table testing was completed in the Axial direction.
2. The above strength tests were completed at the 'as received' moisture content.
3. Test Method: RMS T223.
4. For reporting purposes, the $I_{S(50)}$ has been rounded to the nearest 0.1MPa, or to one significant figure if less than 0.1MPa
5. The Estimated Unconfined Compressive Strength was calculated from the Point Load Strength Index by the following approximate relationship and rounded off to the nearest whole number :
   U.C.S. = 20 $I_{S(50)}$

All services provided by STS are subject to our standard terms and conditions. A copy is available on request.

JKGeotechnics

BOREHOLE LOG

Borehole No. 101
1 / 3

Client: MELISSA ZHOU
Project: PROPOSED RESIDENTIAL DEVELOPMENT
Location: 3 BERITH STREET, WHEELER HEIGHTS, NSW

Job No.: 32859YF **Method:** HAND AUGER **R.L. Surface:** ~77.5 m
Date: 6/1/20 **Datum:** AHD
Plant Type: **Logged/Checked By:** B.Z./O.F.

Groundwater Record	SAMPLES ES	SAMPLES U50	SAMPLES DB	SAMPLES DS	Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
DRY ON COMPLETION OF AUGERING				■	REFER TO DCP TEST RESULTS					FILL: Silty sand, fine to medium grained, dark brown, with roots.	D			GRASS COVERED
									SC	Clayey SAND: medium to coarse grained, yellow brown, low to medium plasticity clay, with extremely weathered sandstone bands.	D	D		APPEARS POORLY COMPACTED
						77								RESIDUAL
										REFER TO CORED BOREHOLE LOG				HAND AUGER REFUSAL
						76	1							
						75	2							
						74	3							
						73	4							
						72	5							
						71	6							

JK 902.4 LIB GLB Log JK AUGERHOLE - MASTER 32859YF WHEELER HEIGHTS.GPJ <<DrawingFile>> 17/01/2020 15:02 10.0.100.01 Datgel Lab and In Situ Tool - DGD | Lib: JK 902.4 2019-05-31 Prj: JK 9.01.0 2018-03-20

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CORED BOREHOLE LOG

Borehole No.
101
2 / 3

Client: MELISSA ZHOU
Project: PROPOSED RESIDENTIAL DEVELOPMENT
Location: 3 BERITH STREET, WHEELER HEIGHTS, NSW

Job No.: 32859YF **Core Size:** TT56 **R.L. Surface:** ~77.5 m
Date: 6/1/20 **Inclination:** VERTICAL **Datum:** AHD
Plant Type: MELVELLE **Bearing:** N/A **Logged/Checked By:** B.Z./O.F.

Water Loss/Level	Barrel Lift	RL (m AHD)	Depth (m)	Graphic Log	CORE DESCRIPTION: Rock Type, grain characteristics, colour, texture and fabric, features, inclusions and minor components	Weathering	Strength	POINT LOAD STRENGTH INDEX $I_s(50)$	DEFECT DETAILS: SPACING (mm)	DEFECT DETAILS: DESCRIPTION (Type, orientation, defect shape and roughness, defect coatings and seams, openness and thickness) Specific / General	Formation
					START CORING AT 0.50m						
		77			NO CORE 0.45m						
			1		SANDSTONE: medium to coarse grained, yellow brown and red brown, with iron staining, indistinctly thinly cross bedded, inclined up to 15°.	MW	M - H	1.6		(1.32m) Be, 5°, Un, R, Cn	Hawkesbury Sandstone
		76			as above, but light grey.			0.50		(1.77m) XWS, 0°, 20 mm t, CLAYEY SAND (1.83m) J, 75°, Un, R, FILLED ROOTS	
			2		Extremely Weathered sandstone: clayey SAND, fine to medium grained, light grey, low to medium plasticity clay.	XW	(D)			(1.95-2.17m) XWS, 0°, 220 mm t, CLAYEY SAND	
					NO CORE 0.10m	MW	M - H	1.7		(2.37m) Be, 0°, Un, R, Qz FILLED	
		75			SANDSTONE: medium to coarse grained, yellow brown, with iron staining, with medium to coarse grained sub angular quartz clasts inclusion, distinctly very thinly cross bedded, inclined up to 15°.					(2.61m) Be, 6°, Un, R, Qz FILLED (2.75m) Be, 7°, Un, R, Qz FILLED	
			3				M	0.80			
								0.70		(3.31m) Be, 13°, Un, R, FILLED, SAND, 2mm t	
100% RETURN		74							60 30	(3.50m) Ji, 90°, Un, Cn	
			4					0.40		(3.95m) Be, 0°, Un, R, Fe Sn	
		73			NO CORE 1.00m						
			5		SANDSTONE: medium to coarse grained, yellow brown and light brown, with medium to coarse grained sub angular quartz clasts inclusion, indistinctly very thinly cross bedded, inclined up to 15°.	MW - SW	M	0.50		(5.43m) Be, 0°, Un, R, FILLED, SAND, 2mm t	Hawkesbury Sandstone
		72						0.80		(5.80m) Be, 15°, Un, R, Fe Sn	
			6		NO CORE 0.40m						
		71			SANDSTONE: medium to coarse grained, light grey mottled brown and red brown, distinctly very thinly cross bedded, inclined up to 20°, with iron staining.	MW - SW	M	0.50	200 60 30	(6.51m) Be, 0°, Un, R, Fe Sn (6.98m) Be, 3°, P, R, FILLED, SAND, 2mm t	

JK 902.4 LIB GLB Log JK CORED BOREHOLE - MASTER 32859YF WHEELER HEIGHTS.GPJ <<DrawingFile>> 17/01/2020 15:02 10.0.100.01 Datgel Lab and In Situ Tool - DGD | Lib: JK 902.4.2015-05-31 Pr| JK 9.01.0 2018-03-20

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FRACTURES NOT MARKED ARE CONSIDERED TO BE DRILLING AND HANDLING BREAKS

JKGeotechnics

CORED BOREHOLE LOG

Borehole No. 101
3 / 3

Client: MELISSA ZHOU
Project: PROPOSED RESIDENTIAL DEVELOPMENT
Location: 3 BERITH STREET, WHEELER HEIGHTS, NSW

Job No.: 32859YF **Core Size:** TT56 **R.L. Surface:** ~77.5 m
Date: 6/1/20 **Inclination:** VERTICAL **Datum:** AHD
Plant Type: MELVELLE **Bearing:** N/A **Logged/Checked By:** B.Z./O.F.

Water Loss/Level	Barrel Lift	RL (m AHD)	Depth (m)	Graphic Log	CORE DESCRIPTION: Rock Type, grain characteristics, colour, texture and fabric, features, inclusions and minor components	Weathering	Strength	POINT LOAD STRENGTH INDEX $I_s(50)$ (VL-0.1, L-0.3, M-1, H-3, VH-10, EH)	DEFECT DETAILS: SPACING (mm) (600, 200, 60, 20)	DEFECT DETAILS: DESCRIPTION (Type, orientation, defect shape and roughness, defect coatings and seams, openness and thickness) Specific / General	Formation
100% RETURN		70			SANDSTONE: medium to coarse grained, light grey mottled brown and red brown, distinctly very thinly cross bedded, inclined up to 20°, with iron staining. *(continued)*	MW - SW	M	•0.70 •1.6			Hawkesbury Sandstone
			8		NO CORE 0.43m						Hawkesbury Sandstone
		69			SANDSTONE: medium to coarse grained, light grey and brown.	MW	M	•1.0		(8.36m) J, 65°, Un, R, Cn (8.55m) XWS, 0°, 25 mm t, FILLED SANDY CLAY	Hawkesbury Sandstone
					END OF BOREHOLE AT 8.63 m						
		68	9								
		67	10								
		66	11								
		65	12								
		64	13								

JK 902.4 LIB GLB Log JK CORED BOREHOLE - MASTER 32859YF WHEELER HEIGHTS.GPJ <<DrawingFile>> 17/01/2020 15:02 10.01.00.01 Datgel Lab and In Situ Tool - DGD | Lib: JK 902.4 2015-05-31 Prj: JK 9.01.0 2018-03-20

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FRACTURES NOT MARKED ARE CONSIDERED TO BE DRILLING AND HANDLING BREAKS


JK Geotechnics
32859YF, BH101, CORING STARTS AT: 0.5m
0.5m →
CORE LOSS 0.45m
CORE LOSS 0.10m
CORE LOSS 1.00m
CORE LOSS 0.40m
CORE LOSS. 0.44m
8.63m END
0
1
2
3
4
5
6
7
8

JKGeotechnics

BOREHOLE LOG

Borehole No. 102
1 / 2

Client: MELISSA ZHOU
Project: PROPOSED RESIDENTIAL DEVELOPMENT
Location: 3 BERITH STREET, WHEELER HEIGHTS, NSW

Job No.: 32859YF **Method:** HAND AUGER **R.L. Surface:** ~75.2 m
Date: 6/1/20 **Datum:** AHD
Plant Type: **Logged/Checked By:** B.Z./O.F.

Groundwater Record	SAMPLES ES	SAMPLES U50	SAMPLES DB	SAMPLES DS	Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
DRY ON COMPLETION OF AUGERING				■	REFER TO DCP TEST RESULTS	75	0			FILL: Silty sand, fine to medium grained, dark brown.	D			APPEARS POORLY COMPACTED
									SC	Clayey SAND: fine to medium grained, yellow brown, trace fine to medium grained, sub angular sandstone gravel.	D	D		RESIDUAL
						74	1			REFER TO CORED BOREHOLE LOG				HAND AUGER REFUSAL
						73	2							
						72	3							
						71	4							
						70	5							
						69	6							

JK 902.4.LIB.GLB Log JK AUGERHOLE - MASTER 32859YF WHEELER HEIGHTS.GPJ <<DrawingFile>> 17/01/2020 15:03 10.0.100.01 Datgel Lab and In Situ Tool - DGD | Lib: JK 902.4.2019-05-31 Prj: JK 9.01.0.2018-03-20

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CORED BOREHOLE LOG

Borehole No.
102
2 / 2

Client: MELISSA ZHOU
Project: PROPOSED RESIDENTIAL DEVELOPMENT
Location: 3 BERITH STREET, WHEELER HEIGHTS, NSW

Job No.: 32859YF **Core Size:** TT56 **R.L. Surface:** ~75.2 m
Date: 6/1/20 **Inclination:** VERTICAL **Datum:** AHD
Plant Type: MELVELLE **Bearing:** N/A **Logged/Checked By:** B.Z./O.F.

Water Loss/Level	Barrel Lift	RL (m AHD)	Depth (m)	Graphic Log	CORE DESCRIPTION: Rock Type, grain characteristics, colour, texture and fabric, features, inclusions and minor components	Weathering	Strength	POINT LOAD STRENGTH INDEX $I_s(50)$ (VL-0.1, L-0.3, M-1, H-3, VH-10, EH)	DEFECT DETAILS: SPACING (mm) (600, 200, 60, 20)	DEFECT DETAILS: DESCRIPTION (Type, orientation, defect shape and roughness, defect coatings and seams, openness and thickness) Specific / General	Formation
					START CORING AT 1.00m						
100% RETURN		74	1		NO CORE 0.80m						
		73	2		SANDSTONE: medium to coarse grained, brown, with medium to coarse grained, sub angular quartz gravel, distinctly very thinly cross bedded, inclined up to 20°.	MW	M - H	1.8 1.8 4.6		(2.28m) Be, 10°, Un, R, Fe Vn (2.35m) Be, 90°, Un, R, Fe Vn (2.41m) Be, 0°, Un, R, Fe Vn (2.44m) Be, 12°, Un, R, Fe Sn (2.57m) Be, 0°, Un, R, Fe Sn (2.68m) Be, 3°, Un, Vr, Fe Sn (2.74m) Be, 10°, Un, Vr, Fe Sn (2.95m) Be, 3°, Un, Vr, Fe Sn (3.44m) Be, 22°, Un, Vr, Fe Vn (3.52m) Be, 0°, Un, R, Fe Vn	Hawkesbury Sandstone
		72	3								
		71	4		NO CORE 0.85m						
					SANDSTONE: medium to coarse grained, brown mottled red brown with fine to medium grained quartz clasts.	MW	M - H	1.3		(4.60m) Be, 5°, Un, R, Fe Vn	
		70	5		NO CORE 0.53m						
					SANDSTONE: medium to coarse grained, brown, distinctly very thinly plane bedded, inclined up to 10°.	MW	M	0.70		(5.45m) Be, 0°, Un, R, Fe Sn (5.64m) Be, 0°, Un, R, Qz FILLED	Hawkesbury Sandstone
		69	6		SANDSTONE: medium to coarse grained, light grey, massive	FR		0.30 0.60 0.40		(6.08m) J, 50°, C, R, Cn (6.38m) Be, 3°, Un, Vr, Cn	
		68	7		END OF BOREHOLE AT 6.64 m						

JK 902.4 LIB GLB Log JK CORED BOREHOLE - MASTER 32859YF WHEELER HEIGHTS.GPJ <<DrawingFile>> 17/01/2020 15:03 10.0100.01 Datgel Lab and In Situ Tool - DGD | Lib: JK 902.4 2015-05-31 Prj: JK 9.01.0 2018-03-20

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FRACTURES NOT MARKED ARE CONSIDERED TO BE DRILLING AND HANDLING BREAKS

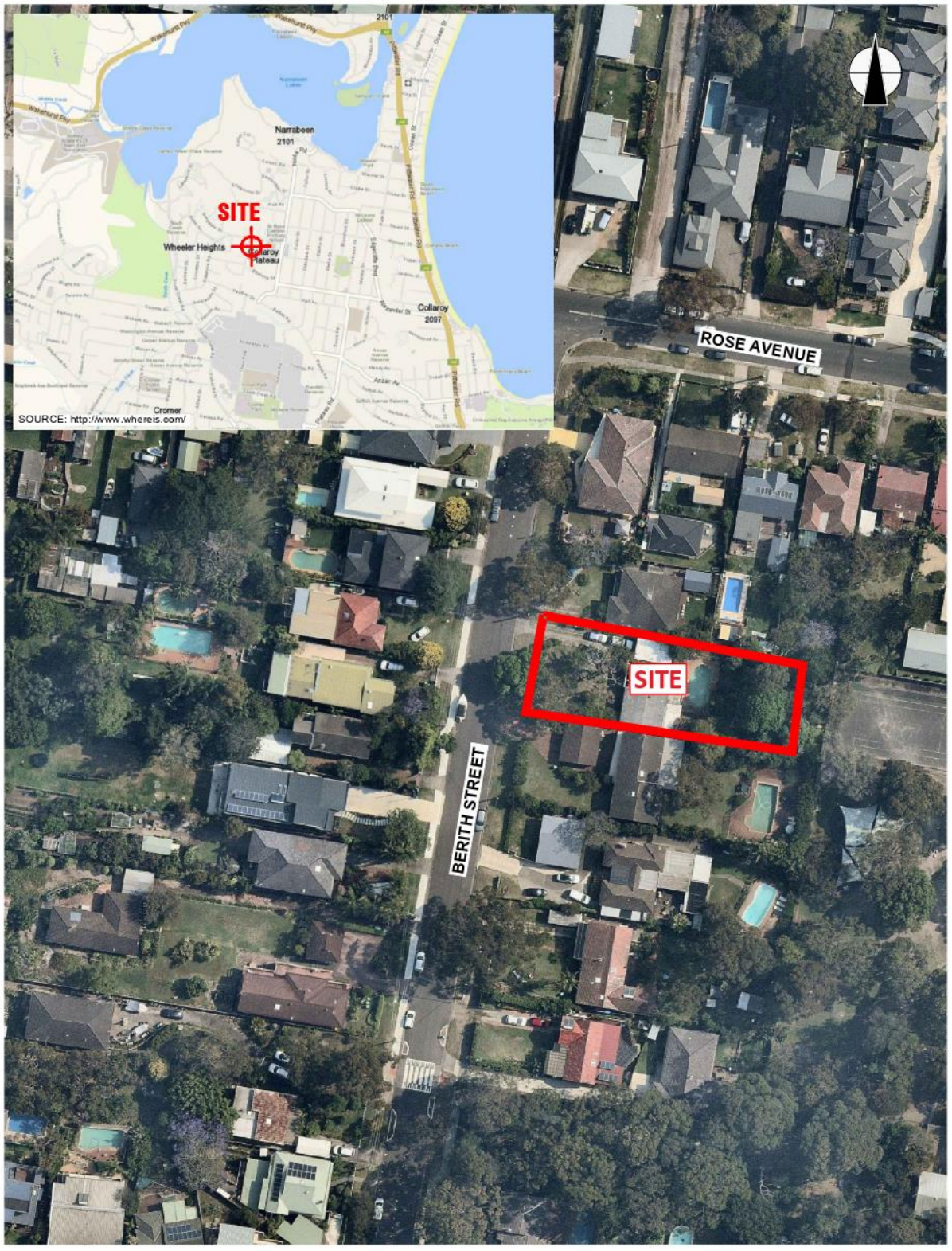

JK Geotechnics
JOB No. 32859YF BH102 CORE START AT: 1.0m
CORE LOSS 0.80m
CORE LOSS. 0.85m
CORE LOSS 0.53m
6.64m END
1
2
3
4
5
6

JKGeotechnics

DYNAMIC CONE PENETRATION TEST RESULTS

Client:	MELISSA ZHOU						
Project:	PROPOSED RESIDENTIAL DEVELOPMENT						
Location:	3 BERITH STREET, WHEELER HEIGHTS, NSW						
Job No.	32859YF			Hammer Weight & Drop: 9kg/510mm			
Date:	6-1-20			Rod Diameter: 16mm			
Tested By:	B.Z			Point Diameter: 20mm			
Test Location	**101**	**102**					
Surface RL	≈77.5m	≈75.2m					
Depth (mm)	Number of Blows per 100mm Penetration						
0 - 100	2	4					
100 - 200	4	13					
200 - 300	9	11					
300 - 400	18	13					
400 - 500	19	17					
500 - 600	REFUSAL	13					
600 - 700		11					
700 - 800		11					
800 - 900		12					
900 - 1000		20					
1000 - 1100		REFUSAL					
1100 - 1200							
1200 - 1300							
1300 - 1400							
1400 - 1500							
1500 - 1600							
1600 - 1700							
1700 - 1800							
1800 - 1900							
1900 - 2000							
2000 - 2100							
2100 - 2200							
2200 - 2300							
2300 - 2400							
2400 - 2500							
2500 - 2600							
2600 - 2700							
2700 - 2800							
2800 - 2900							
2900 - 3000							
Remarks:	1. The procedure used for this test is described in AS1289.6.3.2-1997 (R2013) 2. Usually 8 blows per 20mm is taken as refusal 3. Datum of levels is AHD						

Ref: JK Geotechnics DCP 0-3m Rev5 Feb19



AERIAL IMAGE SOURCE: MAPS.AU.NEARMAP.COM

This plan should be read in conjunction with the JK Geotechnics report.

Title: **SITE LOCATION PLAN**

Location: 3 BERITH STREET, WHEELER HEIGHTS, NSW

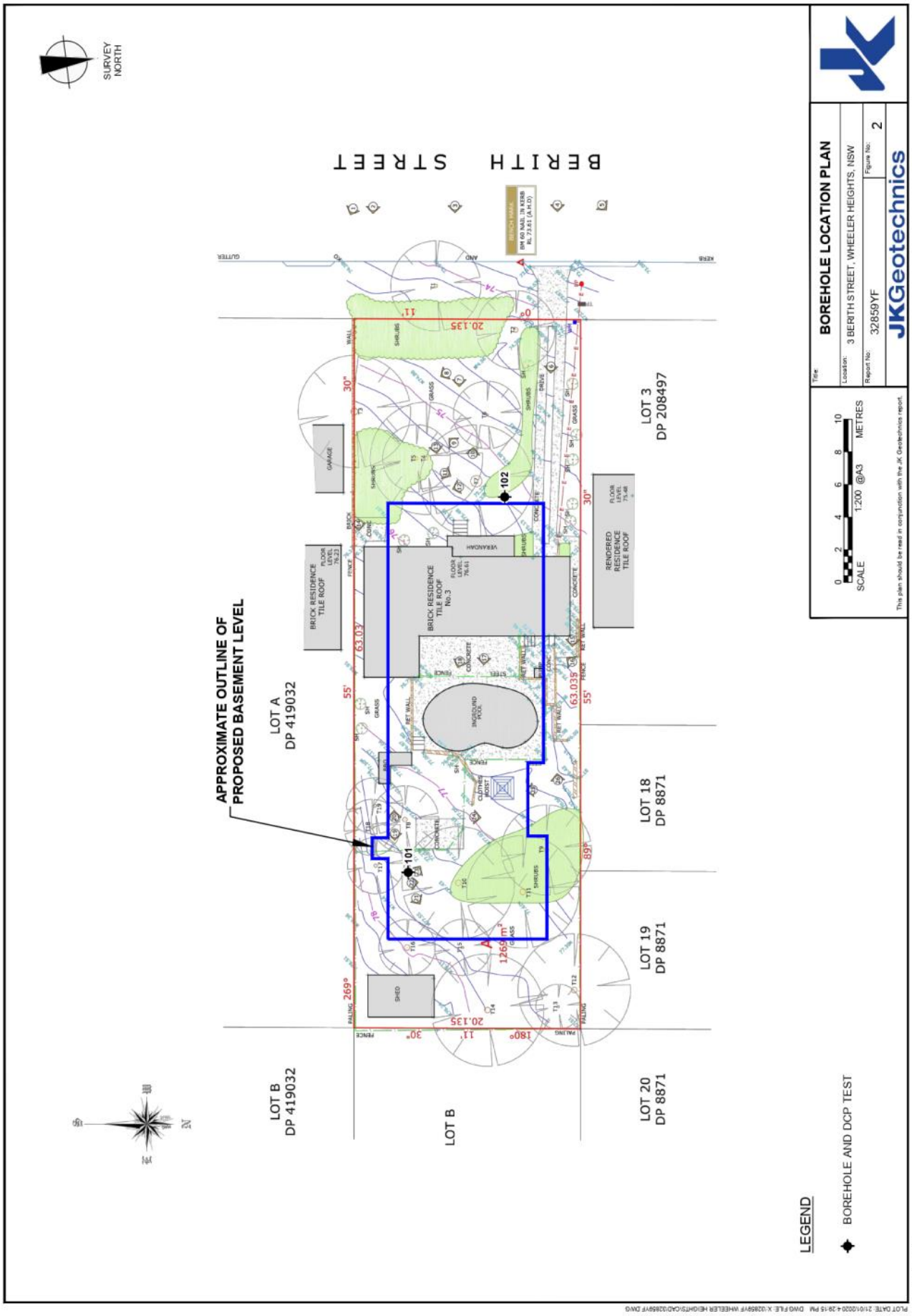
Report No: 32859YF

Figure No: 1

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PLOT DATE: 21/01/2020 4:29:25 PM DWG FILE: X:\32859YF WHEELER HEIGHTS\CAD\32859YF.DWG

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SURVEY NORTH
BERITH STREET
APPROXIMATE OUTLINE OF PROPOSED BASEMENT LEVEL
LOT A DP 419032
LOT B DP 419032
LOT B
LOT 3 DP 208497
LOT 18 DP 8871
LOT 19 DP 8871
LOT 20 DP 8871
BRICK RESIDENCE TILE ROOF No.3
RENDERED RESIDENCE TILE ROOF
BRICK RESIDENCE TILE ROOF
GARAGE
SHED
VERANDAH
INGROUND POOL
CONCRETE
GRASS
SHRUBS
DRIVE
FENCE
RET WALL
101
102
63.03
63.035
20.135
1269 m²
LEGEND
BOREHOLE AND DCP TEST
BOREHOLE LOCATION PLAN
Location: 3 BERITH STREET, WHEELER HEIGHTS, NSW
Report No: 32859YF
Figure No: 2
SCALE 1:200 @A3 METRES
JKGeotechnics
This plan should be read in conjunction with the JK Geotechnics report
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VIBRATION EMISSION DESIGN GOALS

German Standard DIN 4150 – Part 3: 1999 provides guideline levels of vibration velocity for evaluating the effects of vibration in structures. The limits presented in this standard are generally recognised to be conservative.

The DIN 4150 values (maximum levels measured in any direction at the foundation, OR, maximum levels measured in (x) or (y) horizontal directions, in the plane of the uppermost floor), are summarised in Table 1 below.

It should be noted that peak vibration velocities higher than the minimum figures in Table 1 for low frequencies may be quite 'safe', depending on the frequency content of the vibration and the actual condition of the structure.

It should also be noted that these levels are 'safe limits', up to which no damage due to vibration effects has been observed for the particular class of building. 'Damage' is defined by DIN 4150 to include even minor non-structural effects such as superficial cracking in cement render, the enlargement of cracks already present, and the separation of partitions or intermediate walls from load bearing walls. Should damage be observed at vibration levels lower than the 'safe limits', then it may be attributed to other causes. DIN 4150 also states that when vibration levels higher than the 'safe limits' are present, it does not necessarily follow that damage will occur. Values given are only a broad guide.

Table 1: DIN 4150 – Structural Damage – Safe Limits for Building Vibration

Group	Type of Structure	Peak Vibration Velocity in mm/s			
		At Foundation Level at a Frequency of:			Plane of Floor of Uppermost Storey
		Less than 10Hz	10Hz to 50Hz	50Hz to 100Hz	All Frequencies
1	Buildings used for commercial purposes, industrial buildings and buildings of similar design.	20	20 to 40	40 to 50	40
2	Dwellings and buildings of similar design and/or use.	5	5 to 15	15 to 20	15
3	Structures that because of their particular sensitivity to vibration, do not correspond to those listed in Group 1 and 2 and have intrinsic value (eg. buildings that are under a preservation order).	3	3 to 8	8 to 10	8

Note: For frequencies above 100Hz, the higher values in the 50Hz to 100Hz column should be used.

REPORT EXPLANATION NOTES

INTRODUCTION

These notes have been provided to amplify the geotechnical report in regard to classification methods, field procedures and certain matters relating to the Comments and Recommendations section. Not all notes are necessarily relevant to all reports.

The ground is a product of continuing natural and man-made processes and therefore exhibits a variety of characteristics and properties which vary from place to place and can change with time. Geotechnical engineering involves gathering and assimilating limited facts about these characteristics and properties in order to understand or predict the behaviour of the ground on a particular site under certain conditions. This report may contain such facts obtained by inspection, excavation, probing, sampling, testing or other means of investigation. If so, they are directly relevant only to the ground at the place where and time when the investigation was carried out.

DESCRIPTION AND CLASSIFICATION METHODS

The methods of description and classification of soils and rocks used in this report are based on Australian Standard 1726:2017 *'Geotechnical Site Investigations'*. In general, descriptions cover the following properties – soil or rock type, colour, structure, strength or density, and inclusions. Identification and classification of soil and rock involves judgement and the Company infers accuracy only to the extent that is common in current geotechnical practice.

Soil types are described according to the predominating particle size and behaviour as set out in the attached soil classification table qualified by the grading of other particles present (eg. sandy clay) as set out below:

Soil Classification	Particle Size
Clay	< 0.002mm
Silt	0.002 to 0.075mm
Sand	0.075 to 2.36mm
Gravel	2.36 to 63mm
Cobbles	63 to 200mm
Boulders	> 200mm

Non-cohesive soils are classified on the basis of relative density, generally from the results of Standard Penetration Test (SPT) as below:

Relative Density	SPT 'N' Value (blows/300mm)
Very loose (VL)	< 4
Loose (L)	4 to 10
Medium dense (MD)	10 to 30
Dense (D)	30 to 50
Very Dense (VD)	> 50

Cohesive soils are classified on the basis of strength (consistency) either by use of a hand penetrometer, vane shear, laboratory testing and/or tactile engineering examination. The strength terms are defined as follows.

Classification	Unconfined Compressive Strength (kPa)	Indicative Undrained Shear Strength (kPa)
Very Soft (VS)	≤ 25	≤ 12
Soft (S)	> 25 and ≤ 50	> 12 and ≤ 25
Firm (F)	> 50 and ≤ 100	> 25 and ≤ 50
Stiff (St)	> 100 and ≤ 200	> 50 and ≤ 100
Very Stiff (VSt)	> 200 and ≤ 400	> 100 and ≤ 200
Hard (Hd)	> 400	> 200
Friable (Fr)	Strength not attainable – soil crumbles	

Rock types are classified by their geological names, together with descriptive terms regarding weathering, strength, defects, etc. Where relevant, further information regarding rock classification is given in the text of the report. In the Sydney Basin, 'shale' is used to describe fissile mudstone, with a weakness parallel to bedding. Rocks with alternating inter-laminations of different grain size (eg. siltstone/claystone and siltstone/fine grained sandstone) is referred to as 'laminite'.

SAMPLING

Sampling is carried out during drilling or from other excavations to allow engineering examination (and laboratory testing where required) of the soil or rock.

Disturbed samples taken during drilling provide information on plasticity, grain size, colour, moisture content, minor constituents and, depending upon the degree of disturbance, some information on strength and structure. Bulk samples are similar but of greater volume required for some test procedures.

Undisturbed samples are taken by pushing a thin-walled sample tube, usually 50mm diameter (known as a U50), into the soil and withdrawing it with a sample of the soil contained in a relatively undisturbed state. Such samples yield information on structure and strength, and are necessary for laboratory determination of shrink-swell behaviour, strength and compressibility. Undisturbed sampling is generally effective only in cohesive soils.

Details of the type and method of sampling used are given on the attached logs.

INVESTIGATION METHODS

The following is a brief summary of investigation methods currently adopted by the Company and some comments on their use and application. All methods except test pits, hand auger drilling and portable Dynamic Cone Penetrometers require the use of a mechanical rig which is commonly mounted on a truck chassis or track base.

Test Pits: These are normally excavated with a backhoe or a tracked excavator, allowing close examination of the insitu soils and 'weaker' bedrock if it is safe to descend into the pit. The depth of penetration is limited to about 3m for a backhoe and up to 6m for a large excavator. Limitations of test pits are the problems associated with disturbance and difficulty of reinstatement and the consequent effects on close-by structures. Care must be taken if construction is to be carried out near test pit locations to either properly recompact the backfill during construction or to design and construct the structure so as not to be adversely affected by poorly compacted backfill at the test pit location.

Hand Auger Drilling: A borehole of 50mm to 100mm diameter is advanced by manually operated equipment. Refusal of the hand auger can occur on a variety of materials such as obstructions within any fill, tree roots, hard clay, gravel or ironstone, cobbles and boulders, and does not necessarily indicate rock level.

Continuous Spiral Flight Augers: The borehole is advanced using 75mm to 115mm diameter continuous spiral flight augers, which are withdrawn at intervals to allow sampling and insitu testing. This is a relatively economical means of drilling in clays and in sands above the water table. Samples are returned to the surface by the flights or may be collected after withdrawal of the auger flights, but they can be very disturbed and layers may become mixed. Information from the auger sampling (as distinct from specific sampling by SPTs or undisturbed samples) is of limited reliability due to mixing or softening of samples by groundwater, or uncertainties as to the original depth of the samples. Augering below the groundwater table is of even lesser reliability than augering above the water table.

Rock Augering: Use can be made of a Tungsten Carbide (TC) bit for auger drilling into rock to indicate rock quality and continuity by variation in drilling resistance and from examination of recovered rock cuttings. This method of investigation is quick and relatively inexpensive but provides only an indication of the likely rock strength and predicted values may be in error by a strength order. Where rock strengths may have a significant impact on construction feasibility or costs, then further investigation by means of cored boreholes may be warranted.

Wash Boring: The borehole is usually advanced by a rotary bit, with water being pumped down the drill rods and returned up the annulus, carrying the drill cuttings. Only major changes in stratification can be assessed from the cuttings, together with some information from "feel" and rate of penetration.

Mud Stabilised Drilling: Either Wash Boring or Continuous Core Drilling can use drilling mud as a circulating fluid to stabilise the borehole. The term 'mud' encompasses a range of products ranging from bentonite to polymers. The mud tends to mask the cuttings and reliable identification is only possible from intermittent intact sampling (eg. from SPT and U50 samples) or from rock coring, etc.

Continuous Core Drilling: A continuous core sample is obtained using a diamond tipped core barrel. Provided full core recovery is achieved (which is not always possible in very low strength rocks and granular soils), this technique provides a very reliable (but relatively expensive) method of investigation. In rocks, NMLC or HQ triple tube core barrels, which give a core of about 50mm and 61mm diameter, respectively, is usually used with water flush. The length of core recovered is compared to the length drilled and any length not recovered is shown as NO CORE. The location of NO CORE recovery is determined on site by the supervising engineer; where the location is uncertain, the loss is placed at the bottom of the drill run.

Standard Penetration Tests: Standard Penetration Tests (SPT) are used mainly in non-cohesive soils, but can also be used in cohesive soils, as a means of indicating density or strength and also of obtaining a relatively undisturbed sample. The test procedure is described in Australian Standard 1289.6.3.1–2004 (R2016) *'Methods of Testing Soils for Engineering Purposes, Soil Strength and Consolidation Tests – Determination of the Penetration Resistance of a Soil – Standard Penetration Test (SPT)'*.

The test is carried out in a borehole by driving a 50mm diameter split sample tube with a tapered shoe, under the impact of a 63.5kg hammer with a free fall of 760mm. It is normal for the tube to be driven in three successive 150mm increments and the 'N' value is taken as the number of blows for the last 300mm. In dense sands, very hard clays or weak rock, the full 450mm penetration may not be practicable and the test is discontinued.

The test results are reported in the following form:

- In the case where full penetration is obtained with successive blow counts for each 150mm of, say, 4, 6 and 7 blows, as

  N = 13
  4, 6, 7

- In a case where the test is discontinued short of full penetration, say after 15 blows for the first 150mm and 30 blows for the next 40mm, as

  N > 30
  15, 30/40mm

The results of the test can be related empirically to the engineering properties of the soil.

A modification to the SPT is where the same driving system is used with a solid 60° tipped steel cone of the same diameter as the SPT hollow sampler. The solid cone can be continuously driven for some distance in soft clays or loose sands, or may be used where damage would otherwise occur to the SPT. The results of this Solid Cone Penetration Test (SCPT) are shown as 'N_c' on the borehole logs, together with the number of blows per 150mm penetration.

Cone Penetrometer Testing (CPT) and Interpretation: The cone penetrometer is sometimes referred to as a Dutch Cone. The test is described in Australian Standard 1289.6.5.1–1999 (R2013) *'Methods of Testing Soils for Engineering Purposes, Soil Strength and Consolidation Tests – Determination of the Static Cone Penetration Resistance of a Soil – Field Test using a Mechanical and Electrical Cone or Friction-Cone Penetrometer'*.

In the tests, a 35mm or 44mm diameter rod with a conical tip is pushed continuously into the soil, the reaction being provided by a specially designed truck or rig which is fitted with a hydraulic ram system. Measurements are made of the end bearing resistance on the cone and the frictional resistance on a separate 134mm or 165mm long sleeve, immediately behind the cone. Transducers in the tip of the assembly are electrically connected by wires passing through the centre of the push rods to an amplifier and recorder unit mounted on the control truck. The CPT does not provide soil sample recovery.

As penetration occurs (at a rate of approximately 20mm per second), the information is output as incremental digital records every 10mm. The results given in this report have been plotted from the digital data.

The information provided on the charts comprise:

- Cone resistance – the actual end bearing force divided by the cross sectional area of the cone – expressed in MPa. There are two scales presented for the cone resistance. The lower scale has a range of 0 to 5MPa and the main scale has a range of 0 to 50MPa. For cone resistance values less than 5MPa, the plot will appear on both scales.
- Sleeve friction – the frictional force on the sleeve divided by the surface area – expressed in kPa.
- Friction ratio – the ratio of sleeve friction to cone resistance, expressed as a percentage.

  The ratios of the sleeve resistance to cone resistance will vary with the type of soil encountered, with higher relative friction in clays than in sands. Friction ratios of 1% to 2% are commonly encountered in sands and occasionally very soft clays, rising to 4% to 10% in stiff clays and peats. Soil descriptions based on cone resistance and friction ratios are only inferred and must not be considered as exact.

Correlations between CPT and SPT values can be developed for both sands and clays but may be site specific.

Interpretation of CPT values can be made to empirically derive modulus or compressibility values to allow calculation of foundation settlements.

Stratification can be inferred from the cone and friction traces and from experience and information from nearby boreholes etc. Where shown, this information is presented for general guidance, but must be regarded as interpretive. The test method provides a continuous profile of engineering properties but, where precise information on soil classification is required, direct drilling and sampling may be preferable.

There are limitations when using the CPT in that it may not penetrate obstructions within any fill, thick layers of hard clay and very dense sand, gravel and weathered bedrock. Normally a 'dummy' cone is pushed through fill to protect the equipment. No information is recorded by the 'dummy' probe.

Flat Dilatometer Test: The flat dilatometer (DMT), also known as the Marchetti Dilometer comprises a stainless steel blade having a flat, circular steel membrane mounted flush on one side.

The blade is connected to a control unit at ground surface by a pneumatic-electrical tube running through the insertion rods. A gas tank, connected to the control unit by a pneumatic cable, supplies the gas pressure required to expand the membrane. The control unit is equipped with a pressure regulator, pressure gauges, an audio-visual signal and vent valves.

The blade is advanced into the ground using our CPT rig or one of our drilling rigs, and can be driven into the ground using an SPT hammer. As soon as the blade is in place, the membrane is inflated, and the pressure required to lift the membrane (approximately 0.1mm) is recorded. The pressure then required to lift the centre of the membrane by an additional 1mm is recorded. The membrane is then deflated before pushing to the next depth increment, usually 200mm down. The pressure readings are corrected for membrane stiffness.

The DMT is used to measure material index (I_D), horizontal stress index (K_D), and dilatometer modulus (E_D). Using established correlations, the DMT results can also be used to assess the 'at rest' earth pressure coefficient (K_o), over-consolidation ratio (OCR), undrained shear strength (C_u), friction angle (ϕ), coefficient of consolidation (C_h), coefficient of permeability (K_h), unit weight (γ), and vertical drained constrained modulus (M).

The seismic dilatometer (SDMT) is the combination of the DMT with an add-on seismic module for the measurement of shear wave velocity (V_s). Using established correlations, the SDMT results can also be used to assess the small strain modulus (G_o).

Portable Dynamic Cone Penetrometers: Portable Dynamic Cone Penetrometer (DCP) tests are carried out by driving a 16mm diameter rod with a 20mm diameter cone end with a 9kg hammer dropping 510mm. The test is described in Australian Standard 1289.6.3.2–1997 (R2013) *'Methods of Testing Soils for Engineering Purposes, Soil Strength and Consolidation Tests – Determination of the Penetration Resistance of a Soil – 9kg Dynamic Cone Penetrometer Test'*.

The results are used to assess the relative compaction of fill, the relative density of granular soils, and the strength of cohesive soils. Using established correlations, the DCP test results can also be used to assess California Bearing Ratio (CBR).

Refusal of the DCP can occur on a variety of materials such as obstructions within any fill, tree roots, hard clay, gravel or ironstone, cobbles and boulders, and does not necessarily indicate rock level.

Vane Shear Test: The vane shear test is used to measure the undrained shear strength (C_u) of typically very soft to firm fine grained cohesive soils. The vane shear is normally performed in the bottom of a borehole, but can be completed from surface level, the bottom and sides of test pits, and on recovered undisturbed tube samples (when using a hand vane).

The vane comprises four rectangular blades arranged in the form of a cross on the end of a thin rod, which is coupled to the bottom of a drill rod string when used in a borehole. The size of the vane is dependent on the strength of the fine grained cohesive soils; that is, larger vanes are normally used for very low strength soils. For borehole testing, the size of the vane can be limited by the size of the casing that is used.

For testing inside a borehole, a device is used at the top of the casing, which suspends the vane and rods so that they do not sink under self-weight into the 'soft' soils beyond the depth at which the test is to be carried out. A calibrated torque head is used to rotate the rods and vane and to measure the resistance of the vane to rotation.

With the vane in position, torque is applied to cause rotation of the vane at a constant rate. A rate of 6° per minute is the common rotation rate. Rotation is continued until the soil is sheared and the maximum torque has been recorded. This value is then used to calculate the undrained shear strength. The vane is then rotated rapidly a number of times and the operation repeated until a constant torque reading is obtained. This torque value is used to calculate the remoulded shear strength. Where appropriate, friction on the vane rods is measured and taken into account in the shear strength calculation.

LOGS

The borehole or test pit logs presented herein are an engineering and/or geological interpretation of the subsurface conditions, and their reliability will depend to some extent on the frequency of sampling and the method of drilling or excavation. Ideally, continuous undisturbed sampling or core drilling will enable the most reliable assessment, but is not always practicable or possible to justify on economic grounds. In any case, the boreholes or test pits represent only a very small sample of the total subsurface conditions.

The terms and symbols used in preparation of the logs are defined in the following pages.

Interpretation of the information shown on the logs, and its application to design and construction, should therefore take into account the spacing of boreholes or test pits, the method of drilling or excavation, the frequency of sampling and testing and the possibility of other than 'straight line' variations between the boreholes or test pits. Subsurface conditions between boreholes or test pits may vary significantly from conditions encountered at the borehole or test pit locations.

GROUNDWATER

Where groundwater levels are measured in boreholes, there are several potential problems:

- Although groundwater may be present, in low permeability soils it may enter the hole slowly or perhaps not at all during the time it is left open.
- A localised perched water table may lead to an erroneous indication of the true water table.
- Water table levels will vary from time to time with seasons or recent weather changes and may not be the same at the time of construction.
- The use of water or mud as a drilling fluid will mask any groundwater inflow. Water has to be blown out of the hole and drilling mud must be washed out of the hole or 'reverted' chemically if reliable water observations are to be made.

More reliable measurements can be made by installing standpipes which are read after the groundwater level has stabilised at intervals ranging from several days to perhaps weeks for low permeability soils. Piezometers, sealed in a particular stratum, may be advisable in low permeability soils or where there may be interference from perched water tables or surface water.

FILL

The presence of fill materials can often be determined only by the inclusion of foreign objects (eg. bricks, steel, etc) or by distinctly unusual colour, texture or fabric. Identification of the extent of fill materials will also depend on investigation methods and frequency. Where natural soils similar to those at the site are used for fill, it may be difficult with limited testing and sampling to reliably assess the extent of the fill.

The presence of fill materials is usually regarded with caution as the possible variation in density, strength and material type is much greater than with natural soil deposits. Consequently, there is an increased risk of adverse engineering characteristics or behaviour. If the volume and quality of fill is of importance to a project, then frequent test pit excavations are preferable to boreholes.

LABORATORY TESTING

Laboratory testing is normally carried out in accordance with Australian Standard 1289 *'Methods of Testing Soils for Engineering Purposes'* or appropriate NSW Government Roads & Maritime Services (RMS) test methods. Details of the test procedure used are given on the individual report forms.

ENGINEERING REPORTS

Engineering reports are prepared by qualified personnel and are based on the information obtained and on current engineering standards of interpretation and analysis. Where the report has been prepared for a specific design proposal (eg. a three storey building) the information and interpretation may not be relevant if the design proposal is changed (eg. to a twenty storey building). If this happens, the Company will be pleased to review the report and the sufficiency of the investigation work.

Reasonable care is taken with the report as it relates to interpretation of subsurface conditions, discussion of geotechnical aspects and recommendations or suggestions for design and construction. However, the Company cannot always anticipate or assume responsibility for:

- Unexpected variations in ground conditions – the potential for this will be partially dependent on borehole spacing and sampling frequency as well as investigation technique.
- Changes in policy or interpretation of policy by statutory authorities.
- The actions of persons or contractors responding to commercial pressures.
- Details of the development that the Company could not reasonably be expected to anticipate.

If these occur, the Company will be pleased to assist with investigation or advice to resolve any problems occurring.

SITE ANOMALIES

In the event that conditions encountered on site during construction appear to vary from those which were expected from the information contained in the report, the Company requests that it immediately be notified. Most problems are much more readily resolved when conditions are exposed rather than at some later stage, well after the event.

REPRODUCTION OF INFORMATION FOR CONTRACTUAL PURPOSES

Where information obtained from this investigation is provided for tendering purposes, it is recommended that all information, including the written report and discussion, be made available. In circumstances where the discussion or comments section is not relevant to the contractual situation, it may be appropriate to prepare a specially edited document. The Company would be pleased to assist in this regard and/or to make additional report copies available for contract purposes at a nominal charge.

Copyright in all documents (such as drawings, borehole or test pit logs, reports and specifications) provided by the Company shall remain the property of Jeffery and Katauskas Pty Ltd. Subject to the payment of all fees due, the Client alone shall have a licence to use the documents provided for the sole purpose of completing the project to which they relate. Licence to use the documents may be revoked without notice if the Client is in breach of any obligation to make a payment to us.

REVIEW OF DESIGN

Where major civil or structural developments are proposed or where only a limited investigation has been completed or where the geotechnical conditions/constraints are quite complex, it is prudent to have a joint design review which involves an experienced geotechnical engineer/engineering geologist.

SITE INSPECTION

The Company will always be pleased to provide engineering inspection services for geotechnical aspects of work to which this report is related.

Requirements could range from:

i) a site visit to confirm that conditions exposed are no worse than those interpreted, to

ii) a visit to assist the contractor or other site personnel in identifying various soil/rock types and appropriate footing or pile founding depths, or

iii) full time engineering presence on site.

SYMBOL LEGENDS

SOIL

- FILL
- TOPSOIL
- CLAY (CL, CI, CH)
- SILT (ML, MH)
- SAND (SP, SW)
- GRAVEL (GP, GW)
- SANDY CLAY (CL, CI, CH)
- SILTY CLAY (CL, CI, CH)
- CLAYEY SAND (SC)
- SILTY SAND (SM)
- GRAVELLY CLAY (CL, CI, CH)
- CLAYEY GRAVEL (GC)
- SANDY SILT (ML, MH)
- PEAT AND HIGHLY ORGANIC SOILS (Pt)

ROCK

- CONGLOMERATE
- SANDSTONE
- SHALE/MUDSTONE
- SILTSTONE
- CLAYSTONE
- COAL
- LAMINITE
- LIMESTONE
- PHYLLITE, SCHIST
- TUFF
- GRANITE, GABBRO
- DOLERITE, DIORITE
- BASALT, ANDESITE
- QUARTZITE

OTHER MATERIALS

- BRICKS OR PAVERS
- CONCRETE
- ASPHALTIC CONCRETE

CLASSIFICATION OF COARSE AND FINE GRAINED SOILS

Major Divisions		Group Symbol	Typical Names	Field Classification of Sand and Gravel	Laboratory Classification	
Coarse grained soil (more than 65% of soil excluding oversize fraction is greater than 0.075mm)	GRAVEL (more than half of coarse fraction is larger than 2.36mm)	GW	Gravel and gravel-sand mixtures, little or no fines	Wide range in grain size and substantial amounts of all intermediate sizes, not enough fines to bind coarse grains, no dry strength	≤ 5% fines	$C_u > 4$ $1 < C_c < 3$
		GP	Gravel and gravel-sand mixtures, little or no fines, uniform gravels	Predominantly one size or range of sizes with some intermediate sizes missing, not enough fines to bind coarse grains, no dry strength	≤ 5% fines	Fails to comply with above
		GM	Gravel-silt mixtures and gravel-sand-silt mixtures	'Dirty' materials with excess of non-plastic fines, zero to medium dry strength	≥ 12% fines, fines are silty	Fines behave as silt
		GC	Gravel-clay mixtures and gravel-sand-clay mixtures	'Dirty' materials with excess of plastic fines, medium to high dry strength	≥ 12% fines, fines are clayey	Fines behave as clay
	SAND (more than half of coarse fraction is smaller than 2.36mm)	SW	Sand and gravel-sand mixtures, little or no fines	Wide range in grain size and substantial amounts of all intermediate sizes, not enough fines to bind coarse grains, no dry strength	≤ 5% fines	$C_u > 6$ $1 < C_c < 3$
		SP	Sand and gravel-sand mixtures, little or no fines	Predominantly one size or range of sizes with some intermediate sizes missing, not enough fines to bind coarse grains, no dry strength	≤ 5% fines	Fails to comply with above
		SM	Sand-silt mixtures	'Dirty' materials with excess of non-plastic fines, zero to medium dry strength	≥ 12% fines, fines are silty	N/A
		SC	Sand-clay mixtures	'Dirty' materials with excess of plastic fines, medium to high dry strength	≥ 12% fines, fines are clayey	

Major Divisions		Group Symbol	Typical Names	Field Classification of Silt and Clay			Laboratory Classification
				Dry Strength	Dilatancy	Toughness	% < 0.075mm
Fine grained soils (more than 35% of soil excluding oversize fraction is less than 0.075mm)	SILT and CLAY (low to medium plasticity)	ML	Inorganic silt and very fine sand, rock flour, silty or clayey fine sand or silt with low plasticity	None to low	Slow to rapid	Low	Below A line
		CL, CI	Inorganic clay of low to medium plasticity, gravelly clay, sandy clay	Medium to high	None to slow	Medium	Above A line
		OL	Organic silt	Low to medium	Slow	Low	Below A line
	SILT and CLAY (high plasticity)	MH	Inorganic silt	Low to medium	None to slow	Low to medium	Below A line
		CH	Inorganic clay of high plasticity	High to very high	None	High	Above A line
		OH	Organic clay of medium to high plasticity, organic silt	Medium to high	None to very slow	Low to medium	Below A line
	Highly organic soil	Pt	Peat, highly organic soil	–	–	–	–

Laboratory Classification Criteria

A well graded coarse grained soil is one for which the coefficient of uniformity $Cu > 4$ and the coefficient of curvature $1 < C_c < 3$. Otherwise, the soil is poorly graded. These coefficients are given by:

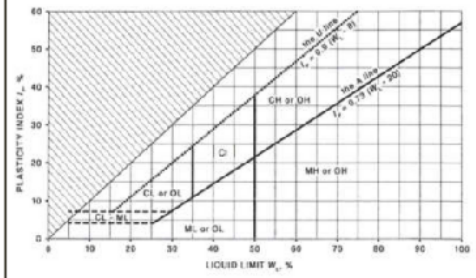
$$C_U = \frac{D_{60}}{D_{10}} \qquad and \qquad C_c = \frac{(D_{30})^2}{D_{10}\, D_{60}}$$

Where D_{10}, D_{30} and D_{60} are those grain sizes for which 10%, 30% and 60% of the soil grains, respectively, are smaller.

NOTES:

1. For a coarse grained soil with a fines content between 5% and 12%, the soil is given a dual classification comprising the two group symbols separated by a dash; for example, for a poorly graded gravel with between 5% and 12% silt fines, the classification is GP-GM.
2. Where the grading is determined from laboratory tests, it is defined by coefficients of curvature (C_c) and uniformity (C_u) derived from the particle size distribution curve.
3. Clay soils with liquid limits > 35% and ≤ 50% may be classified as being of medium plasticity.
4. The U line on the Modified Casagrande Chart is an approximate upper bound for most natural soils.

Modified Casagrande Chart for Classifying Silts and Clays according to their Behaviour



LOG SYMBOLS

Log Column	Symbol	Definition
Groundwater Record	▼	Standing water level. Time delay following completion of drilling/excavation may be shown.
	C	Extent of borehole/test pit collapse shortly after drilling/excavation.
	▶	Groundwater seepage into borehole or test pit noted during drilling or excavation.
Samples	ES	Sample taken over depth indicated, for environmental analysis.
	U50	Undisturbed 50mm diameter tube sample taken over depth indicated.
	DB	Bulk disturbed sample taken over depth indicated.
	DS	Small disturbed bag sample taken over depth indicated.
	ASB	Soil sample taken over depth indicated, for asbestos analysis.
	ASS	Soil sample taken over depth indicated, for acid sulfate soil analysis.
	SAL	Soil sample taken over depth indicated, for salinity analysis.
Field Tests	N = 17 4, 7, 10	Standard Penetration Test (SPT) performed between depths indicated by lines. Individual figures show blows per 150mm penetration. 'Refusal' refers to apparent hammer refusal within the corresponding 150mm depth increment.
	N_c = 5 7 3R	Solid Cone Penetration Test (SCPT) performed between depths indicated by lines. Individual figures show blows per 150mm penetration for 60° solid cone driven by SPT hammer. 'R' refers to apparent hammer refusal within the corresponding 150mm depth increment.
	VNS = 25	Vane shear reading in kPa of undrained shear strength.
	PID = 100	Photoionisation detector reading in ppm (soil sample headspace test).
Moisture Condition (Fine Grained Soils)	*w* > PL	Moisture content estimated to be greater than plastic limit.
	w ≈ PL	Moisture content estimated to be approximately equal to plastic limit.
	w < PL	Moisture content estimated to be less than plastic limit.
	w ≈ LL	Moisture content estimated to be near liquid limit.
	w > LL	Moisture content estimated to be wet of liquid limit.
(Coarse Grained Soils)	D	DRY – runs freely through fingers.
	M	MOIST – does not run freely but no free water visible on soil surface.
	W	WET – free water visible on soil surface.
Strength (Consistency) Cohesive Soils	VS	VERY SOFT – unconfined compressive strength ≤ 25kPa.
	S	SOFT – unconfined compressive strength > 25kPa and ≤ 50kPa.
	F	FIRM – unconfined compressive strength > 50kPa and ≤ 100kPa.
	St	STIFF – unconfined compressive strength > 100kPa and ≤ 200kPa.
	VSt	VERY STIFF – unconfined compressive strength > 200kPa and ≤ 400kPa.
	Hd	HARD – unconfined compressive strength > 400kPa.
	Fr	FRIABLE – strength not attainable, soil crumbles.
	( )	Bracketed symbol indicates estimated consistency based on tactile examination or other assessment.

Density Index/ Relative Density (Cohesionless Soils)		Density Index (I_D) Range (%)	SPT 'N' Value Range (Blows/300mm)
	VL	VERY LOOSE	≤ 15	0 – 4
	L	LOOSE	> 15 and ≤ 35	4 – 10
	MD	MEDIUM DENSE	> 35 and ≤ 65	10 – 30
	D	DENSE	> 65 and ≤ 85	30 – 50
	VD	VERY DENSE	> 85	> 50
	( )	Bracketed symbol indicates estimated density based on ease of drilling or other assessment.		

Hand Penetrometer Readings	300 250	Measures reading in kPa of unconfined compressive strength. Numbers indicate individual test results on representative undisturbed material unless noted otherwise.

Log Column	Symbol	Definition
Remarks	'V' bit	Hardened steel 'V' shaped bit.
	'TC' bit	Twin pronged tungsten carbide bit.
	T_{60}	Penetration of auger string in mm under static load of rig applied by drill head hydraulics without rotation of augers.
	Soil Origin	The geological origin of the soil can generally be described as: RESIDUAL – soil formed directly from insitu weathering of the underlying rock. No visible structure or fabric of the parent rock. EXTREMELY WEATHERED – soil formed directly from insitu weathering of the underlying rock. Material is of soil strength but retains the structure and/or fabric of the parent rock. ALLUVIAL – soil deposited by creeks and rivers. ESTUARINE – soil deposited in coastal estuaries, including sediments caused by inflowing creeks and rivers, and tidal currents. MARINE – soil deposited in a marine environment. AEOLIAN – soil carried and deposited by wind. COLLUVIAL – soil and rock debris transported downslope by gravity, with or without the assistance of flowing water. Colluvium is usually a thick deposit formed from a landslide. The description 'slopewash' is used for thinner surficial deposits. LITTORAL – beach deposited soil.

Classification of Material Weathering

Term		Abbreviation		Definition
Residual Soil		RS		Material is weathered to such an extent that it has soil properties. Mass structure and material texture and fabric of original rock are no longer visible, but the soil has not been significantly transported.
Extremely Weathered		XW		Material is weathered to such an extent that it has soil properties. Mass structure and material texture and fabric of original rock are still visible.
Highly Weathered	Distinctly Weathered (Note 1)	HW	DW	The whole of the rock material is discoloured, usually by iron staining or bleaching to the extent that the colour of the original rock is not recognisable. Rock strength is significantly changed by weathering. Some primary minerals have weathered to clay minerals. Porosity may be increased by leaching, or may be decreased due to deposition of weathering products in pores.
Moderately Weathered		MW		The whole of the rock material is discoloured, usually by iron staining or bleaching to the extent that the colour of the original rock is not recognisable, but shows little or no change of strength from fresh rock.
Slightly Weathered		SW		Rock is partially discoloured with staining or bleaching along joints but shows little or no change of strength from fresh rock.
Fresh		FR		Rock shows no sign of decomposition of individual minerals or colour changes.

NOTE 1: The term 'Distinctly Weathered' is used where it is not practicable to distinguish between 'Highly Weathered' and 'Moderately Weathered' rock. 'Distinctly Weathered' is defined as follows: *'Rock strength usually changed by weathering. The rock may be highly discoloured, usually by iron staining. Porosity may be increased by leaching, or may be decreased due to deposition of weathering products in pores'*. There is some change in rock strength.

Rock Material Strength Classification

Term	Abbreviation	Uniaxial Compressive Strength (MPa)	Guide to Strength	
			Point Load Strength Index $Is_{(50)}$ (MPa)	Field Assessment
Very Low Strength	VL	0.6 to 2	0.03 to 0.1	Material crumbles under firm blows with sharp end of pick; can be peeled with knife; too hard to cut a triaxial sample by hand. Pieces up to 30mm thick can be broken by finger pressure.
Low Strength	L	2 to 6	0.1 to 0.3	Easily scored with a knife; indentations 1mm to 3mm show in the specimen with firm blows of the pick point; has dull sound under hammer. A piece of core 150mm long by 50mm diameter may be broken by hand. Sharp edges of core may be friable and break during handling.
Medium Strength	M	6 to 20	0.3 to 1	Scored with a knife; a piece of core 150mm long by 50mm diameter can be broken by hand with difficulty.
High Strength	H	20 to 60	1 to 3	A piece of core 150mm long by 50mm diameter cannot be broken by hand but can be broken by a pick with a single firm blow; rock rings under hammer.
Very High Strength	VH	60 to 200	3 to 10	Hand specimen breaks with pick after more than one blow; rock rings under hammer.
Extremely High Strength	EH	> 200	> 10	Specimen requires many blows with geological pick to break through intact material; rock rings under hammer.

Abbreviations Used in Defect Description

Cored Borehole Log Column		Symbol Abbreviation	Description
Point Load Strength Index		• 0.6	Axial point load strength index test result (MPa)
		x 0.6	Diametral point load strength index test result (MPa)
Defect Details	– Type	Be	Parting – bedding or cleavage
		CS	Clay seam
		Cr	Crushed/sheared seam or zone
		J	Joint
		Jh	Healed joint
		Ji	Incipient joint
		XWS	Extremely weathered seam
	– Orientation	Degrees	Defect orientation is measured relative to normal to the core axis (ie. relative to the horizontal for a vertical borehole)
	– Shape	P	Planar
		C	Curved
		Un	Undulating
		St	Stepped
		Ir	Irregular
	– Roughness	Vr	Very rough
		R	Rough
		S	Smooth
		Po	Polished
		Sl	Slickensided
	– Infill Material	Ca	Calcite
		Cb	Carbonaceous
		Clay	Clay
		Fe	Iron
		Qz	Quartz
		Py	Pyrite
	– Coatings	Cn	Clean
		Sn	Stained – no visible coating, surface is discoloured
		Vn	Veneer – visible, too thin to measure, may be patchy
		Ct	Coating ≤ 1mm thick
		Filled	Coating > 1mm thick
	– Thickness	mm.t	Defect thickness measured in millimetres

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No. Pages: 4
Project No.: 2020-021

Anne-Marie Young
Development Assessment.
Northern Beaches Council.

Peer Review of Geotechnical Reports supplied for Development Application No. 3 Berith Avenue, Wheeler Heights.

We understand that a Development Application (DA 2019/1173) was lodged with Council for demolition of existing structures and construction of a new residential development at the property No. 3 Berith Street, Wheeler Heights.

It is further understood that the DA was supported by a geotechnical report by White Geotechnical Group (WGG) and that as part of the Councils review process this report was assessed by an independent geotechnical consultancy being JK Geotechnics (JK). This review found the DA report to be inadequate and recommended further geotechnical investigation and reporting, for which the sites owner subsequently engaged JK to undertake this work. Therefore, Council now requires the works and reporting reviewed by another independent geotechnical consultancy.

1. Documentation

As a result, we have reviewed the following documents:

1. Architectural Design drawings submitted for the Development Application: Barry Rush and Associates, Job No.: 1715, Drawing No.: A01 to A11, Version: DA, Dated: (Plotted: 7/11/2018).
2. Survey Drawing: Donovan Associates, Job Reference: 1297/147760, Survey Date: 16/05/2017
3. Geotechnical Investigation Report: White Geotechnical Group, Reference No.: J2436, Dated: 17th October 2019.
4. Geotechnical Peer Review Report: JK Geotechnics, Reference: 32859YFlet, Dated: 13 December 2019
5. Geotechnical Investigation Report: by JK Geotechnics, Reference: 32859SFrpt, Dated: 20 January 2020

2. Development

The proposed development appears to involve a two-storey residential structure formed over a basement carparking level. The basement has a Finished Floor Level (FFL) at R.L.72.0 with Ground Surface levels at the corners of the basement interpreted from the survey drawing at R.L. 75.0, 77.3, 78.1 and 75.25 at the north-west, north-east, south-east and south-west corners respectively. As such based on a Base Excavation Level of R.L. 71.8 a depth of excavation of approximately 3.20m, 5.50m, 6.30m and 3.95m is required at those corners.

The separation distances of the excavation from boundaries is estimated from the design plans and survey at approximately 3.10m from the north side, 7.70m from the rear east, 2.80m from the south side with the exception of a small area for the fire stairs at 1.50m and a separation of 16.2m from the front western boundary.

3. Policy

The site is governed by the Warringah 2011 LEP and DCP with section E10 Landslip Policy being the relevant policy against which this assessment is undertaken.

This policy states that "The applicant must demonstrate that – The proposed development is justified in terms of geotechnical stability; and The development will be undertaken in accordance with good engineering practice". Also, that "A risk assessment of landslip in relation to both property and life, prepared in accordance with the guidelines published by the Australian Geomechanics Society must be submitted".

This site is located within landslip risk Area 'D' defined as Collaroy Plateau Flanking Slopes 5° to 15°, in Landslip Risk Map Sheet LSR_009 of the E10 Landslip Risk policy. A review of the policies preliminary checklist and the proposed works identified that the proposed development involves works which exceed the preliminary assessment guidelines therefore, a geotechnical report is required in support of the DA.

It is noted that the Councils policy does not define acceptance criteria for the risk levels therefore it is interpreted that the AGS 2007 guidelines and NSW Government criteria apply.

4. Investigation

The investigation by WGG was extremely limited and involved one hand auger borehole along with a series of Dynamic Penetrometer tests, which were used to interpret the bedrock surface at between 0.60m and 1.50m depth below surface.

The subsequent JK investigation involved two boreholes with coring into the bedrock extending to between 8.63m depth (R.L. 68.87 – BH 101) and 6.64m depth (R.L. 68.56 – BH 102).

These two boreholes appear to have identified the upper surface of the sandstone bedrock at between 1.0m and 1.80m depth with the bedrock below this level logged as medium to high strength and then medium strength to the base of each borehole. However, the investigation also encountered significant zones of 'no core' during the drilling process. This material is explained as "usually the result of poor quality extremely weathered shale or sandstone with soil properties or bands of clayey sands which have been washed away by the drill flush water". The boreholes also identified some sub-horizontal bedding defects and joint defects dipping at 50 to 90°.

5. Risk Analysis

A risk analysis was undertaken by WGG and it assessed the Risk to Property and Risk to Life related to Hazard One - Ground Vibrations and Hazard Two – Excavation Collapse. The assessments were rudimental with landslip only assessed for impact to the work site. The assessment determined that each hazard would result in "Unacceptable" risk levels unless the recommendations of the report were followed.

The JK "Peer Review Report" also undertook a risk analysis with the Risk to Property and Risk to Life assessed for several hazards including "Instability of Existing Retaining Walls", Instability of Existing Natural Hill Side" and "Instability of Basement Excavation". The assessments were based on "all geotechnical recommendations followed during construction" and identified risk levels at $\leq 9.165 \times 10^{-9}$ for Life and ≤ "Low" for Property.

A risk analysis was not undertaken/supplied within the JK Investigation Report with reference made to the analysis within the JK Peer Review report only.

6. Recommendations

Detailed construction recommendations were made within the WGG report in relation to Vibrations, Excavation Support Requirements, Retaining Walls and Foundations.

Detailed construction recommendations were also supplied within the JK Investigation report in relation to Dilapidation Surveys, Excavation Methods, Potential Vibration Risk, Retention Systems, Hydrogeological Considerations, Footings, Basement Slab, Earthquake Design Factors and Further Geotechnical Input.

7. Peer Assessment:

Whilst none of the reviewed reports detail the actual zoning or policies related to the site and the proposed development, they appear written on the premise of confirming that the development can be completed in terms of geotechnical stability and ensuring the works will be undertaken in accordance with good engineering practice.

The details of the proposed development including excavation depths and proximities to boundaries, along with neighbouring property conditions are more thoroughly explained within the reports by JK than in that by WGG. Our review of the supplied architectural drawings, survey plan and available data considers that the details provided in the JK report are similar to our interpretation, and are therefore considered to reasonably match actual conditions.

A risk analysis of landslip in relation to both property and life was prepared in two of the reports and both appear in general accordance with the guidelines published by the Australian Geomechanics Society "Practice Note Guidelines for Landslide Risk Management 2007, Australian Geomechanics Society, Volume 42, No.: 1 March 2007 and subsequent amendments. However, both are also considered to have deficiencies.

Risk analysis was provided in the report by WGG and as part of the Peer Review Report by JK. The initial analysis by WGG was undertaken based on the limited site conditions identified by WGG whilst the JK analysis was also undertaken based on these same conditions, prior to the more detailed site investigation recommended by JK. Therefore, the risk analyses are not based on the results of that detailed investigation and are therefore partially based on interpretation and expectation as opposed to actual/identified site conditions.

The detailed investigation by JK involved a better assessment of the bedrock profile than occurred by WGG however numerous zones of up to 1.0m in length during drilling returned "no core", as such significant sections of the geological profile are undefined or assumed to be due to "poor quality" rock. This information has not been incorporated into the risk analyses. These poor-quality zones create some concern for the stability of the excavation and the potential risk to persons within the site during the excavation.

Neither risk analysis considered the landslip risk to neighbouring properties. However, the separation distances of the excavation from side boundaries along with the shallow depth to bedrock and its strength and condition where returned indicates that risk levels will remain low for instability impacting neighbouring properties, structures or persons within these areas.

The JK investigation report recommendations are detailed and are considered to address the actual ground conditions identified, including areas of poor-quality rock. The recommended ground vibration limit is conservative but takes into account the variable aspects of ground vibration and should ensure a very low likelihood of impact to property whilst maintaining reasonable conditions for persons during the rock excavation phase. The report also details a geotechnical inspection/monitoring program that will allow for identification of ground variations and potential landslip hazards. They are therefore considered suitable to maintain excavation stability and protection of neighbouring properties.

CROZIER GEOTECHNICAL CONSULTANTS

All three reports supplied are therefore considered, when combined, to provide sufficient detail that will ensure geotechnical stability and allow the development to be undertaken in accordance with good engineering practice. The JK investigation report recommendations are considered the most suitable for development of an excavation and construction methodology by the builder.

Hope the above comments meet Council's requirements, if we can be of further assistance in regard to this matter please don't hesitate to contact the undersigned.

Yours faithfully,

Troy Crozier
Principal
MAIG. RPGeo.: Geotechnical and Engineering