

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held in the Flannel Flower Room, Northern Beaches Council, Dee Why

WEDNESDAY 6 DECEMBER 2017



Ashleigh Sherry
Manager Business System and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 6 December 2017
in the Flannel Flower Room, Northern Beaches Council, Dee Why**

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|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 1.0 | APOLOGIES & DECLARATIONS OF PECUNIARY INTEREST | |
| 2.0 | MINUTES OF PREVIOUS MEETING | |
| 2.1 | Minutes of Development Determination Panel held 15 November 2017 | |
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| 3.1 | N0083/17/R - 916 Barrenjoey Road, Palm Beach - Section 82A Review of Determination of construction of a secondary dwelling and garden cabana | 2 |
| 3.2 | N0308/17 - 6 Ross Street, Newport - Demolition of existing buildings and construction of a new two (2) storey boarding house | 38 |
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2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 15 NOVEMBER 2017

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 15 November 2017 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

| | |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| ITEM 3.1 | N0083/17/R - 916 BARRENJOEY ROAD, PALM BEACH - SECTION 82A REVIEW OF DETERMINATION OF CONSTRUCTION OF A SECONDARY DWELLING AND GARDEN CABANA |
| REPORTING MANAGER | Matthew Edmonds |
| TRIM FILE REF | 2017/484456 |
| ATTACHMENTS | 1 ↓ Assessment Report 2 ↓ DDP Plans - Site and Elevation Plans |

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

That Council as the consent authority grant approval to the Review of Determination No. N0083/17/R for the construction of a secondary dwelling and garden cabana at 916 Barrenjoey Road, Palm Beach, subject to the conditions outlined in the report.

SUBJECT: N0083/17/R – Section 82A Review of Determination
Construction of a secondary dwelling and garden cabana at 916
Barrenjoey Road, Palm Beach (Lot 17 DP 13686)

Determination Level: Development Determination Panel **Date:** 06 December 2017

SUMMARY OF RECOMMENDATION**CONSENT WITH CONDITIONS**

| | |
|-------------------------------------------|---------------------------------------------------------------------------|
| REPORT PREPARED BY: | Angela Manahan |
| APPLICATION SUBMITTED ON: | 14 September 2017 |
| S82A REVIEW MUST BE DETERMINED BY: | 08 December 2017 |
| APPLICATION SUBMITTED BY: | STEPHEN AND KATHERINE GLASS 916 BARRENJOEY ROAD PALM BEACH NSW 2108 |
| OWNERS: | MR STEPHEN JAMES GLASS MRS KATHERINE MARY LYLE GLASS |
| NO. OF SUBMISSIONS: | 2 |
| COST OF WORKS: | \$212,730 |

1.0 INTRODUCTION

This assessment has been undertaken following the request for a review of the determination made in respect to Development Application N0083/17. This request has been made pursuant to section 82A of the *Environmental Planning and Assessment Act 1979*. Development Application N0083/17 sought consent for the construction of a secondary dwelling and garden cabana at 916 Barrenjoey Road, Palm Beach (Lot 17 DP 13686). The application was refused by Council, under the delegation of the Development Unit, on 08 June 2017. N0083/17 was refused for the following reasons;

1. *Survey information is inadequate in relation to existing site improvements adjacent to the Barrenjoey Road boundary.*
2. *The development does not provide for the entry and exit of three vehicles in a forward direction from the property.*
3. *The proposed cabana does not comply with the rear 6.5m building line.*
4. *The proposed development does not comply with the landscape area requirements (Section D12.10) of P21 DCP.*
5. *The proposed development is inconsistent with the objectives of the E4 Environmental Living Zone.*

2.0 SITE DETAILS

The site is known as 916 Barrenjoey Road, Palm Beach and has a legal description of Lot 17 in Deposited Plan 13686. The site is irregular in shape, being generally rectangular in shape with angled north and south boundaries. The site has a total area of 1006m². Vehicle and pedestrian access is gained via the 18.125m wide frontage of Barrenjoey Road. The existing access driveway also provides access for 918 Barrenjoey Road, however it appears there is no right of carriageway providing legal access to the adjoining property at 918 Barrenjoey Road. The natural ground level of the site slopes substantially from north to south, representing a fall of 26.18m, and a slope of approximately 47.9%. The site currently contains a dwelling with roof top terrace (constructed under development consent N0046/12) and a detached garage with roof terrace, with the rear portion of the site consisting of bushland. The property is surrounded by residential properties to the south, east and west. The site adjoins McKay Reserve to the north and the Pittwater waterway is located to the far south of the site.

3.0 PROPOSAL IN DETAIL

The applicant seeks consent for the construction of a secondary dwelling and a garden cabana at the subject site. The proposal has been amended compared to that which was previously refused by Council, with the following amendment to the design of the development:

- Relocation and reorientation of the proposed Cabana to the south, in order to comply with the minimum rear setback of 6.5m.

In addition to the above amendment, the following supporting documentation was provided in addition to the original documentation:

- An updated survey plan, prepared by Adam Clerke Surveyors;
- Traffic Ingress/Egress Manoeuvre swept paths, prepared by Salt Traffic Engineers;
- Ecological Report, prepared by SIA Ecological & Environmental Planning;
- Updated Bushfire Risk Assessment Report, prepared by Building Code & Bushfire Hazard Solutions Pty Ltd;
- A new BASIX Certificate, dated 29 August 2017, with regards to the alterations and additions to the principal dwelling, being the Cabana.

4.0 STATUTORY & POLICY CONSIDERATIONS

The following planning legislation, environmental planning instruments, development control plans and policies are relevant to the subject application:

- Environmental Planning and Assessment Act, 1979 (the Act)
- Environmental Planning and Assessment Regulation 2000 (the Regulation)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
 - Acid Sulphate Soils Map - Class 5
 - Biodiversity Map
 - Geotechnical Hazard Map
 - Height of Buildings Map - 8.5m
 - Lot Size Map - 700sqm
- Pittwater 21 Development Control Plan (P21 DCP)
 - Palm Beach Locality
 - Bush Fire Prone Property
 - Geotechnical Risk Management Policy for Pittwater
 - Landscaped Area Map: Area 1
 - Land Containing or Adjoining Pittwater Spotted Gum Forest

- OSD Required.

The site is zoned E4 – Environmental Living under the provisions of the PLEP 2014 and the proposed development being a secondary dwelling and ancillary development to the principal dwelling is permissible with consent pursuant to the PLEP 2014.

5.0 BACKGROUND

30 October 2012

Development Application N0046/12 for the construction of a new dwelling, garage, inclinator and associated landscaping was approved by Council under the delegation of the Development Unit. Subsequent modification application N0046/12/S96/1 was approved by Council on 09 May 2013.

08 June 2017

Development Application N0083/17 was refused by Council under the delegation of the Development Unit.

14 September 2017

The subject review application was lodged with Council. The application was notified to adjoining property owners in accordance with Council's Notification Policy. The application was referred to Council's Senior Development Engineer and Natural Environment Officer for comment and/or recommendations. The application was externally referred to NSW Rural Fire Service for comment and/or recommendations.

6.0 NOTIFICATION

The application was notified to adjoining property owners from 22 September through to 09 October 2017 in accordance with Council's Notification Policy and the Regulations. In response to the notification of the proposal development, submissions were received as follows:

- 914 Barrenjoey Road, raising concerns with regards to:
 - Traffic, parking, vehicle manoeuvring and pedestrian access;
 - Visual privacy;
 - Acoustic privacy and noise disturbance;
 - Unauthorised clearing of vegetation;
 - Adverse impact upon the natural environment and bushland character of the site.
- 918 Barrenjoey Road, raising concerns with regards to:
 - Screening of the undercroft area in accordance with development consent N0042/12;
 - Unreasonable bulk and scale;
 - Parking and safe manoeuvring of vehicles;
 - The use of the rear of the site for the purpose of an outdoor recreation area and adverse impacts upon the natural environment.

7.0 ISSUES

- **REFUSAL REASON 1 – Insufficient Information**
- **REFUSAL REASON 2 – Access and Parking**
- **REFUSAL REASON 3 – Building Setbacks**
- **REFUSAL REASON 4 – Landscaped Area**
- **REFUSAL REASON 5 – Inconsistency with the Objectives of E4 Zone**
- **Impacts upon the Natural Environment**
- **Impacts upon the Amenity of the Subject Site and Adjoining Properties**
- **Visual Impact, and Bulk and Scale**

8.0 INTERDEPARTMENTAL COMMENTS

| Officer | Comments |
|----------------------|------------------------------------------------------------------------|
| Development Engineer | Supported (subject to conditions) See Section 10.0 for comment. |
| Natural Environment | Supported (subject to conditions) See Section 10.0 for comment. |

The application was externally referred to NSW Rural Fire Service who raised no objection to the proposed development, subject to compliance with the previous recommended conditions, dated 03 May 2017. Should the application be approved, the recommended conditions stipulated in the response provided on 03 May 2017 shall be imposed.

9.0 COMPLIANCE TABLE

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

The following table was produced as part of the assessment report associated with Development Application N0083/17. Comments in **bold text** relate to the subject s.82A Application.

| Control | Standard | Proposal | T | O | N |
|---------------------------------------------------------------------------------------------|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------|----------|
| Pittwater Local Environmental Plan 2014 | | | | | |
| 1.9A Suspension of covenants, agreements and instruments | | | Y | Y | Y |
| Zone E4 Environmental Living | | | Y | Y | Y |
| | | See discussion in Section 10.0. | Y | Y | Y |
| 4.3 Height of buildings | | | Y | Y | Y |
| 5.4 Controls relating to miscellaneous permissible uses | | | Y | Y | Y |
| 5.10 Heritage conservation | | | Y | Y | Y |
| 7.1 Acid sulfate soils | | Class 5. | Y | Y | Y |
| 7.2 Earthworks | | The earthworks for the proposed works are minor in nature and if carried out in line with the geotechnical hazard assessment will meet the control requirements. | Y | Y | Y |
| 7.6 Biodiversity protection | | | Y | Y | N |
| | | See discussion in Section 10.0. | Y | Y | N |
| 7.7 Geotechnical hazards | | <i>Geotechnical hazard assessment provided and meets the control requirements.</i> | Y | Y | Y |
| 7.10 Essential services | | | Y | Y | Y |
| Pittwater 21 Development Control Plan 2014 | | | | | |
| 3.1 Submission of a Development Application and payment of appropriate fee | | | Y | Y | Y |
| 3.2 Submission of a Statement of Environmental Effects | | | Y | Y | Y |
| 3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings | | | Y | Y | Y |
| | | See discussion in Section 10.0. | Y | Y | Y |
| 3.4 Notification | | | Y | Y | Y |
| 3.5 Building Code of Australia | | | Y | Y | Y |
| A1.7 Considerations before consent is granted | | | Y | Y | Y |
| A4.12 Palm Beach Locality | | | Y | Y | Y |
| | | See discussion in Section 10.0. | Y | Y | Y |
| B1.3 Heritage Conservation - General | | | Y | Y | Y |
| B1.4 Aboriginal Heritage Significance | | <i>No apparent issues.</i> | Y | Y | Y |
| B3.1 Landslip Hazard | | | Y | Y | Y |
| B3.2 Bushfire Hazard | | | Y | Y | Y |
| | | See discussion in Section 10.0. | Y | Y | N |
| B3.6 Contaminated Land and Potentially Contaminated Land | | | Y | Y | Y |
| B4.7 Pittwater Spotted Gum Forest - | | | Y | Y | Y |

| Control | Standard | Proposal | T | O | N |
|----------------------------------------------------------------------------------------------------|----------|--------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| Endangered Ecological Community | | See discussion in Section 10.0. | Y | Y | N |
| B5.4 Stormwater Harvesting | | <i>Basix Certificate requires 1400 litres of rainwater reuse capacity</i> | Y | Y | Y |
| B5.8 Stormwater Management - Water Quality - Low Density Residential | | <i>First flush device to be installed prior to BASIX tank requirements</i> | Y | Y | Y |
| B5.10 Stormwater Discharge into Public Drainage System | | | Y | Y | Y |
| B6.5 Off-Street Vehicle Parking Requirements - Low Density Residential (Amended 14/11/15 See B6.3) | | See discussion in Section 10.0. | Y | Y | N |
| B8.1 Construction and Demolition - Excavation and Landfill | | | Y | Y | Y |
| B8.2 Construction and Demolition - Erosion and Sediment Management | | | Y | Y | Y |
| B8.3 Construction and Demolition - Waste Minimisation | | | Y | Y | Y |
| B8.4 Construction and Demolition - Site Fencing and Security | | | Y | Y | Y |
| B8.5 Construction and Demolition - Works in the Public Domain | | | Y | Y | Y |
| C1.1 Landscaping | | <i>Comment in B4.7</i> See discussion in Section 10.0. | Y | Y | N |
| C1.2 Safety and Security | | | Y | Y | Y |
| C1.3 View Sharing | | | Y | Y | N |
| C1.4 Solar Access | | See discussion in Section 10.0. | Y | Y | N |
| C1.5 Visual Privacy | | See discussion in Section 10.0. | N | Y | Y |
| C1.6 Acoustic Privacy | | See discussion in Section 10.0. | Y | Y | N |
| C1.7 Private Open Space | | | Y | Y | Y |
| C1.9 Adaptable Housing and Accessibility | | | Y | Y | Y |
| C1.11 Secondary Dwellings and Rural Worker's Dwellings | | The secondary dwelling was measured to be approximately 55m ² . It contains one bedroom, one bathroom, kitchen and living room. | Y | Y | Y |
| C1.12 Waste and Recycling Facilities | | | Y | Y | Y |
| C1.13 Pollution Control | | | Y | Y | Y |
| C1.19 Incline Passenger Lifts and Stairways | | See discussion in Section 10.0. | - | - | N |
| C1.23 Eaves | | | Y | Y | Y |
| C1.24 Public Road Reserve - Landscaping and Infrastructure | | | Y | Y | Y |
| C1.25 Plant, Equipment Boxes and Lift Over-Run | | | Y | Y | Y |
| D12.1 Character as viewed from a | | | Y | Y | N |

| Control | Standard | Proposal | T | O | N |
|-----------------------------------------------------------------------------|----------|---------------------------------|---|---|---|
| public place | | See discussion in Section 10.0. | Y | Y | N |
| D12.3 Building colours and materials | | | Y | Y | Y |
| D12.5 Front building line | | | Y | Y | Y |
| D12.6 Side and rear building line | | | N | Y | N |
| | | See discussion in Section 10.0. | Y | Y | N |
| D12.8 Building envelope | | | Y | Y | Y |
| D12.10 Landscaped Area - Environmentally Sensitive Land | | | N | Y | N |
| | | See discussion in Section 10.0. | N | Y | N |
| D12.12 Fences - Flora and Fauna Conservation Areas | | No fences proposed | Y | Y | Y |
| D12.13 Construction, Retaining walls, terracing and undercroft areas | | | Y | Y | Y |
| D12.14 Scenic Protection Category One Areas | | | Y | Y | Y |
| | | See discussion in Section 10.0. | Y | Y | Y |
| State Environmental Planning Policies and other | | | | | |
| SEPP (Building Sustainability Index: BASIX) 2004 | | | Y | Y | Y |
| | | | Y | Y | Y |
| EPA Act 1979 No 203 section 147 Disclosure of political donations and gifts | | | Y | Y | Y |

10.0 ASSESSMENT & DISCUSSION OF ISSUES

In undertaking a review of the determination, the reasons for refusal are addressed in this section of the report. Any additional issues or further concerns, including those raised in the public submission are also addressed in this section of the report.

REFUSAL REASON POINT 1

- 3.3 Submission of supporting documentation – Site Plan/Survey Plan/Development Drawings of P21 DCP**

Reason for Refusal

Survey information is inadequate in relation to existing site improvements adjacent to the Barrenjoey Road boundary.

An updated survey plan was submitted as part of the S82A review application. The survey is dated 24 July 2017, and identifies all current structures and site features.

This clause was superseded by amendments made to P21 DCP which came into force on 08 July 2017 and is no longer applicable. The documentation and level of detail provided on the survey plan is consistent with the Development Application Lodgement Checklist and the Regulations. As such the above reason for refusal is satisfied.

REFUSAL REASON POINT 2

- **B6.3 Off-Street Vehicle Parking Requirements of P21 DCP**

Reason for Refusal

The development does not provide for the entry and exit of three vehicles in a forward direction from the property.

The original application did not adequately demonstrate that the site could facilitate three (3) off-street parking spaces that can enter and exit the site in a forward direction.

Submissions have been received which raise concerns regarding the off-street parking. Particular concerns were raised with regards to the safety of the proposed parking and existing driveway, including the ability for vehicles to manoeuvre in order to exit in a forward direction and the ability for emergency vehicles to access the site. The submissions also raised concerns regarding the accuracy of the swept path drawings provided by the Applicant.

Clause B6.3 of P21 DCP provides a variation for a reduction in parking for a secondary dwelling to a minimum of two (2) spaces per allotment, however as there is no on-street parking available within the vicinity of the subject site on Barrenjoey Road, in this instance the provision of three (3) parking spaces on site is required. The development proposes one (1) hard stand space in addition to the existing double garage. The proposed hard stand space is compliant with the minimum dimensions stipulated by clause B6.3, being 2.4m x 5.5m, with 0.3m minimum clear space each side for access to doors.

The submissions state that the submitted swept path drawings appear to penetrate built structures and stationary vehicles, and extend into the road reserve area. It is noted that the provided swept path drawings are imposed over an aerial view of the site, and as such portions of the as drawn structures and those shown on the aerial view do not align. Based on the actual drawings it is demonstrated that the proposed swept path do not collide with any built structures or vehicles. Furthermore, while use of the road reserve area is required to allow turning of vehicles, the swept paths demonstrate that all three (3) vehicles will be able to enter and exit the site in a forward direction. The proposed parking area is located wholly within the boundaries of the subject site and shall not obstruct the existing driveway.

The review application was referred to Council's Senior Development Engineer for comment and/or recommendations and the following advice was provided:

The additional car space indicated on the plans is considered to be satisfactory since there is adequate space to conduct a turning movement for vehicle to leave in a forward direction. No Development Engineering objection is raised to the proposed review subject to complying with recommended conditions of the Engineering assessment of the original application.

The original Engineering assessment raised no concerns with regards to the three (3) off-street parking spaces provided on site, noting that the existing arrangement includes the use of the area in front of the garage for parking. A condition of consent was recommended to formalise an additional parking space within this area, and ensure that a minimum of three (3) parking spaces are provided on site for the life of the development.

In view of the above, and support from Council's Development Engineer, the proposed development is supported and the above reason for refusal is considered to be satisfied.

REFUSAL REASON POINT 3

- **D12.6 Side and Rear Building Line of P21 DCP**

Reason for Refusal

The proposed cabana does not comply with the rear 6.5m building line.

The location of the proposed Cabana in the original application did not comply with clause D12.6 in relation to the rear setback requirement. The review application has relocated the Cabana to the south and the Applicant states that the proposed Cabana is fully compliant with the minimum rear building line of 6.5m. However, the north-western corner of the Cabana is located a minimum of 6.3m from the northern rear boundary and as such does not comply with 6.5m rear building line. As such should the application be approved, the Cabana should be reduced in length by 0.2m in order to ensure strict compliance with the minimum requirement. Subject to the recommendation reason for refusal 3 is satisfied.

REFUSAL REASON POINT 4

- **D12.10 Landscaped Area – Environmentally Sensitive Land of P21 DCP**

Reason for Refusal

The proposed development does not comply with the landscape area requirements (Section D12.10) of P21 DCP.

The landscape area control requires that the minimum landscaped area shall be 60% or 603.6m². The proposed development shall result in a landscape area calculation of 55% or 533.3m². Clause D12.10 permits a variation for impervious areas less than 1m in width, including pathways and the like, to be provided on landscaped area, and allows for up to 6% of the site area to be provided as impervious landscaped area for outdoor recreation purposes. The subject site includes several paths and stairs to provide pedestrian access throughout the site which can be included into the landscaped area calculation. However, as all the impervious outdoor recreation areas are elevated higher than 1m above ground level, the variation for up to 6% of the site is not applicable in this instance. Subject to the variation for areas less than 1m in width, the proposed development shall have a landscaped area calculation of 57.5% or 578.45m² and shall remain technically non-compliant with clause D12.10.

The proposed secondary dwelling is located entirely within the building footprint of the existing building. As discussed further in the report, the secondary dwelling is not considered to attribute to an excessive level of bulk and scale and the proposal is consistent with the desired character of the Palm Beach locality. The Cabana shall be an open and light-weight structure with minimal bulk and scale. Additionally, as discussed under the amenity impacts heading, the proposed development is not considered to result in any unreasonable impacts upon adjoining properties with regards to solar access and visual privacy, and a reasonable level of residential amenity shall be retained. The proposal shall not require the removal of any trees or significant vegetation and vegetation on site shall be enhanced where possible. Council's Senior Development Engineer raised no objection to the proposed development with regards to stormwater management. While the proposed development still does not comply with clause D12.10, it is noted that deletion of the Cabana would still result in a non-compliant landscaped area, being approximately 58.8% of the site area. In view of the above, the proposed development is considered to be consistent with the outcomes of the control and the minor non-compliance supported on merit in this instance.

REFUSAL REASON POINT 5**• E4 Environmental Living Zone of PLEP 2014**Reason for Refusal

The proposed development is inconsistent with the objectives of the E4 Environmental Living Zone.

The original application was found to be inconsistent with the objectives of the E4 zone, as the proposal was not seen to encourage the conservation and regeneration of native flora and fauna and their ecological process. The objectives of the E4 zone are assessed as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment: The proposal has been assessed in accordance with the provisions of PLEP 2014, P21 DCP and other relevant state and local policies. The assessment has found that the proposed development is largely compliant with Council's built form controls, with the exception of a minor non-compliance with the minimum landscaped area, and is consistent with the objectives and outcomes of the relevant planning controls contained within PLEP 2014 and P21 DCP. As such it is considered that the proposed development shall result in a low-impact residential development on an environmentally sensitive site.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment: As discussed in detail below under the Natural Environment heading, the proposal does not require the removal of any significant trees or native vegetation, and is not considered to result in any unreasonable impacts upon the existing natural environment. The proposed Cabana is of minimal bulk and scale, and the proposed secondary dwelling shall not result in any adverse visual impacts as viewed from the public domain. As such, it is considered that the proposal will not have an adverse impact upon the special ecological, scientific or aesthetic values of the site.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment: The proposed development is a low density residential development that is considered to be at a scale that is anticipated for the site, given the level of compliance and consistency with Council's built form planning controls. The development is primarily located to the front portion of the site to the south, in order to retain the existing vegetation in the rear of the property and provide an extension of the vegetated area adjoining the reserve. Furthermore, as the proposed secondary dwelling is located within the undercroft area of the existing dwelling, excavation associated with the additional dwelling shall be minimal. As such it is considered that the proposal is integrated with the landscape and landform. The proposal is well articulated, and it is recommended that the secondary dwelling be finished in dark and earthy colours to minimise the visual impact of the lower level, and ensure the development will blend with the surrounding natural environment and not be visually obtrusive. The scale of the development is not inconsistent with surrounding built form or the existing development within the Palm Beach locality.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment: The proposed development is supported by Council's Natural Environment Officer, who raised no objection to the proposed development. Landscaping and vegetation on site shall be enhanced where possible in order to ensure that the bushland character of the site is retained, specifically within the rear of the site. Furthermore, the proposed Cabana is located over an existing grassed area and shall not adversely impact the endangered ecological community.

In view of the above, the proposed development is considered to be consistent with the objectives of the E4 Environmental Living zone and reason for refusal 5 is considered to be satisfied.

Impacts upon the Natural Environment

- **7.6 Biodiversity of PLEP 2014**
- **B3.2 Bushfire Hazard of P21 DCP**
- **B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community of P21 DCP**
- **C1.1 Landscaping of P21 DCP**

Submissions have been received which raise concerns with regards to potential impacts upon the existing vegetation and EEC, being Pittwater Spotted Gum Forest. The submissions also raise concerns regarding unauthorised clearing and removal of vegetation within the rear portion of the site, and inconsistency with development consent N0046/12 which requires the rear of the site to be regenerated as native bushland.

The subject site is identified on PLEP 2014 Biodiversity Map, and as containing Pittwater Spotted Gum Forest – Endangered Ecological Community. In the refusal of the original application by the Development Unit it was also noted that the proposed Cabana was inconsistent with the requirements of condition E6 of development consent N0046/12, which required the following:

E6 - The Ecological Consultant is to certify that the Bushland area is the same (or better condition) post development relative to pre-development except in the location of the approved zone of influence of the development on the site.

On 21 July 2014 the Final Occupation Certificate was issued for the principal dwelling, in relation to development consent N0046/12. Within the Occupation Certificate documentation a letter from the Arborist was submitted which confirmed that the bushland area for the site post development is in the same condition as pre development, and as such condition E6 was satisfied. Further to the issue of the OC, in March 2016 Council's Environment Compliance Unit investigated a complaint regarding unauthorised clearing at the rear of the property, claiming that the land was in an Environmental Protection Zone and the clearing was not in accordance with N0046/12. The investigation found that 80% of all low bushes and scrub had been cleared, however the subject clearing satisfied the Rural Fire Service 10/50 Vegetation Clearing Code of Practice for NSW, and subsequently no further action was required.

Notwithstanding the above, it is considered that the clearing of the site and creation of a lawn area within the rear of the site was not necessarily in accordance with the intent of development consent N0046/12, which sought to regenerate the bushland area at the rear of the property. The approved landscape plan identified the whole of the rear of the site to be regenerated native bushland, and the consent included a condition requiring that all natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans, which is to be maintained for the life of the development. However, the consent also requires the entire property to be managed as an Inner Protection Area, which subsequently requires management of the bushland area and removal or thinning of vegetation where necessary. As such, due to the bushfire restrictions, the extent of regeneration of the bushland at the rear of the property is limited.

The subject application was supported by an Ecological Report which notes that due to the bushfire requirements, the bushland area to the rear is not the same (or better condition) post development relative to pre-development, in contradiction to condition E6 above. In consideration of the intent of the approval for the principal dwelling and maintenance of the bushland character of the site, as well as the NSW RFS requirements to manage the site as an IPA, a balance between enhancing vegetation on site and compliance with the bushfire restrictions must be achieved. The Ecological Report recommends additional plantings around the proposed ponds and in the areas of bare dirt, however it is also recommended that additional native vegetation be planted within the existing grass lawn area to offset the building area of the Cabana and ensure that the bushland character of the site is maintained (through the use of this area primarily for native bushland not outdoor recreation).

The application was referred to Council's Senior Natural Environment Officer who provided the following comments:

Council's natural environment, biodiversity section raises no objections to the proposal subject to conditions. It is noted that historic approval of a dwelling on the property in 2012-13 included requirements for the entire property to be managed as a bushfire hazard 'Asset Protection Zone' to inner protection area standards. This has required removal of native vegetation and maintaining reduced fuel loads. The current application does not require the removal of trees and also requires that the property continue to be managed as an Asset Protection Zone.

Recommended consent conditions have been applied in addition to those included prior to the current review.

The submitted Ecological Report concludes that the proposed development shall not adversely impact upon the native vegetation and there shall be no significant impact to the Pittwater Spotted Gum Forest EEC. In view of the above, and subject to the recommendations, the proposed development is supported.

One submission also raises concerns regarding the implementation of screen planting to the undercroft area and adjoining side boundary in accordance with development consent N0046/12. A site inspection revealed that landscaping has been implemented along the western boundary, and plantings provided within a small landscaped area below the undercroft area to the south. Dense vegetation exists along the eastern boundary. While screen planting is not provided within the undercroft area, the existing landscaping shall eventually grow to screen the development. See further comment below regarding the visual impact of the development.

Impacts upon the Amenity of the Subject Site and Adjoining Properties

- **C1.4 Solar Access of P21 DCP**

The proposed secondary dwelling is located within the undercroft area of the existing dwelling and shall be south facing. As such the proposed secondary dwelling shall not achieve a minimum of 3 hours of solar access in midwinter in accordance with clause C1.4 of P21 DCP. The site is orientated from south to north, with the northern portion of the site containing dense vegetation, forming an extension of the adjoining McKay Reserve to the north. Due to the orientation of the site and siting of the existing dwelling, compliance with the minimum solar access provisions is unachievable.

The Applicant has aimed to ensure that a reasonable level of amenity is provided to the secondary dwelling by proposing large glazed areas on the southern elevation to the proposed Living area. While the proposed development shall not receive direct sunlight, the glazing shall allow natural light into the Living and Kitchen area which shall reduce the need for artificial lighting to be used. The Palm Beach locality encourages secondary dwellings, provided there is minimal environmental impact. The assessment demonstrates that the proposed secondary dwelling shall have minimal impact upon the built and natural environment. In view of the constraints of the site, it is considered that the design of the secondary dwelling shall provide a reasonable level of amenity with regards to providing natural light into the property and the non-compliance is supported in this instance. Given the location of the secondary dwelling within the existing building footprint, it is considered that the proposed development shall not result in any unreasonable impacts upon adjoining and surrounding properties with regards to solar access.

- **C1.5 Visual Privacy of P21 DCP**
- **C1.6 Acoustic Privacy of P21 DCP**

A submission was received which raised concerns regarding privacy and noise impacts as a result of the secondary dwelling. The submission also raised concerns regarding overlooking from the proposed Cabana to the adjoining property at 914 Barrenjoey Road.

The proposed secondary dwelling contains windows along the eastern and western elevations, however these windows are to the Bathroom and Bedroom. Furthermore, the Bedroom window is a highlight window raised above the finished floor level. The proposed deck is orientated towards the front southern boundary. The main deck area is located to the centre of the dwelling, with the deck tapering as it extends towards the east. The proposed deck is not located adjacent to any outdoor or living areas of the adjoining dwelling to the east (which is located upslope to the rear of the property) and the main deck area is located approximately 11m from the adjoining property to the west. It is noted that the deck includes an access path to the west, approximately 1.1m in width that is located within 9m of the balcony of the adjoining dwelling, however given the minimal width of this area of deck it is not considered that this portion of the deck shall be utilised for extended periods of time, with the primary purpose to provide access from the Living area. As such, it is considered that the proposed secondary dwelling shall not result in any unreasonable impacts upon the adjoining properties with regards to visual privacy.

The proposed Cabana is located within 9m of the adjoining dwelling at 914 Barrenjoey Road, which is currently under construction. The Cabana is located directly adjacent to the deck and living area of the adjoining dwelling. The proposed Cabana shall include a screen wall on the eastern elevation in order to maintain privacy between the proposed development and the adjoining property. The area in which the Cabana is located is currently a grassed landscaped area and a site inspection revealed that the area is used for outdoor recreation, noting that a bench seat is located within the area. As such the occupants of 916 Barrenjoey Road can directly overlook the adjoining dwelling at 914 from this area. It is noted that the rear of property is to be regenerated and maintained as bushland, in accordance with development consent N0046/12, and it is acknowledged that the approval of the Cabana to some degree may endorse the use of the rear of the site for outdoor recreation. However, while the rear of the site is to be managed as bushland, there is no condition of the previous development consent preventing the owners utilising this area for recreation purposes. It is considered that the proposed Cabana shall essentially act as a privacy screen between the existing landscaped area and adjoining dwelling and provide an additional degree of privacy between properties. Notwithstanding the above, in view of the Cabana providing a formal recreation space within the rear of the site, it is recommended that additional screen planting be provided along the eastern boundary, and the existing grassed area regenerated with a variety of native plantings where possible, (in accordance with the bushfire requirements) in order to minimise overlooking between the rear yard and adjoining dwelling, and to enhance the bushland character of this portion of the site.

The submission also raised concerns regarding the use of the Cabana for separate residential habitation. The Cabana shall be open on three (3) sides with a screen wall provided on the eastern elevation and as such the structure is unlikely to be used for separated habitation. Notwithstanding the above, should the application be approved a condition of consent is recommended that the Cabana not be used for separate habitation for the life of the development. Furthermore, it is noted that the application seeks consent for electricity and water to be provided within the Cabana. No kitchen or sink facilities are proposed within the Cabana and as such the provision of water and electricity is considered unwarranted. Furthermore, the installation of lighting within the Cabana shall cause unnecessary and unreasonable amenity impacts upon the adjoining properties and wildlife. As such, should the application be approved, a condition of consent shall be imposed to ensure no electricity or water is provided to the Cabana.

- **C1.19 Incline Passenger Lifts and Stairways**

The submission notes that the current use of the inclinator is not in accordance with the conditions of development consent N0046/12, which limits the use of the inclinator to 24 movements between 7am and 10pm, and 2 movements between 10pm and 7am. The submission raises concerns regarding the additional use of the inclinator in association with the secondary dwelling and associated amenity and noise impacts. The secondary dwelling is located towards the front portion of the property on the lower level. No inclinator landing is proposed on the lower level, with the primary pedestrian access provided via the existing stairs and pathway to the west of the site where the main entrance to the secondary dwelling is located. As such the inclinator shall not be used in conjunction with the secondary dwelling, and shall not result in any additional noise impacts upon the adjoining properties. Use of the inclinator outwith the conditions of the development consent for the principal dwelling (N0046/12) is a separate matter that is not a consideration of this application.

Visual Impact and Bulk and Scale

- **A4.12 Palm Beach Locality**
- **D12.1 Character as Viewed from a Public Place**
- **D12.14 Scenic Protection Category One Areas**

A submission was received which raised concerns regarding the visual impact, and bulk and scale of the development as a result of the secondary dwelling being located in the undercroft area, resulting in a multi-storey dwelling.

The proposed secondary dwelling shall result in a two-three storey building which is inconsistent with the requirements of clause A4.12 of P21 DCP, which require dwellings to be a maximum of two (2) storeys in any one place. Despite the non-compliance the proposed secondary dwelling is supported for the following reasons:

- The location of the secondary dwelling in the undercroft area shall not attribute to the apparent bulk and scale of the development;
- The southern façade shall incorporate projecting architectural features, involving the alignment of the external walls, a deck, and roof feature to provide articulation to the front façade and minimise the overall bulk and scale;
- The proposed secondary dwelling shall not be readily visible from the public domain, including from Barrenjoey Road and Pittwater waterway to the far south;
- The location of the secondary dwelling shall not impact upon the views obtained from neighbouring properties;
- Dark and earthy external colours and materials shall be used to minimise the visual impact of the development;
- Landscaping shall be retained and enhanced to partially screen the development;
- The proposed development is not inconsistent with the surrounding built form and wider Palm Beach locality in which three (3) storey dwellings are not uncommon.

11.0 CONSIDERATION OF SECTION 82A OF THE ACT

The Applicant has submitted an application for a review of the determination of development application N0083/17. The application has been made within the timeframe permitted (being within six months of the determination) in accordance with s.97 of the Act. Council has considered the request for a review in accordance with the requirements of s.82 of the Act as follows:

- 1) If the consent authority is a council, an applicant may request the council to review a determination of the applicant's application, other than:*
- a) a determination to issue or refuse to issue a complying development certificate, or*
 - b) a determination in respect of designated development, or*
 - c) a determination in respect of integrated development, or*
 - d) a determination made by the council under Division 4 in respect of an application by the Crown.*

The subject application does not involve designated or integrated development, and does not relate to the refusal of a Complying Development Certificate.

- (2A) A determination cannot be reviewed:*
- a) after the time limited for the making of an appeal under section 97 expires, if no such appeal is made against the determination, or*
 - b) after an appeal under section 97 against the determination is disposed of by the Court, if such an appeal is made against the determination.*

Development Application N0083/17 was refused on 08 June 2017. The review of the application has been undertaken within six (6) months of the original determination, as stipulated by s.97 of the Act. The application must be determined by 08 December 2017.

(3A) In requesting a review, the applicant may make amendments to the development described in the original application, subject to subsection (4) (c).

The Applicant made amendments to the development, which is detailed in Section 3.0 of the report.

(4) The council may review the determination if:

- a) it has notified the request for review in accordance with:*
 - i. the regulations, if the regulations so require, or*
 - ii. a development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations, and*

The subject application has been notified in accordance with the regulations and Council's notification policy.

- (b) it has considered any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan, as the case may be, and*

Two (2) submissions were received during the notification period. The submissions were considered as part of this assessment (refer to Section 10.0 of this report).

- (c) in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same development as the development described in the original application.*

The amendments made to the plans are detailed in Section 3.0 of the report. The amendments are minor and the proposed development is considered to be substantially the same as the development described in the original application.

(6) If the council reviews the determination, the review must be made by:

- (a) if the determination was made by a delegate of the council—the council or another delegate of the council who is not subordinate to the delegate who made the determination, or*
- (b) if the determination was made by the council—the council.*

The application was originally determined by the Development Unit. In accordance with s.82A(6) and Council's Delegations of Authority, the application is to be determined by the Development Determination Panel.

With regard to the above, the proposed development is considered to meet the provisions of Section 82A of the Act.

12.0 CONCLUSION

The subject reconsideration application has been assessed in accordance with the provisions of Section 79C of the Act, PLEP 2014, P21 DCP and other relevant policies and regulations. The amended application, including the submission of supporting documentation, is consistent with the relevant statutory and policy controls and outcomes. Furthermore, the original reasons for refusal are considered to be addressed and the application no longer warrants refusal. The impacts associated with the proposed secondary dwelling and cabana are considered to be acceptable subject to the recommended conditions. Accordingly, the application is recommended for approval.

RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER

That the Review of Determination No. N0083/17/R for the construction of a secondary dwelling and garden cabana at 916 Barrenjoey Road, Palm Beach, be approved subject to the following conditions.

Report prepared by

Angela Manahan
PRINCIPAL PLANNER

**CONSENT NO: N0083/17/R
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)
NOTICE TO APPLICANT OF DETERMINATION
OF A DEVELOPMENT APPLICATION**

Applicant's Name and Address:
STEPHEN AND KATHERINE GLASS
916 BARRENJOEY ROAD
PALM BEACH NSW 2108

Being the applicant in respect of Development Application No N0083/17/R

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Northern Beaches Council, as the consent authority, of Development Application No **N0083/17/R** for:

Section 82A Review of Determination of construction of a secondary dwelling and garden cabana

At: 916 BARRENJOEY ROAD, PALM BEACH NSW 2108 (Lot 17 DP 13686)

Decision:

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

Architectural drawings:

- Site Plan, dated August 2017, prepared by Kathy Glass and Duffy Regan
- DA-02 (Granny Flat Plan), dated August 2017, prepared by Duffy Regan Design
- DA-03 (Ground Floor Plan), dated August 2017, prepared by Duffy Regan Design
- DA-04 (First Floor Plan), dated August 2017, prepared by Duffy Regan Design
- DA-05 (Roof Deck Plan), dated August 2017, prepared by Duffy Regan Design
- DA-06 (South Elevation), dated March 2017, prepared by Duffy Regan Design
- DA-07 (East Elevation), dated March 2017, prepared by Duffy Regan Design
- DA-08 (West Elevation & Section A), dated March 2017, prepared by Duffy Regan Design
- DA-11 (Cabana Elevations), dated August 2017, prepared by Kathy Glass.

Documentation:

- BASIX Certificate: 796084S, dated 01 March 2017;
- BASIX Certificate: A291397, dated 29 August 2017;
- Bushfire Risk Assessment Report, dated 30 November 2016, prepared by Building Code & Bushfire Hazard Solutions;
- Bushfire Risk Assessment Report, dated 11 September 2017, prepared by Building Code & Bushfire Hazard Solutions;
- NSW Rural Fire Service Letter, Ref: D17/1161, dated 03 May 2017;
- Geotechnical Risk Management Report, Ref: MM27918, dated 23 February 2017, prepared by Jack Hodgson Consultants Pty Ltd;
- Ecological Report, dated 18 August 2017, prepared by SIA Ecological & Environmental Planning;
- Arboricultural Impact Assessment, dated 17 January 2017, prepared by Arboricultural Tree Services Pty Ltd.

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

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

Endorsement of date of consent: **06 December 2017**

Mark Ferguson
CHIEF EXECUTIVE OFFICER
Per:

Conditions of Approval

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

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

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. A sign must be erected in a prominent position onsite only showing:
 - a) the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - c) that unauthorised entry to the work site is prohibited.

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

4. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - a) in the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor, and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
 - b) in the case of work to be done by an owner-builder:
 - i. The name of the owner-builder, and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
 - c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
5. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.

6. Any building work in relation to the development consent is to be carried out in accordance with the requirements of the Building Code of Australia.

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

1. The secondary dwelling is not to be used as a bed and breakfast accommodation.
2. The Cabana shall not be connected to electricity or water for the life of the development.
3. The Cabana is not to be used for separate residential habitation for the life of the development.
4. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.
5. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.
6. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by Jack Hodgson Consultants Pty Ltd dated 23 February 2017 are to be incorporated into the construction plans.
7. At the commencement of building works and in perpetuity the entire property shall be in accordance with requirements of the NSW Rural Fire Service, D17/1161, dated 03 May 2017, as follows:
 - i. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
 - ii. Construction of the secondary dwelling, other than its southern elevation, shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
 - iii. Construction of the southern elevation of the secondary dwelling shall comply with Sections 3 and 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
 - iv. Construction of the cabana shall comply with Sections 3 and 9 (BAL FZ) of Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas'. However, any material, element of construction or system when tested to the method described in Australian Standard AS1530.8.2 'Methods for fire tests on building materials, components and structures Part 8.2: Tests on elements of construction for buildings exposed to simulated bushfire attack-Large flaming sources' shall comply with Clause 13.8 of that Standard except that flaming of the specimen is not permitted and there shall be no exposed timber.
8. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Council website

http://www.pittwater.nsw.gov.au/environment/noxious_weeds for noxious/environmental weed lists.

9. No environmental weeds are to be planted on the site. Refer to Council website www.pittwater.nsw.gov.au/environment/noxious_weeds for environmental weed lists.
10. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.
11. Any vegetation planted onsite outside approved landscape zones is to be consistent with:
 - a) Species listed in the Ecological Sustainability Plan or Bushland Management Plan (if applicable)
 - b) Species listed from the Endangered Ecological Community
 - c) Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Council website http://www.pittwater.nsw.gov.au/environment/species_lists
12. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
13. Native vegetation is to be planted within the existing grass lawn area to the rear of the site in order to enhance the bushland character of site, and to offset the area used for the Cabana. New plantings are to be in accordance with the requirements of Planning for Bushfire Protection 2006.
14. Screen planting is to be provided along the eastern boundary, to the south of the Cabana for a length of 3m, in order to minimise overlooking to the adjoining property at 914 Barrenjoey Road. The screen planting is to have a minimum maturity height of 3.5m. Species selection is to be locally native species selected from the list identified in Native Plants for Your Garden available on the Council website. New plantings are to be in accordance with the requirements of Planning for Bushfire Protection 2006.
15. The Stormwater Harvesting and Reuse Scheme shall be installed and operated in accordance with the accepted design, Environmental and Health Risk Management Plan, Operation and Maintenance Plan, Manufacturer's Specifications and associated operational guidelines. In this regard, the applicant is required to install an additional 1400 litres of reuse capacity for the dedicated use in the secondary dwelling, in accordance with the BASIX certificate provided for the project.
16. As part of the integrated stormwater management plan, suitably positioned stormwater quality improvement devices shall be installed and operated in accordance with Manufacturer's Specifications and associated operational guidelines.
17. The land is an identified landslip area. On-site infiltration systems are not permissible.
18. To satisfy the off-street parking requirements for development, the minimum number of 3 vehicle space requirements shall be provided.

These spaces are to be provided and retained over the life of the development.

19. In accordance with Pittwater 21 DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
20. The finished external colours and materials of the secondary dwelling and Cabana are to be dark and earthy tones in order to minimise the visual impact of development and ensure the development blends with the natural environment.
21. The window to the Bedroom on the western elevation of the secondary dwelling is to be a minimum of 1.7m above the finished floor level.
22. All vehicles are to exit the site in a forward direction.

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

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

1. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.
2. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
3. Prior to the issue of a Construction Certificate, the architectural drawings are to be amended to reflect the following:
 - The Cabana is to be reduced in length by 0.2m on the northern side in order to fully comply with the minimum rear setback of 6.5m.
4. Prior to the issue of a Construction Certificate, a landscape plan is required to be submitted which is consistent with the recommendations of the Ecological Report, dated 18 August 2017, and the conditions of this development consent, with particular regards to condition B13 and B14.
5. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
6. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

7. Construction works approved by this consent must not commence until:
 - a) Construction Certificate has been issued by a Principal Certifying Authority
 - b) a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
 - c) at least 2 days notice, in writing has been given to Council of the intention to commence work.
 8. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.
 9. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
 10. Engineering details showing the Stormwater Harvesting and Reuse Scheme are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified practicing Water/Environmental/Civil Engineer with corporate membership of the Institution of Engineers Australia (MIE Aust), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with Pittwater 21 DCP.
 11. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site stormwater (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Geotechnical Engineers Report).
- Note: Where Council is the Principal Certifying Authority 3 sets of plans/specifications are to be submitted.
12. A certificate is to be provided to the Principal Certifying Authority with the Construction Certificate application by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field that the existing stormwater system performs satisfactorily and is capable of serving the proposed additions in accordance with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage.

13. Civil engineering details of the proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
14. The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

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

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

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

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

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

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

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

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

3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
4. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.

5. The following measures shall be implemented in the sequence given below, to minimise soil erosion:
 - Approved runoff and erosion controls shall be installed before site vegetation is cleared (other than that associated with the construction of the controls). These shall be as shown on an ESCP approved by council.
 - Topsoil shall be stripped only from approved areas and stockpiled for re-use during site rehabilitation and landscaping.
 - Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, waters, footpath, kerb or road surface and shall have measures in place to prevent the movement of such materials onto the areas mentioned. All stockpiled materials are to be retained within the property boundaries.
 - Uncontaminated runoff shall be intercepted up-site and diverted around all disturbed areas and other areas likely to be disturbed. Diversion works shall be adequately stabilised.
 - Runoff detention and sediment interception measures shall be applied to the land. These measures will reduce flow velocities and prevent topsoil, sand, aggregate, or other sediment escaping from the site or entering any downstream drainage easements or waters.
 - The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times to conform to the specifications and standards quoted and to any conditions of approval of those measures.
 - Measures shall be applied, to the satisfaction of council, to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development.
 - Measures required in permits issued under the Rivers and Foreshores Improvement Act shall be implemented. This Act requires that people obtain approval for any proposed excavation or fill in or within 40 metres of a watercourse. Permits should be sought from the Department of Natural Resources.
6. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
7. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.
8. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
9. Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
10. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations
11. Personnel with appropriate training, or demonstrated knowledge and experience in erosion and sediment control shall be responsible for supervising the installation and maintenance of approved erosion and sediment control measures – during and after construction and until the site has been restored to the satisfaction of council.

12. Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.

All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal.

The ongoing operation of Recycling and Waste Management Services is to be undertaken in accordance with the Waste Management Plan.

13. The site must be fenced throughout construction and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

14. No works are to be carried out in Council's Road Reserve without the written approval of the Council.

Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.

15. No skip bins or materials are to be stored on Council's Road Reserve.

16. Access to the site through an adjoining park/reserve is prohibited without the written approval of the Council

17. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:

- a) The builder's name, builder's telephone contact number both during work hours and after hours.
- b) That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
- c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
- d) That no skip bins or materials are to be stored on Council's Road Reserve.
- e) That the contact number for Northern Beaches Council for permits is 9970 1111.

18. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Arboricultural Tree Services, dated 17/1/17 are required to be complied with before and throughout the development period, particularly with regard to the following:

- a) Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
- b) Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;

- c) All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
 - d) Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
 - e) Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.
19. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas.
- Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.
20. All works within 5 metres of the existing trees to be retained including pruning, demolition, excavation, civil works, fencing and the like must be carried out by hand under the supervision of an experienced and qualified Arborist. Should roots larger than 50mm be encountered all excavation works are to cease immediately and a qualified Arborist is to advise on the impacts of the roots removal on the tree's survival and report to the Principal Certifying Authority prior to works recommencing. If tree roots are present a pier and beam method of footing construction is to be adopted so as to bridge/span any identified lateral roots.

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

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

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

1. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.
2. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
3. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.

4. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
5. Prior to the issue of an Occupation Certificate, a suitably qualified professional is to certify that the as-built development is consistent with the recommendations/requirements of the NSW Rural Fire Service, D17/1161, dated 03 May 2017.
6. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.

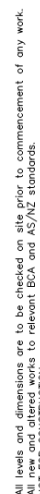
A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards must be provided.

7. The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of all property, infrastructure, natural and man-made features that were originally recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.
8. Prior to issue of an Occupation Certificate photographic evidence of the condition of the street trees and road reserve and area adjoining the site after the completion of all construction, must be submitted to the Principal Certifying Authority showing that no damage has been done and if damage has been done that it has been fully remediated. The photographs shall be accompanied by a statement that no damage has been done (or where damage has been remediated that Council has approved that work). In this regard Council's written agreement that all restorations have been completed satisfactorily must be obtained prior to the issue of any Occupation Certificate.
9. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
10. All recommendations in the Ecology Report (native planting and installation of nest boxes) by SIA Ecological & Environmental Planning (August 2017) are to be completed prior to issue Occupation Certificate and must be certified by an Ecological Consultant as being complete and adequate.

G. Advice:

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or www.1100.com.au

3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the EPA Act 1979, this development consent lapses 5 years after the date from which this consent operates if the development is not commenced.
5. To ascertain the date upon which a consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.
7. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.



SITE AREA: 1006 sq.m.
GROUND FLOOR HOUSE: 125 sq.m.
GROUND FLOOR GARAGE/CARPORT: 45 sq.m.
FIRST FLOOR HOUSE: 90 sq.m.
FIRST FLOOR DECK: 46 sq.m.
ROOF STAIRWELL: 8 sq.m.
ROOF DECK: 27 sq.m.
NEW GRANNY FLAT: 55.6 sq.m.
NEW GRANNY FLAT DECK: 15.3 sq.m.
PRINCIPLE PRIVATE OPEN SPACE: 73 sq.m.
SITE COVERAGE: 376 sq.m. (37.4%)
LANDSCAPED AREA: (510 sq.m. + 100 sq.m. + 20 sq.m.)
NEW CABANA: 13 sq.m. (resulting in 389 sq.m. and 38.7%)

[illegible]

Project: NEW GRANNY FLAT & CABANA

for: S. & K. Glass

for: S. & K. Glass
at: 916 Barrenjoey Rd., Palm Beach

Title:

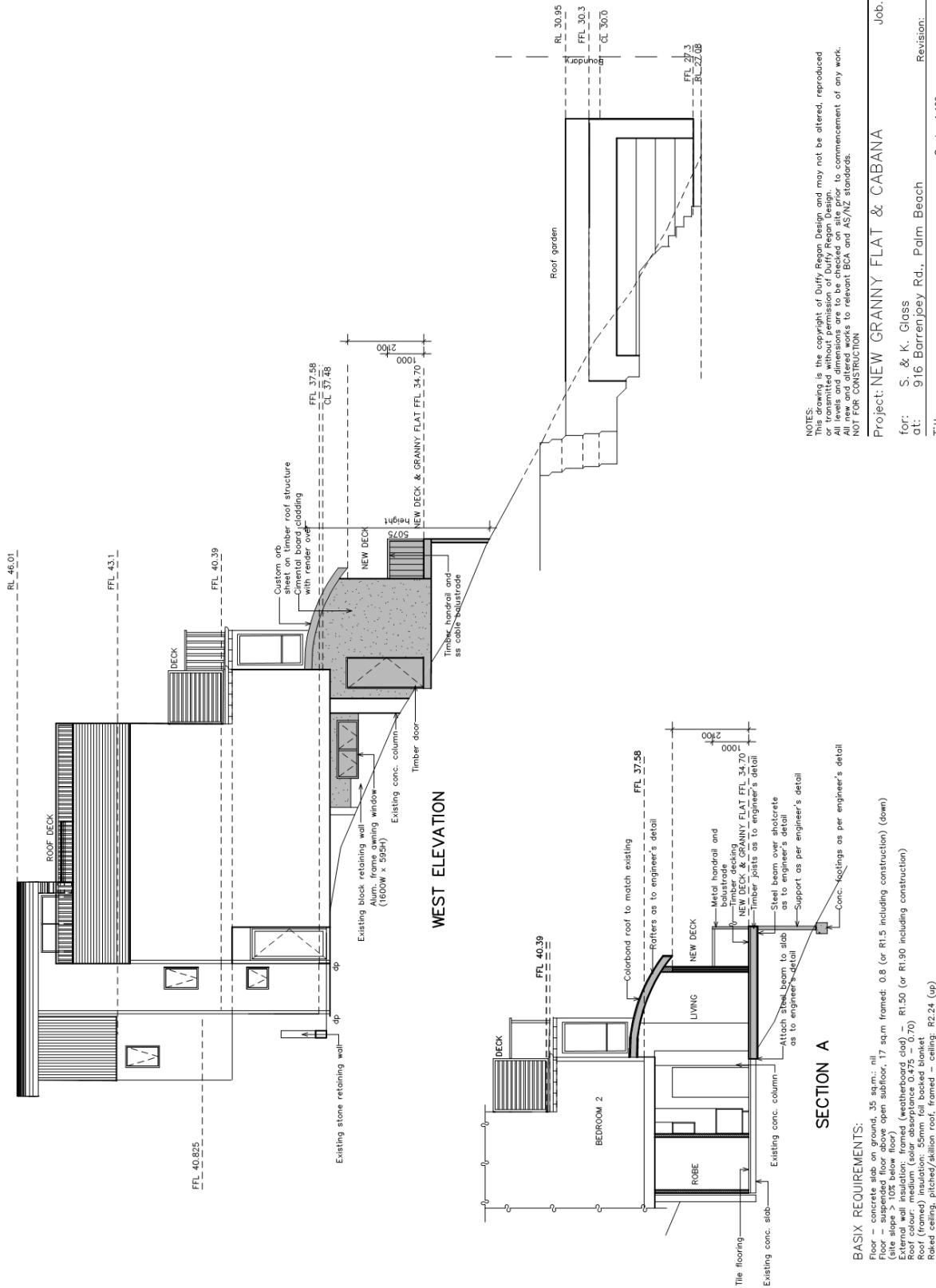
Scale: 1:200

Date: August 2017

Date: August 2017
Drawn: Kathy Glass and Duffy Regan

SITE PLAN

Date: August 2017
Drawn: Kathy Glass and Duffy Regan



NOTES:
1. This drawing is the copyright of Duffy Regan Design and may not be altered, reproduced or transmitted without permission of Duffy Regan Design.
2. All levels and dimensions are to be checked on site prior to commencement of any work.
3. All new and altered works are to be constructed in accordance with the Australian Standards AS/NZS 1170:2009 and AS/NZS 1170:2009.
4. All new and altered works are to be constructed in accordance with the Australian Standards AS/NZS 1170:2009 and AS/NZS 1170:2009.

Project: NEW GRANNY FLAT & CABANA Job No. 443/2

for: S. & K. Glass

at: 916 Barrenjoey Rd., Palm Beach Revision:

Title: Scale: 1:100

WEST ELEVATION & SECTION A Date: MARCH 2017

Drawn: D.R.

DUFFY REGAN DESIGN Telephone: (02) 9905 6009

121 Soldiers Ave., Freshwater NSW 2096 Mobile: 0416 037 847

Email: duffyregan@duffyregan.com.au Drawing No. DA-08

BASIX REQUIREMENTS:

Floor - concrete slab on ground, 35 sq.m., nil suspended (solar absorptance 0.475 - 0.70)
(date supplied 10/05/2006)
External wall insulation: framed (weatherboard clad) - R1.50 (or R1.90 including construction)
Roof (framed) insulation: 50mm foil backed blanket
Raked ceiling, pitched/shallow roof, framed - ceiling - R2.24 (up)

NOTES:
1. BUILDING IN BUSH FIRE AREA COMPLIANCE
2. The proposed works are to be constructed in accordance with the Australian Standards AS/NZS 1170:2009 and AS/NZS 1170:2009.
3. The proposed works are to be constructed in accordance with the Australian Standards AS/NZS 1170:2009 and AS/NZS 1170:2009.
4. The proposed works are to be constructed in accordance with the Australian Standards AS/NZS 1170:2009 and AS/NZS 1170:2009.



Project: NEW GRANNY FLAT & CABANA

for: S. & K. Glass

at: 916 Barrenjoey Rd., Palm Beach

Title:

SOUTH ELEVATION

SOOTH ELEVATION

DIFFEY REGAN DESIGN Telephone: (02) 9905 6009

DUFFY REGAN DESIGN
121 Soldiers Ave., Freshwater NSW 2096
Telephone: 022 9905 0000
Mobile: 0416 037 847
Email: duffregandesign@iprimo.com.au

[illegible]

SOUTH ELEVATION

DUFFY REGAN DESIGN
 1121 Soldiers Ave., Freshwater NSW 2096
 Telephone: (02) 9905 6009
 Mobile: 0416 537 847
 Email: duffyregan@primus.com.au

Date: MARCH 2017

Drawing No. **DA-06**



Nesting boxes for possums
4 metres off ground
located on Cassurina and
Eucalyptus

Decking and Screens
UBIK INEX Decking
Dark Brown

Nesting boxes for micro bats under Cabana Floor

WEST ELEVATION CABANA
showing neighbours deck and house

~~All levels and dimensions are to be checked on site prior to commencement of any work.
All new and altered works to relevant BCA and AS/NZ standards.
NOT FOR CONSTRUCTION~~

Project: NEW SECONDARY DWELLING, CABANA & LANDSCAPE WORKS

for: S. & K. Glass
at: 916 Barrenjoey

at: 916 Barrenjoey Rd., Palm Beach

Title: CABANA ELEVATIONS

Scale: 1:100
Date: August 2017
Drawn: Kathy Glass

Revision:

Drawing No DA 11

[illegible]

Scale 1:100

Scale 1:100

ITEM 3.2**N0308/17 - 6 ROSS STREET, NEWPORT - DEMOLITION OF
EXISTING BUILDINGS AND CONSTRUCTION OF A NEW TWO
(2) STOREY BOARDING HOUSE****REPORTING MANAGER**

Anna Williams

TRIM FILE REF

2017/484484

ATTACHMENTS1 [↓](#) Assessment Report2 [↓](#) DDP Plans - Site and Elevation Plans**PURPOSE**

To refer the attached application for determination as required under adopted delegations of the Charter

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application No. N0308/17 for the demolition of the existing buildings and the construction of a new two (2) storey boarding house at 6 Ross Street, Newport (Lot 43, DP 18415), subject to the conditions outlined in the report.

SUBJECT: N0308/17 – 6 Ross Street, NEWPORT NSW 2107 (Lot 43 DP 18415) Demolition of existing buildings and the construction of a new two (2) storey boarding house

Determination Level: Development Determination Panel

| SUMMARY OF RECOMMENDATION | CONSENT WITH CONDITIONS |
|----------------------------------|---------------------------------------------------------------------------------|
| REPORT PREPARED BY: | Tyson Ek-Moller |
| APPLICATION SUBMITTED ON: | 18/07/2017 |
| APPLICATION SUBMITTED BY: | Sean Gartner Gartner Trovato Architects PO Box 1122 MONA VALE NSW 2103 |
| OWNER(S): | PRI Holdings Pty Ltd |
| NUMBER OF SUBMISSIONS | Thirteen (13) |
| COST OF WORKS | \$1,805,950 |

1.0 ISSUES:

Pittwater 21 Development Control Plan

- A4.10 Newport Locality
- C1.20 Undergrounding of Utility Services
- D10.1 Character as viewed from a public place
- D10.7 Side and Rear Building Lines (excluding Newport Commercial Centre)
- D10.11 Building Envelope
- D10.12 Landscaped Area - General

2.0 SITE DETAILS

The subject site is identified as 6 Ross Street, Newport (Lot 43 DP 18415). The front of the site is oriented towards the southeast and adjoins the Ross Street road reserve, while the rear of the site adjoins a drainage channel. The site is of a regular shape, is level and has an area of 781m². Existing development on the site consists of a single storey detached dwelling house with a detached garage/shed within the rear setback area.

The subject site is within an R2 Low Density Residential zone. The side and front boundaries both adjoin R2-zoned areas while the rear boundary adjoins an RE1 Public Recreation zone. There are a number of other zone boundaries within the surrounding area that are as follows:

- B2 Local Centre zones are located north to west of the subject site, and are approximately 5m and 60m northwest of the subject site at their nearest respective points;
- An SP2 Infrastructure (Classified Road; Barrenjoey Road) zone is located approximately 40m northwest of the subject site;
- Other RE1 Public Recreation zones are located approximately 25m southeast, 45m south, 55m north and 225m southwest of the subject site at their nearest respective points;
- E4 Environmental Living zones are located approximately 160m east and 320m west of the subject site; and
- R3 Medium Density Residential zones are located approximately 190m west, 285m north and 320m southwest of the subject site at their nearest points.



Figure 1: An aerial photograph of the subject (outlined by the yellow border) and the immediate surroundings (Nearmap, 2017).

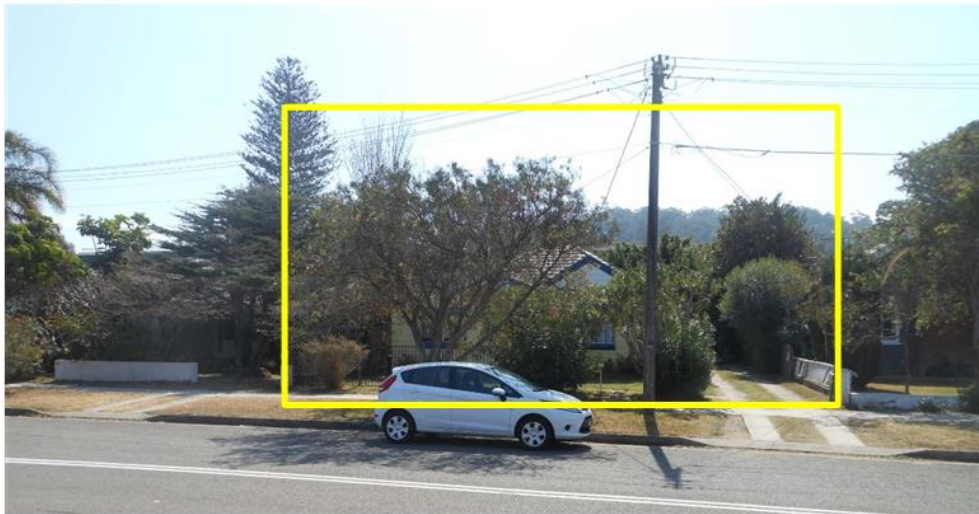


Figure 2: Streetscape photo of the subject site (outlined by the yellow border).

The site is flood prone, and is affected by Class 3 Acid Sulphate Soils, however there are no other known issues affecting the site. A review of the deposited plan has not identified any easements and/or restrictions that burden the subject site. The subject site is not within a heritage conservation area nor does it contain a heritage item; the nearest heritage item is approximately 110m southwest of the subject site.

Development within the surrounding area is considerably diversified, which reflects the range of zones as outlined above. B2-zoned sites along both sides of Barrenjoey Road to the northwest consist predominately of commercial/mixed use development; R2 and E4 zoned areas (including the subject site) to the east of this area predominately contain low-density residential development while R3, R2 and E4 areas to the northwest of Barrenjoey Road contain more diversified high, medium and low density residential development. RE1-zoned areas are mostly undeveloped.

An inspection of the subject site was undertaken by the assessing officer on 5 October 2017. This inspection confirmed that the existing layout of the site is consistent with the submitted plans, and no significant issues were identified.

3.0 PROPOSAL IN DETAIL

The subject development application has been lodged pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 and seeks consent for the following:

- Demolition of existing structures;
- Construction of a two storey boarding house.
 - The development would include 10 boarding rooms (nine x two bed boarding rooms and one x one bed boarding room), which would accommodate a total of 19 residents
 - Two off-street car parking spaces (including one accessible space) are proposed in addition to two motorcycle spaces and two bicycle spaces.

The proposed development also includes landscaping and civil works (i.e. stormwater).

4.0 BACKGROUND

4.1 Site background:

| Date | Comments |
|------------|-----------------------------------------|
| 18/07/2017 | Subject development application lodged. |

4.2 Application history:

| Date | Comments |
|------------|--------------------------------------------------------------------------------------------|
| 18/07/2017 | Subject development application lodged. |
| 20/07/2017 | Site inspection undertaken |
| 10/08/2017 | Request for additional information (related to ownership issue raised within submissions). |
| 31/08/2017 | Response received in regard to the above issue. |
| 05/10/2017 | Site inspection undertaken |
| 06/11/2017 | Additional information submitted to Council. |

5.0 NOTIFICATION

5.1 Notification

The subject development application was advertised for 31 days from 25 July 2017 to 25 August 2017 in accordance with Council's Notification Policy. Procedures associated with this process included:

- The postage of 100 notification letters to the owners of 16 surrounding/selected properties;

- An advertisement in the local paper
- The erection of a notification sign at the front of the property.

While the notification period was due to commence on 25 July 2017, Council did not receive correspondence confirming that the sign had been erected until 3 August 2017. The notification process was therefore extended until 3 September 2017.

Irrespective of the above, thirteen (13) submissions¹ containing fifteen (15) signatures were received in response to the proposal. All submissions objected to the proposal.

Amended information was limited to a minor realignment of the driveway and minor revisions to internal/external screens and cladding around the driveway ramp. As such changes were minor in respect to the original application and would not result in a greater environmental impact, the application was not readvertised in accordance with Council's notification policy.

5.2 Addresses of submissions

Where identified, the addresses from which submissions were received are as follows:

- 2 Ross Street, Newport
- 4 Ross Street, Newport
- 8 Ross Street, Newport
- 15 The Boulevard, Newport
- 17 The Boulevard, Newport
- 21 The Boulevard, Newport
- 13 Trevor Road, Newport
- 326 Barrenjoey Road, Newport



Figure 3 (left): The location of the subject site (outlined by the yellow borders) in relation to sites from which objections were received (indicated by red dots)

5.3 Issues raised by objections

All matters raised within the submissions have been considered as part of this assessment, and summarised below.

- Size of the development
 - The proposal is an overdevelopment of the site.
 - The size of the development virtually eliminates any green space.
 - The bulk, size and scale of the development is inconsistent with that of residential development on surrounding sites and the village character of the area.

¹ An anonymous verbal submission was received via phone on 7 August 2017; this was not included within the submission tally, however issues raised by that anonymous caller were addressed by written submissions regardless.

- 19 people would be sleeping in a building on a small block that is made for families (i.e. mum, dad and two children).
- Due to the size of the development and the block and issues associated with sanitation, garbage removal and health and safety, is the development consistent with zone requirements?
- Parking
 - The proposed number of parking spaces and bicycle facilities is inadequate for 19 occupants
 - Proximity to bus services would have no bearing on whether residents may own cars, and may result in 17 additional cars being parked in the street.
 - The design of the parking facilities would leave an "unsightly gap" that would be visible from Ross Street.
 - Is the SEPP still dependant on room numbers per dwelling, and if so, does the 0.5 parking spaces per bedroom still apply?
- Site operation
 - Without a boarding house manager, how will compliance of the number of occupants be enforced?
 - What is the process of redress when the limits are breached?
 - What process will Council have in place to deal with complaints from neighbours when backpackers move in and tenant the boarding house?
 - Will Council check that bunk beds are not installed?
 - What process will Council have in place to determine that tenants are genuine tenant living for a minimum of three months, and how will this be policed by Council?
 - Will Airbnb be forbidden?
 - What assurance is given that the owner would charge reasonable rent?
- Use of the site
 - "Boarding house terminology" implies permitting increased casual occupancy for unknowns, desirables, undesirables and holiday makers. Drug addicts are questionable, as are increased noise and tourists passing through.
 - Boarding houses are often used by vagrants, alcoholics, drug users and undesirables which is not what we need in this community.
 - The development will worsen issues associated with intoxicated people in the area, and would turn Gretel Park into a "drinking location" in addition to antisocial behaviour.
- Flooding
 - The site is located within a 1 in 100 year flood zone; Council will be responsible for drownings should they occur.
 - Increasing the number of occupants on the site would worsen existing flooding problems.
 - Without vehicular assistance evacuation from the site would be difficult.
 - The design of the development would adversely affect other sites.
- Noise
 - How will Council deal with inevitable noise complaints associated with 19+ people living in confined spaces?
 - The communal area is open and with the breezeway would funnel noise directly into the living areas of surrounding sites.
 - Has the building been designed to adequately contain noise?
- Does the development meet the "Master Plan"?
- Boarding houses are doing little or nothing to address the need for local affordable housing. This development would seek rents out of reach of genuine low income earners.
- Affordable housing is an initiative to provide low income earners with cheaper accommodation so they can live closer to employment, and support services. Newport does not provide such services or employment opportunities (i.e. health facilities, full-size supermarkets, community support infrastructure/groups, transport hubs, direct transport links to hospitals, etc.).
- Newport is not an area associated with affordable housing and low-income employment opportunities.

- There are no facilities (lifts, ramps, etc.) for disabled boarders; the development discriminates against people with disabilities.
- The proposed development excessively overshadows adjoining sites and submitted overshadowing associated with trees.
- The development breaches the building envelope, creating adverse privacy and overshadowing impacts on the adjoining sites.
- What are the impacts of the development on property values?
- Are there fire doors and exit risks? What is the fire evacuation plan for the site
- The steep incline to the driveway would result in vehicles revving their engines to enter the site, thereby reducing the amenity of adjoining sites.
- The actual site coverage is significantly larger than what is actually proposed by the applicant. The landscaped area does not satisfy development controls.
- Would the building block sea breezes to surrounding properties?
- A lack of laundry facilities is a health and safety issue and could be a fire risk.
- There is no dedicated waste storage facility, and it is unclear how bins would be collected without impinging on surrounding sites.
- The outside entertainment area is too small to meet the needs of the residents and would become a muddy unusable area in a short period of time.
- What assurance can Council give that the development would not be subdivided (i.e. a strata arrangement), would not become a backpackers hostel or be converted to an alternative use such as a brothel?
- The owner has been permanently disqualified from holding a licence in the direction, management and conduct of the business of a licensee. The owner has also been disqualified from being involved in the direction, management, and conduct of the business of a licensee for a period of five years.

5.4 Response to objector issues

Where possible, matters raised within received submissions have been considered as part of this assessment. Most issues have been considered as part of respective assessments within Part 7 of this report; where not specifically addressed elsewhere however, issues raised by submissions have been discussed within the following table:

| Issue | Response |
|------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Issues with owner's consent | In response to submissions, the applicant indicates that the owner had had their real estate licence removed; they also indicate that owner has had no action taken against them by ASIC to remove their ability to act as a director of a company. The consent of the owner (as sole director of the company that is listed as the owner of the site) is therefore permitted |
| Parking | While the submissions are noted, the proposed parking arrangements have been undertaken in accordance with the SEPP. No issue has been raised by Council's development engineers with regard to parking and/or traffic. |
| Flooding | Despite concerns raised by objectors, the proposed development has been designed in accordance with relevant development standards and controls, which includes allowances for climate change. Council's catchment engineer did not have any objections to the proposal; refer to engineering comments within Parts 6 and 7 of this report. |
| Noise | Noise considerations have been considered as follows: <ul style="list-style-type: none"> • Noise associated with general occupation/operation of the site would be subject to the provisions of the submitted plan of management; • Noise associated with any plant equipment would be subject to recommended consent conditions; and • Considerations regarding the driveway have been addressed separately below. |

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Boarding houses imply permitting increased casual occupancy for unknowns, desirables, undesirables and holiday makers. Antisocial activity in the area would be increased. | The applicant's Plan of Management contains policies and processes that would prohibit the use, sale or possession of illegal drugs on the site; the consumption of alcohol would not be permitted in public areas. No evidence has been provided to demonstrate that the development would be associated with increased antisocial activity within the locality. |
| Consistency with the "Master Plan" | As it was not specified, it is assumed that the submission referred to the Newport Village Commercial Centre Masterplan; the subject site is located outside of this precinct, therefore the Master Plan does not apply to the proposed development. |
| Boarding houses are doing little to address the need for local affordable housing. Rents would be out of reach of genuine low income earners. | <p>The application has been made pursuant to SEPP (ARH) 2009, Clause 6(1) of the SEPP requires that affordable housing proposed under the SEPP is provided to households that:</p> <ul style="list-style-type: none"> • Have a gross income that is less than 120 per cent of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) (according to the Australian Bureau of Statistics) and pays no more than 30 per cent of that gross income in rent, or • Are eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would be charged if the household were to occupy rental accommodation under that scheme. <p>It is recommended that a conditions be imposed requiring that the site be operated as a "boarding house" in accordance with the LEP definition and in accordance with the requirements of the SEPP where applicable.</p> |
| A lack of laundry facilities is a health and safety issue and could be a fire risk. | Communal laundry facilities are proposed on the ground floor and are indicated on the plans. The plan of management indicates that such facilities would include a washing machine, dryer, washing tub and a retractable clothesline. |
| Would the building block sea breezes to surrounding properties? | Development influences on sea breezes are not a consideration that is subject to applicable development controls. |
| There are no facilities for disabled boarders; the development discriminates against people with disabilities. | Accessible facilities (including a ramp and lift) are proposed to the ground floor. An accessible car parking space is also proposed. Further, any recommendation for approval would include conditions requiring that works be undertaken in accordance with the BCA/NCC. |
| There is no dedicated storage facility, and it is unclear how bins would be collected without impinging on surrounding sites. | A waste storage area is proposed at the front of the site. As indicated within Part 7 of this report, submitted information lacks sufficient detail about such facilities and would be subject to conditions in the event that the application is recommended for approval. |
| What assurance can Council give that the development would not be subdivided, would not become a backpackers hostel or be converted to alternative uses? | A subdivision of the site is not proposed, and would be subject to the assessment of a separate application if proposed. The submitted plan of management indicates that no short term/short stay accommodation is to be made available. Recommended conditions include that the site be operated as a "boarding house" in accordance with the LEP definition and in accordance with the requirements of the SEPP where applicable. Separate consent(s) would be required for any changes to the use of the site. |

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| The steep incline to the driveway would result in vehicles revving their engines to enter the site, reducing the amenity of adjoining sites. | No issues have been raised by Council's development engineer with regard to the driveway slope. In response to such issues, the applicant submitted additional information that includes changes to screens and materials around the carpark and ramp to mitigate noise associated with the driveway ramp. Council's Environmental Health officer has reviewed the proposal and has not raised any objections. The application proposes only two off street car parking spaces; it is considered unlikely that the development would produce a considerable number of vehicular movements that would significantly affect the amenity of the area. |
| The outside entertainment area is too small to meet the needs of the residents and would become a muddy unusable area in a short period of time. | The proposed development provides sufficient private open space areas in accordance with Pittwater 21 DCP (refer to Part 7 of this report). As the likely primary use area (i.e. the raised turf area to the rear of the site) is within an open area, it is not anticipated that such an area would be used during inclement weather. Further, as the main outdoor area would both be elevated and subject to direct solar access, it is expected that such an area would be capable of being sufficiently drained. |
| Are there fire doors and exit risks? What is the fire evacuation plan for the site | The applicant's Plan of Management includes information regarding fire evacuation, checks of essential fire safety management/fire safety measures and room furnishings (i.e. placement, impacts on egress from the building and flammability of such items). If recommended for approval, conditions of consent would also be applied with regard to construction in accordance with the BCA/NCC and installation of appropriate fire safety measures. |
| Affordable housing is an initiative to provide low income earners with cheaper accommodation so they can live closer to employment, and support services. Newport does not provide such services or employment opportunities. | Aside from proximity to certain transport services (refer to Part 7 of this report below), neither SEPP (ARH) 2009 or other applicable planning instruments/policies require that a boarding house(s) be situated within a specific distance to certain services and/or employment centres. |
| Newport is not an area associated with affordable housing and low income employment opportunities. | A lack of affordable housing options within the locality is not a relevant assessment matter, provided that the physical development is consistent with the character of the local area, pursuant to Cl. 30A of SEPP (ARH) 2009 and local planning standards and controls. |
| What are the impacts of the development on property values? | Impacts on property values are not a matter for consideration under S79 of the <i>Environmental Planning and Assessment Act 1979</i> . |

6.0 REFERRALS:

6.1 Internal referrals:

Note: Detailed comments from Council officers are contained within Part 7 of this report.

| Officer | Comments |
|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Development Engineer | <p>Recommendation: Supported, subject to conditions.</p> <p>Officer comments: <i>"The proposed development is to be approved under the requirements of the SEPP (affordable rental housing) and as such it is not possible to force additional parking on to the subject site. I would refer the proposed development across to Transport Networks for input on the provision of on street parking restrictions to allow for parking turn over in Ross Street on weekends.</i></p> |

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| | <p><i>The proposed development is conditionally supported and meets the requirements of the SEPP from a development engineering perspective, with the missing sections of footpath to be constructed by the developer to provide a connection to the transport services required by the SEPP."</i></p> |
| Flooding | <p>Recommendation: Supported, subject to conditions.</p> <p>Officer comments: <i>"The proposed development generally complies with the flood requirements of the DCP and LEP."</i></p> |
| Natural Environment | <p>Recommendation: Supported, subject to conditions.</p> <p>Officer comments: <i>"See comments relating to Clause B4.5."</i></p> |
| Place Management | <p>Recommendation: Supported, subject to conditions.</p> <p>Officer comments: <i>"The proposed development is within 400m radius of the town centre and the intent is to provide housing choice, especially for more affordable solution. Affordable housing type attracts younger population and key workers, therefore it can help to improve the population mix as required for livable communities. The proposed use as a boarding house is supported. The proposed development, whilst it is bulkier than the immediate residential properties, it mostly complies with the numerical controls and tries to respond with the context by using the proportion and composition of a single dwelling (ie. pitched roof, single storey rear component, etc). Built form modulation and architectural treatments are acceptable. However, there are several conditions below to improve legibility, privacy and visual impact.</i></p> <p><u>Urban design conditions:</u></p> <ul style="list-style-type: none"> <i>To improve shared pedestrian entry legibility with a visible architectural feature to define the entry. Currently this entry is internal, set back from the building line. The driveway is more dominant than the pedestrian entry.</i> <i>To use darker tones and non reflective material for the driveways.</i> <i>To consider potential noise and overlooking impact on the common living dining and raised turf area. Additional screening or landscaping may help to minimise the impact.</i> <p><u>Landscape Design referral and condition below:</u></p> <p><u>General Landscape Comments</u> <i>The elevated building level that results from the requirement to satisfy the flood planning level presents the streetscape with a visual impact created by a rising driveway. Whilst the building envelopes complies, attention is required to ensure that the proposed landscape treatment allows the building to be integrated with the landscape so that landscape is the prominent element and the built form is secondary.</i></p> <p><i>As such, the following Conditions shall be applied to the landscape proposal.</i></p> <p><u>Landscape Conditions</u></p> <ul style="list-style-type: none"> <i>2 canopy trees shall be planted to the front setback and shall be spaced as individual specimens and not as a group. The canopy trees are to be located a minimum of 5 metres from the building. (to satisfy C1.1 Landscaping)</i> <i>The existing Weeping Bottlebrush within the road reserve, identified as T01 in the Arboricultural Impact Assessment report, shall be retained and protected by temporary construction fencing, placed a minimum of 2m from the trunk in all directions. (to</i> |

| | |
|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p>satisfy C1.24 Public Road reserve Landscaping and Infrastructure)</p> <ul style="list-style-type: none"> To reduce the visual impact of the rising driveway, shrub screen planting, consisting of <i>Metrosideros 'thomasi'</i> at 1m centres, shall be planted from the front boundary to the building alignment. (to satisfy D10.1 Character as viewed from a public place) 1 canopy tree shall be planted to the rear setback. The canopy tree shall be located a minimum of 5 metres from the building. (to satisfy C1.1 Landscaping) All existing trees as nominated for retention shall be protected during construction, and are subject to the recommendations of the Arboricultural Impact Assessment report. Retention of T8 T14 as proposed shall remain for the life of the development to provide visual screening between No. 6 and No. 8 Ross Street building sides. It is noted that T8 T12 and T14 are exempt species, removable without consent. Such action will require replacement of the plants with suitable native screening shrubs to maintain visual privacy. (to satisfy C1.5 Visual Privacy) The proposed Cascade Lillypilly shrub screening between No. 6 and No. 4 Ross Street building sides shall be planted at 1m centres, to the full length of the building side alignment. (to satisfy C1.5 Visual Privacy) The following proposed tree species shall be deleted from the plan and replaced with suitable indigenous trees as nominated by this condition: <ul style="list-style-type: none"> Tuckeroo (<i>Cupaniopsis anacardioides</i>) replace with <i>Melaleuca linariifolia</i> Angophora (<i>Angophora hispida</i>) replace with <i>Angophora floribunda</i> Coast Myall (<i>Acacia binervia</i>) replace with <i>Banksia integrifolia</i> |
| Environmental Health | <p>Recommendation: Supported, subject to conditions.</p> <p>Officer comments: "Environmental Health has reviewed the application and has no objections subject the following recommended conditions."</p> <p>Note: Recommended conditions are on file and included within the conditions attached to this report. The amended plans were re referred to Environmental Health; that officer indicated that there were no objections and that the changes would be covered by earlier recommended conditions.</p> |
| S94 Contributions officer | <p>Recommendation: Supported, subject to conditions.</p> <p>Officer comments: "The Pittwater Section 94 Plan for Residential Development applies to residential development which would result in the creation of additional residential lots/dwellings and a commensurate net increase in demand on infrastructure and services. The Pittwater LEP 2014 defines boarding houses as a type of residential accommodation. The application proposes the demolition of the existing single storey cottage and construction of a 10 room boarding house. If approved this development would result in a significant increase in demand for infrastructure and services addressed by the Section 94 Plan. A S94 contribution will be applied to this development."</p> |

6.2 External referrals:

None required.

7.0 STATUTORY AND POLICY CONSIDERATIONS

Applicable instruments and policies:

The following relevant state, regional and local instruments and policies have been considered:

- Environmental Planning and Assessment Act 1979 (the Act)

- Environmental Planning and Assessment Regulation 2000 (the Regulation)
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH)
- State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
- Pittwater 21 Development Control Plan (P21 DCP)

Tables of Compliance:

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|-------------------------------------------------------------------------|---------------------------|
| T - Can the proposal satisfy the technical requirements of the control? | Y – Yes |
| O - Can the proposal achieve the control outcomes? | N – No |
| N - Is the control free from objection? | N/A or - - Not applicable |

7.1 Environmental Planning and Assessment Act 1979

| Environmental Planning and Assessment Act No. 203 | | | | |
|---------------------------------------------------|------------------------|---|---|---|
| Clause | Assessment and Comment | T | O | N |
| 147 Disclosure of political donations and gifts | | Y | Y | Y |

7.2 State Environmental Planning Policies

The following SEPPs would be applicable to the proposed development and have been assessed as follows:

| State Environmental Planning Policies (SEPPs) | | | | |
|---------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| SEPP | Assessment and Comment | T | O | N |
| SEPP (Affordable Rental Housing) 2009 | Refer to detailed assessment below | Y | Y | N |
| SEPP No. 55 – Remediation of Land | The site history indicates that the subject site has been used for residential purposes for an extended period of time; apart from potential issues associated with existing buildings (i.e. removal of hazardous materials, which would be subject to standard recommended conditions if approved), such uses and/or development are not typically associated with activities that would result in the contamination of the site. Further to the site review, submitted information and the site inspection did not identify evidence of contamination. With consideration to the above, and assuming that recommended consent conditions are satisfied, it is unlikely that the site is contaminated and would be therefore be suitable for the proposed development. | Y | Y | Y |
| SEPP (Infrastructure) 2007 | Provisions within Part 3 of the SEPP are not applicable to the proposal. | | | |
| SEPP (Building Sustainability Index: BASIX) 2004) | The proposed development would be a Class 3 building, therefore a BASIX certificate is not required. | | | |

7.2A Detailed Assessments and Discussion of applicable SEPPs

State Environmental Planning Policy (Affordable Rental Housing) 2009

The relevant provisions of SEPP ARH are assessed as follows:

| Clause | Assessment and comment |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Part 2 – New affordable rental housing | |
| Division 3 – Boarding Houses | |
| 26 Land to which Division applies This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones: (a) Zone R1 General Residential, (b) Zone R2 Low Density Residential, (c) Zone R3 Medium Density Residential, (d) Zone R4 High Density Residential, (e) Zone B1 Neighbourhood Centre, (f) Zone B2 Local Centre, (g) Zone B4 Mixed Use. | The division is applicable to the site, as it is located within an R2 Low Density Residential Zone. |
| 27 Development to which Division applies (1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses. (2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area. (3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones. | Pursuant to Clause 27(1), the division applies to the proposed development. Pursuant to Clause 27(2), the division applies to the proposed development, as the site is within an accessible area. Pursuant to Clause 4 (Interpretation – General) of the SEPP, accessible land means land that is within: (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday. The site is not in close proximity to a rail and/or ferry services; it is however approximately 300m walking distance to the nearest bus stop on Barrenjoey Road, which is serviced by the 187, 188, 190, E87, E88, E89, L87 and L90 services. The site is subsequently considered to be in an accessible area, and the division would be applicable to the proposal. |
| 28 Development may be carried out with consent Development to which this Division applies may be carried out with consent. | Consent is sought for the construction of a boarding house pursuant to the SEPP. |
| 29 Standards that cannot be used to refuse consent (1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than: (a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or | Responses to the assessable criteria within this clause are discussed below. There are no Floor Space Ratio (FSR) controls which apply to the land. |

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| <p>(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or</p> <p>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</p> <p>(i.) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</p> <p>(ii.) (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</p> <p>(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) building height if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</p> <p>(b) landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</p> <p>(c) solar access where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter,</p> <p>(d) private open space if at least the following private open space areas are provided (other than the front setback area):</p> <p>(i.) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,</p> <p>(ii.) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,</p> <p>(e) parking if:</p> <p>(i.) in the case of development in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii.) in the case of development not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iii.) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p> <p>(f) accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i.) 12 square metres in the case of a boarding room</p> | <p>Not applicable; the site is located within an R2 Low Density Residential zone. Both SEPP ARH and PLEP 2014 permit residential accommodation. No FSR controls apply to the site.</p> <p>Not applicable; residential flat buildings are not permissible on the site.</p> <p>Complies with Clause 4.3 (Height of buildings) of PLEP 2014; refer to the assessment within Part 7.3 of this report.</p> <p>Landscape area controls for the site apply to the overall site area. Regardless, the proposed front setback and subsequent landscaped area are consistent with the immediate surroundings.</p> <p>The ground floor communal area is proposed to be located on the northwest side of the building, and would therefore be capable of obtaining solar access between 9am and 3pm on June 21.</p> <p>Disregarding the raised turf area, the site provides a useable POS area of approximately 117m² (including minimum dimensions) within the rear setback area. Accommodation for a boarding house manager is not proposed, therefore space for a manager is not required.</p> <p>As discussed above, the site is within an accessible area.</p> <ul style="list-style-type: none"> • 10 boarding rooms proposed, therefore two car parking spaces required • Two (2) car parking spaces proposed • Additional employee parking not required <p>Proposed accommodation space:</p> <ul style="list-style-type: none"> • Room 01: 23.59m² (D) • Room 02: 17.04m² (S) • Room 03: 22.74m² (D) • Room 04: 22.74m² (D) • Room 06: 24.99m² (D) • Room 07: 21.29m² (D) • Room 08: 21.29m² (D) • Room 09: 24.35m² (D) |
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| <p>intended to be used by a single lodger, or (ii.) 16 square metres in any other case.</p> <p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p> <p>(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).</p> | <p>• Room 05: 22.74m² (D) • Room 10: 24.69m² (D) (D)= Double room (S)= Single room</p> <p>Private facilities proposed within each room.</p> <p>Noted</p> |
| <p>30 Standards for boarding houses</p> <p>(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:</p> <p>(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,</p> <p>(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,</p> <p>(c) no boarding room will be occupied by more than 2 adult lodgers,</p> <p>(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,</p> <p>(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,</p> <p>(f) (Repealed)</p> <p>(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,</p> <p>(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.</p> <p>(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.</p> | <p>Standards assessed as follows:</p> <p>Ground floor communal area proposed.</p> <p>Maximum floor area: 24.99m² (see above)</p> <p>Maximum of two lodgers proposed per boarding room</p> <p>Private bathroom facilities proposed for each room; communal/accessible WC proposed on ground floor. Maximum 19 lodgers proposed; boarding house manager not proposed.</p> <p>Not applicable; the site is within an R2 zoned area.</p> <p>10 boarding rooms proposed,</p> <ul style="list-style-type: none"> 10 boarding rooms proposed, therefore two bicycle and motorcycle parking spaces required Two (2) two bicycle and two (2) motorcycle parking spaces proposed <p>Noted, though not applicable</p> |
| <p>30A Character of local area</p> <p>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</p> | <p>As assessed within Part 7.5 of this report, the proposed development would be consistent with the desired character of the Newport Locality.</p> |

7.3 Pittwater Local Environment Plan (PLEP) 2014

7.3A Permissibility:

The subject site is located within an R2 Low Density Residential zone under Pittwater Local Environment Plan (PLEP) 2014.

The proposed development would be most appropriately defined as a boarding house; the standard instrument definition for this use is as follows:

boarding house means a building that:

- (a) is wholly or partly let in lodgings, and*
- (b) provides lodgers with a principal place of residence for 3 months or more, and*
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*

(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

The proposed development has been lodged pursuant to SEPP (ARH) 2009, though boarding houses are a form of development that is permissible with consent within the R2 zone under PLEP 2014.

7.3B Zone objectives

An assessment of the objectives of the R2 zone is as follows:

| Objective | Assessment and Comment |
|------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| To provide for the housing needs of the community within a low density residential environment. | The proposed development would provide accommodation to members of the community. This assessment indicates that the proposed development would be consistent with that of a low density residential environment. |
| To enable other land uses that provide facilities or services to meet the day to day needs of residents. | While the development would be a residential land use, the proposed development would include onsite facilities and services that would meet the day to day needs of residents on the site. |
| To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses. | The development would be a residential land use. It is acknowledged that there would be a substantially larger number of residents living on the site than on surrounding residential allotments (i.e. those containing single dwelling houses). Development would however be for residential accommodation that would be subject to a plan of management that would govern resident behaviour so that it would be consistent with the surrounding area. It is therefore not expected that the nature of the development would be incompatible with the surrounding area. |

In summary, the proposed development is permissible with consent in the R2 Low Density Residential zone and would be consistent with the objectives of the zone.

7.4C Assessment of LEP standards and requirements

Refer below to a table of compliance for applicable controls under the LEP.

| Clause | Numerical Standard | Numerical Proposal | T | O | N |
|----------------------------------------------------------|--------------------|--------------------|---|---|---|
| Pittwater Local Environmental Plan 2014 | | | | | |
| 1.9A Suspension of covenants, agreements and instruments | | | | | |
| 4.1 Minimum subdivision lot size | | | | | N |
| 4.2 Rural subdivision | | | | | |

| Clause | Numerical Standard | Numerical Proposal | T | O | N |
|---------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| 4.3 Building Height | Maximum height (pursuant to cl 4.3(2)): 8.5m As the site is flood affected, maximum allowable height (pursuant to Cl. 4.3(2A)): : 13.1m, based on a height of 8m above the Flood Planning Level (FPL) of RL 5.1m AHD | Maximum proposed heights: • 8.5m Pursuant to Cl. 4.3(2A), the above height would equate to 6.5m above the FPL. While submissions raise concern regarding building height, the proposed development is significantly below the height limit and satisfies the objectives of the standard where they apply (refer to relevant assessments within Part 7.4D of this report). It should be noted that most existing dwellings on the northwest side of Ross Street are older dwellings constructed prior to current planning provisions. Due to local flooding hazards, it is likely that any new residential development in this area would be of a similar height/scale to that proposed due to provisions requiring that floor levels be raised to the FPL. | Y | Y | N |
| 4.4 Floor Space Ratio | | | | | |
| 4.6 Exceptions to development standards | | None proposed | | | |
| 5.4 Controls relating to miscellaneous permissible uses | | | | | |
| 5.5 Development within the coastal zone | | | | | |
| 5.6 Architectural roof features | | | | | |
| 5.7 Development below mean high water mark | | | | | |
| 5.8 Conversion of fire alarms | | | | | |
| 5.10 Heritage conservation | | | | | |
| 7.1 Acid Sulphate Soils | | Referral officer comments: "Class 3 condition of consent requiring acid sulphate investigation prior to issue of construction certificate is recommended." Planner comment: The site is affected by Class 3 ASS. The applicant indicates that works would not extend more than 1m below ground level, therefore further investigation would not be required. Condition to be added as recommended by internal referral comments. | Y | Y | Y |
| 7.2 Earthworks | | Development Engineer comments: "Excavation of footings service connections and access only No major/deep excavation required as the works are in the flood prone area of Newport." | Y | Y | Y |
| 7.3 Flood planning | | Catchment management comments: "The proposed development generally complies with the flood requirements of the LEP." | Y | Y | N |
| 7.4 Floodplain risk management | | | | | |
| 7.5 Coastal risk planning | | | | | |
| 7.6 Biodiversity | | | | | |
| 7.7 Geotechnical hazards | | | | | |
| 7.8 Limited development on foreshore area | | | | | |
| 7.9 Residual lots | | | | | |

| Clause | Numerical Standard | Numerical Proposal | T | O | N |
|-------------------------------------------------------------------|--------------------|--------------------|---|---|---|
| 7.10 Essential services | | | Y | Y | Y |
| 7.11 Converting serviced apartments to residential flat buildings | | | | | |
| 7.12 Location of sex services premises | | | | | |

7.5 Pittwater 21 Development Control Plan

7.5A Assessment of DCP controls

Refer below to a table of compliance for applicable controls under the DCP; more detailed assessments and elements of noncompliance are also assessed/discussed in depth below.

| Clause | Numerical Standard | Numerical Proposal | T | O | N |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| Section A Shaping Development in Pittwater | | | | | |
| A1 Introduction | | | | | |
| A1.7 Considerations before consent is granted | | | Y | Y | Y |
| A4 Localities | | | | | |
| A4.10 Newport Locality | | | Y | Y | N |
| Section B General Controls | | | | | |
| B1.1 Heritage Conservation Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014 | | | | | |
| B1.2 Heritage Conservation Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological site | | | | | |
| B1.3 Heritage Conservation General | | | | | |
| B1.4 Aboriginal Heritage Significance | | Natural Environment comments: "No apparent issues." | Y | Y | Y |
| B3.1 Landslip Hazard | | | | | |
| B3.2 Bushfire Hazard | | | | | |
| B3.3 Coastline (Beach) Hazard | | | | | |
| B3.4 Coastline (Bluff) Hazard | | | | | |
| B3.6 Contaminated Land and Potentially Contaminated Land | | Refer to the assessment of SEPP 55 within Part 7.2 of this report. | Y | Y | Y |
| B3.7 Estuarine Hazard Low density residential | | | | | |
| B3.9 Estuarine Hazard Business, Light Industrial and Other Development | | | | | |
| B3.10 Estuarine Hazard Subdivision | | | | | |
| B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume) | | Catchment management comments: "The proposed boarding house is an intensification of development on the property, and so the FPL needs to account for climate change. This means that the FPL is 5.1m AHD instead of 4.6m AHD. The lower floor level is at 5.1m AHD, and so complies with the requirement that the floor level is at or above the FPL." | Y | Y | N |

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|------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| B3.13 Flood Hazard Flood Category 1 Low Hazard Shop Top Housing, Business and Industrial Development | | <p>Catchment management comments: <i>"The property is almost entirely within the H5 Flood Life Hazard category, with a small amount of H6 category just inside the front boundary.</i></p> <p><i>The proposed boarding house has an upper floor level of 8.1m AHD, with sufficient area above the PMF level to provide adequate shelter in place refuge. It generally complies with the flood requirements of the DCP."</i></p> | Y | Y | N |
| B3.17 Flood Hazard Flood Category 1 High Hazard Medium Density Residential | | <p>Catchment management comments: <i>"The property is entirely within the high flood risk precinct.</i></p> <p><i>The proposed boarding house has a lower floor level at the FPL of 5.1m AHD, and a suspended floor system supported on piers/ columns allowing for the free flow/storage of floodwaters through the site.</i></p> <p><i>It generally complies with the flood requirements of the DCP."</i></p> | Y | Y | N |
| B3.19 Flood Hazard Flood Category 1 High Hazard Other Development | | | | | |
| B3.22 Flood Hazard Flood Category 3 Overland Flow Path Major | | | | | |
| B3.23 Climate Change (Sea Level Rise and Increased Rainfall Volume) | | | | | |
| B3.25 Flood Hazard Flood Emergency Response planning | | | | | |
| B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land | | <p>Natural Environment comments: <i>"There is currently limited to no intact remnant or regenerated native vegetation on the site. Landscaping consists predominantly of planted and maintained exotic and native vegetation and lawn. The submitted landscape plan includes predominantly native and local species, with some exotic species proposed. Conditions of consent are recommended to improve the biodiversity and flora/fauna value of proposed landscaping, including the deletion of exotic species and potential environmental weeds. A condition of consent to maintain ground dwelling wildlife access to this landscaping is recommended.</i></p> <p><i>An aboriginal report is submitted with the DA, and proposes to remove two (2) of twelve (12) assessed trees/shrubs, most of which are exotic, invasive and/or exempt species. Implementation of arborist recommendations to protect retained trees, particularly the large Magnolia grandifolia, is recommended as a condition of consent."</i></p> | Y | Y | N |

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| B4.22 Preservation of Trees or Bushland Vegetation | | Natural Environment comments: "Removal of trees is noted as an issue of concern in one submitted objection, although the nature (e.g. landscape amenity, biodiversity) is not addressed in the objection. Conditions of consent are proposed to improve the habitat and canopy value of the submitted landscape plan, and to condition for implementation of arborist recommendations regarding retention of trees, particularly the large <i>Magnolia grandifolia</i> ." | Y | Y | N |
| B5.1 Water Management Plan | | Development Engineer comments: "Whilst no actual water management plan is provided the subject site is within a designated flood prone area and there is sufficient detail within the flood report and SEE to define the requirements for the site through consent conditions." | Y | Y | Y |
| B5.3 Greywater reuse | | | | | |
| B5.4 Stormwater Harvesting | | | | | |
| B5.5 Rainwater Tanks Business, Light Industrial and Other Development | | | | | |
| B5.8 Stormwater Management Water Quality Low Density Residential | | | | | |
| B5.9 Stormwater Management Water Quality Other than Low Density Residential | | | | | |
| B5.10 Stormwater Discharge into Public Drainage System | | | Y | Y | Y |
| B5.11 Stormwater Discharge into Waterways and Coastal Areas | | | | | |
| B5.12 Stormwater Drainage Systems and Natural Watercourses | | | | | |
| B5.13 Development on Waterfront Land | | | | | |
| B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System) | | | | | |
| B6.1 Access driveways and Works on the Public Road Reserve | | | Y | Y | Y |
| B6.2 Internal Driveways | | | Y | Y | N |
| B6.3 Off Street Vehicle Parking Requirements | | Development Engineer comments: "The SEPP requires 0.2 vehicle spaces per unit equalling 2 spaces total." Planner comment: As the application has been lodged pursuant to SEPP (ARH) 2009, the parking rates identified by the SEPP take precedence; refer to the assessment within Part 7.2 of this report and additional comments within Part 7.4B of this report. | Y | Y | N |
| B6.5 Off Street Vehicle Parking Requirements Low Density Residential | | | | | |
| B6.6 On Street Parking Facilities | | | | | |
| B6.7 Transport and Traffic Management | | | | | |
| B8.1 Construction and Demolition Excavation and Landfill | | | Y | Y | Y |
| B8.2 Construction and Demolition Erosion and Sediment Management | | | Y | Y | Y |

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|---------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| B8.3 Construction and Demolition Waste Minimisation | | | Y | Y | Y |
| B8.4 Construction and Demolition Site Fencing and Security | | | Y | Y | Y |
| B8.5 Construction and Demolition Works in the Public Domain | | | Y | Y | Y |
| B8.6 Construction and Demolition Traffic Management Plan | | | Y | Y | Y |
| Section C Development Type Controls – C1 Design Criteria for Residential Development | | | | | |
| C1.1 Landscaping | | Natural Environment officer comments: "See comments for Clause B4.5." | Y | Y | Y |
| C1.2 Safety and Security | | | Y | Y | N |
| C1.3 View Sharing | | | | | |
| C1.4 Solar Access | | <p>Due to the orientation of the site, the only site affected by overshadowing is 4 Ross Street, Newport. Impacts on this site on June 21 are assessed as follows:</p> <ul style="list-style-type: none"> 9:00am: The northern elevation of the dwelling would be overshadowed. 12:00pm: The northern most point of the dwelling would be overshadowed, however the proposed shadow cast would have otherwise moved off the dwelling. 3:00pm: The proposed shadow cast will have moved off the dwelling. <p>Despite submissions to the contrary, the proposed development would satisfy solar access provisions relating to the overshadowing of adjoining sites. Further, internal solar access to the proposed development is satisfactory.</p> | Y | Y | N |
| C1.5 Visual Privacy | | <p>The proposed development mostly satisfies visual privacy provisions by directing views from upper floor windows towards the front of the site; screening around the car park would also minimise overlooking of adjoining sites. There are however three elements that are of concern, which are as follows:</p> <ul style="list-style-type: none"> The window from boarding room 2; The north facing communal dining room window; and The northern elevation of the raised turf area. <p>While there would be landscape screening to the north of the latter element, such screening would take time to grow to a sufficient height. A non standard condition is therefore recommended to ensure that all three of these elements are screened/obscured to a height of 1.7m above respective finished floor levels. If undertaken in accordance with recommended conditions, the proposal would satisfy the controls and associated outcomes.</p> | Y | Y | N |

| | | | | | |
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| C1.6 Acoustic Privacy | | | Y | Y | Y |
| C1.7 Private Open Space | Minimum 15% of the floor area of the dwellings (56.7m ²) with minimum dimensions of 2.5m | Approx. 117m ² (including minimum dimensions) | Y | Y | Y |
| C1.9 Adaptable Housing and Accessibility | At least 50% (i.e. 5) of the dwellings are to consist of adaptable units | Five of the proposed units are adaptable. Contrary to submissions, the ground floor can be accessed via ramps and a wheelchair lift. Construction requirements also subject to conditions requiring compliance with the BCA/NCC. | Y | Y | N |
| C1.10 Building Facades | | | Y | Y | Y |
| C1.12 Waste and Recycling Facilities | | The location of the bins at the front of the site is not considered to be suitable due to the visual prominence of such a feature. A non standard condition is recommended to relocate the bin storage area to a location beside the driveway. | Y | Y | N |
| C1.13 Pollution Control | | Compliance with the submitted plan of management would be subject to recommended conditions. Plant equipment would be subject to conditions. Environmental Health have not raised any issues, provided that conditions of consent are satisfied. | Y | Y | N |
| C1.14 Separately Accessible Structures | | | | | |
| C1.15 Storage Facilities | | | | | |
| C1.16 Development ancillary to residential accommodation Tennis Courts | | | | | |
| C1.17 Swimming Pool Safety | | | | | |
| C1.18 Car/Vehicle/Boat Wash Bays | | | | | |
| C1.19 Incline Passenger Lifts and Stairways | | | Y | Y | N |
| C1.20 Undergrounding of Utility Services | | | N | Y | Y |
| C1.23 Eaves | | Some eaves do not comply with the minimum 450mm width requirement, however where not compliant such eaves would satisfy the objectives of the DCP and are therefore considered to be satisfactory and supportable. | N | Y | Y |
| C1.24 Public Road Reserve Landscaping and Infrastructure | | | | | |
| C1.25 Plant, Equipment Boxes and Lift Over Run | | | Y | Y | Y |
| Section D Locality Specific Development Controls – D10 Newport Locality | | | | | |
| D10.1 Character as viewed from a public place | | | Y | Y | N |
| D10.3 Scenic Protection – General | | | | | |
| D10.4 Building colours and materials | | Some clad areas are not consistent with development controls. Subject to conditions to ensure compliance. | Y | Y | Y |
| D10.7 Front building line (excluding Newport Commercial Centre) | 6.5m or established building line, whichever is greater | Proposed setbacks: • 6.6m The proposed front setback is generally consistent with the predominant setback pattern and is therefore considered to be satisfactory. | Y | Y | Y |

| | | | | | |
|----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| D10.8 Side and rear building line | Required setbacks: <ul style="list-style-type: none"> Side setbacks: <ul style="list-style-type: none"> Minimum 2.5m for at least one side Minimum 1m for the other side Rear setbacks: <ul style="list-style-type: none"> Minimum 6.5m, other than where the foreshore building line applies | Proposed setbacks: <ul style="list-style-type: none"> North side: Minimum 1.5m South side: Minimum 1.76m Rear: Minimum 6.75m | N | Y | Y |
| D10.11 Building Envelope | | | N | Y | N |
| D10.12 Landscaped Area General | Minimum 50% of the site (390.5m ² , based on a landscaped area of 781m ²) is to be landscaped | Proposed landscaped area: Approx. 351m ² , or 45% Note: Above calculations incorporate likely additional site coverage associated with conditioned waste area. | N | Y | N |
| D10.14 Fences – General | | Subject to recommended conditions to ensure compliance and that fences are in accordance with outcomes and controls. | Y | Y | Y |
| D10.16 Construction, Retaining walls, terracing and undercroft areas | | | Y | Y | Y |
| D10.18 Scenic Protection Category One Areas | | | Y | Y | Y |

7.5B - Detailed assessments of relevant provisions within Pittwater 21 DCP

A4.10 Newport Locality and D10.1 Character as viewed from a public place

The proposed development is mostly consistent with the desired locality for the Newport locality as follows:

- All proposed dwellings are a maximum of two storeys in any one place;
- New and existing trees would be integrated into the development;
- Sufficient landscaped space is proposed (refer to separate assessment above); and
- The proposed development would both provide sufficient onsite facilities/utilities and would be designed to be safe from hazards.

While the proposed colours and materials are generally consistent with DCP requirements and would be subject to conditions to ensure that external surfaces would comply with relevant requirements.

Further to the above, elements of the proposal that are directly visible from public areas (i.e. the Ross Street road reserve and Council reserve) would satisfy all relevant requirements within Part D10.1 of the DCP by proposing methods of articulation all elevations that are consistent with the development controls. Car parking facilities (apart from the access ramp) would be situated behind the front building line. Integrated landscaping is also proposed (and subject to recommended conditions) that would also assist in filtering/softening the proposed dwellings from public areas.

While it is acknowledged that submissions expressed concern regarding the scale, bulk and height of the proposed development, the proposal would be generally consistent with applicable development controls and is significantly below the maximum building height that is permitted for the area. While the appearance of the development is inconsistent when compared with development immediately to either side, such inconsistency relates to flooding hazards and a building design that has been prepared in accordance with current development controls; an example of similar such development is the dual occupancy (approved by Development Application No. N0283/13) at 2 The Boulevard, approximately 50m southwest of the subject site.

In summary, the proposed development is consistent with the desired characteristics of the locality and would comply with the requirements within Part D10.1 of Pittwater 21 DCP.

C1.20 Undergrounding of Utility Services

The subject application does not propose to underground electrical cables within the road reserve, as required by the controls. The applicant has acknowledged the noncompliance, and has provided the following justifications:

- Compliance with the control would require undergrounding of the wires in front of five sites;
- As the site is within an R2 zone, the same requirement would not apply for non-boarding house development on surrounding sites;
- Exemptions to the control can be considered where less than one span requires undergrounding; and
- The control was not applied to the dual-occupancy development at 2 The Boulevard; and
- Isolated undergrounding of the cables would not address the outcomes of the control

Right: Locations of power-poles around the site (identified by the red dots) in relation to the subject site (identified by the green dot). Also refer to figure 2, which includes a photo of the site and the power pole at the front.



Contrary to the applicant's claims, the variations within Part C1.20 of the DCP do not apply to the subject application, as two spans would require undergrounding (due to the location of the pole immediately in front of the site; refer to the image above) and there is no evidence that such wires include 33kV cables. Further, while the example at 2 The Boulevard is noted, the history of that development with regard to this control is not known. Regardless, with:

- The exception of boarding houses and dual occupancies; and
- Regard to the zoning and subdivision layout of sites on the northern side of Ross Street, it is unlikely that new development on surrounding allotments would necessitate the undergrounding of utilities within other parts the road reserve in the foreseeable future. It is also agreed that the undergrounding of utilities within only a small part of the overall street is unlikely to address the outcomes of the control.

With regard to the above, the noncompliance is therefore considered to be satisfactory and supportable.

D10.8 Side and Rear Building Lines (excluding Newport Commercial Centre)

Note: Rear building line complies and will not be discussed further.

The proposed development mostly complies with side setback requirements. The location of the building walls comply, however there are three projecting window elements on the southern side of the first floor that breach the setback line, with setbacks of as little as 1.76m from the boundary.

Despite the noncompliance, the proposed development would satisfy the outcomes of the controls. There are no view-sharing concerns and as the noncomplying elements are recessed under the eaves, there would be no solar access issues associated with the variation. The noncomplying elements have been proposed so that windows within boarding rooms 7 and 10 are oriented towards the front of the site and do not overlook the adjoining dwellings and/or private open space area of 4 Ross Street; visual privacy outcomes would therefore be satisfied.

In summary, the proposed noncompliances would be minor, would satisfy the outcomes of the control and are therefore considered to be supportable.

D10.11 Building Envelope

The proposed development mostly complies with building envelope requirements. There are however some breaches which are as follows:

- The upper 600mm of the northern wall;
- The upper-most sections of the projected first floor windows (i.e. the windows projecting out from boarding rooms 8 and 9 up to a maximum height of 500mm; and
- The upper-most sections of the projected first floor windows (i.e. the windows projecting out from boarding rooms 7 and 10 up to a maximum height of 300mm.

Despite such noncompliances, the proposed development would satisfy the outcomes of the controls as follows:

- The noncomplying elements would not significantly add to bulk and scale;
- There would be no view-sharing concerns;
- There would not be any solar access impacts associated with the variations. As the projecting windows would be recessed under the eaves, they would not contribute to additional overshadowing. Further, as the main wall breach is located on the northern side of the building, there would be no solar access issues associated with that part of the variation; and
- The noncomplying windows that would be affected by the variation would be oriented towards the front of the subject site and would therefore not overlook the adjoining dwellings and associated private open space areas within 4 and 6 Ross Street; visual privacy outcomes would therefore be satisfied.

In summary, the proposed noncompliances are minor, would satisfy the outcomes of the control and are therefore considered to be supportable.

D10.12 Landscaped Area - General

As indicated above and as noted by some submissions, the plans propose a landscaped area of 45%, which is variation of approximately 35.5m², or 10%. The noncompliance stems from the applicant's inclusion of pervious pebble pathways and the primary outdoor area as landscaped areas, however the inclusion of such areas is not consistent with the LEP definition for "landscaped space". As indicated elsewhere in this report, waste storage areas are subject to conditions; likely impervious area that would be associated with such conditions would not have been considered by the applicant but has been included within this assessment.

Despite the noncompliance, the proposed development is capable of satisfying applicable outcomes of the development control as follows:

- The proposed landscaped areas include areas of sufficient size (particularly within the front and rear setbacks) to accommodate a range of vegetation and landscaped treatments, including trees that would assist in filtering the development from public areas;
- The proposed development would satisfy relevant controls relating to solar access (refer to the assessment of DCP Part C1.4 above); and

- As indicated above, a notable proportion (i.e. approx. 28m²) of the site would consist of pervious areas; combined with the proposed landscaped area the total pervious area of the site would be approximately 379m², or approximately 48.5% of the site area. Council's development engineers did not identify any issue with the proposal with regard to stormwater management and runoff, therefore the proposal is considered to satisfy this outcome.

With regard to the above, the proposed development would not propose a significant variation to the control, would satisfy relevant outcomes and is not inconsistent with the desired character of the area. The proposed noncompliance is therefore considered to be satisfactory and supportable.

8.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of applicable planning legislation, planning instruments and policies as listed within Part 7.1 of this report. Thirteen submissions were received which objected to the proposed development on a range of issues; such issues have been acknowledged and addressed within Parts 5 and 7 of this report.

This assessment has found that proposed development is mostly consistent with the relevant statutory and policy controls and outcomes (refer to relevant assessments above), in addition to being consistent with the desired character considerations of the Newport locality. As noted by multiple submissions, it is acknowledged that the building is of a notable height and scale when compared with surrounding low-density residential development. The height of the building does however comply with applicable development standards and is a reflection of the flooding constraints that affect both the subject site and surrounding sites; with regard to applicable flooding controls, it is considered likely that future development on those surrounding sites would be consistent with that proposed by the subject application. The size of the proposed development is therefore considered to be satisfactory.

Assessments by relevant staff conclude that any impacts associated with the proposed subdivision and associated residential development would be acceptable; the proposed development is therefore considered to be supportable.

With regard to the above, the subject development application is recommended for approval, subject to recommended conditions of consent.

RECOMMENDATION OF PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 **approve** Development Application No. N0308/17 for the demolition of the existing buildings and the construction of a new two (2) storey boarding house at 6 Ross Street, Newport (Lot 43, DP 18415), subject to the recommended conditions attached to this report.

Report prepared by

Tyson Ek-Moller
PRINCIPAL PLANNER
PLANNING AND ASSESSMENT





| DATE | REV | DESCRIPTION | OWNER | CHECK | ELEVATIONS |
|-----------|-----|-----------------------|-------|-------|-----------------------------|
| 1/20/2017 | A | TECHNICAL APPLICATION | DB | DB | |
| | | | | | NEWPORT BEACH HOUSE |
| | | | | | PROPOSED DANCING HOUSE |
| | | | | | 6 RODE STREET, NEWPORT, NEW |
| | | | | | LOT 4, DP 1415 |
| | | | | | 1100 G. RD |
| | | | | | 5000 |
| | | | | | 1822 |
| | | | | | DA-20 |
| | | | | | FOR MR HOLMIS PVT LTD |

ITEM 3.3 **N1038/00/S96/2 - 5 FOREST ROAD, WARRIEWOOD -
MODIFICATION TO CONSENT N1038/00 FOR THE
REDEVELOPMENT OF MATER MARIA COLLEGE,
WARRIEWOOD**

REPORTING MANAGER **Matthew Edmonds**

TRIM FILE REF **2017/484495**

ATTACHMENTS 1 [↓](#) **Assessment Report**
2 [↓](#) **DDP Plans - Site and Elevation Plans**

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

That Council as the consent authority pursuant to Section 96(2) of the Environmental Planning & Assessment Act 1979 modify Development Consent N1038/00 which approved redevelopment of Mater Maria College at 5 Forest Road, Warriewood subject to the conditions outlined in this report

SUBJECT: N1038/00/S96/2 – Modification to Development Consent N1038/00 which approved the redevelopment of Mater Maria College (Lot 13 DP 1083731)

Determination Level: Development Determination Panel

Date: 06/12/2017

SUMMARY OF RECOMMENDATION

MODIFY CONSENT

REPORT PREPARED BY: Angela Manahan

APPLICATION SUBMITTED ON: 28 August 2017

APPLICATION SUBMITTED BY: AVIUM PTY LTD
PO BOX 6172
ALEXANDRIA
NSW 2015

OWNERS: TRUSTEES ROMAN CATHOLIC CHURCH

1.0 SITE DETAILS

The site is known as 5 Forest Road, Warriewood and has a legal description of Lot 13 in Deposited Plan 1083731. The site is irregular in shape and has a total area of 51,500m². The site currently contains a school, Mater Maria College, and areas of bushland which are located to the west, north and south of the site. The site is located along the footslopes of the Warriewood Escarpment at the western end of Warriewood Valley. Vehicle and pedestrian access is gained via the frontage to Forest Road. The southern portion of the site accommodates a natural creek line, Fern Creek. The site experiences a fall of approximately 42m from north-west to south-east, with an overall slope of approximately 17%.

Stage 1 of the redevelopment has been completed and comprises the new Chapel, Music/Fitness centre, Movement complex, Lecture Theatre and associated works, located within the north-eastern portion of the site. Mater Maria College currently consists of ten (10) buildings including administration, classrooms, a lecture theatre, a gymnasium, and a library. The site provides for seventy-five (75) on-site car parking spaces.

The site is primarily located within Sector 8 of the Warriewood Valley locality with a portion of the western side of the site located within the Warriewood locality. The site is surrounded by residential properties to the east and north-east. Rural residential properties adjoin the site to the south. The area to the south-east of the site is currently under development as part of Sector 9 of the Warriewood Valley Land Release area. Land to the north and west of the site, from north through to south-west is comprised of native bushland.

2.0 PROPOSAL IN DETAIL

The applicant seeks consent for the following modifications to the approved development under S96 application N1038/00/S96/2;

- Consolidation of the three (3) approved multi-storey buildings, being the Library and Staff building, Administration and Canteen, and TAS extension to Block D, to one (1) single building comprising:
 - Level 1
 - Main Entrance and Foyer;
 - Open-plan Staff Study area and Store;
 - Uniform Shop;
 - Three (3) Toilets (3 Female, 1 Male and 1 Accessible);
 - Two (2) Sick rooms including WCs;
 - Bulk Store;
 - Two (2) Interview rooms;
 - Five (5) Offices;
 - Administration Area;
 - Terrace to the west providing pedestrian access to Block D (Ducker Building);
 - Level 2
 - Open-plan Staff Study area;
 - Staff Common Room and Kitchen;
 - Three (3) Toilets (4 Female, 2 Male and 1 Accessible);
 - Two (2) Shower rooms;
 - One (1) Office;
 - Student Services Office;
 - Student Interview Office;
 - Councillor Office;
 - Printer room;
 - One (1) Meeting Room;
 - Communications room;
 - Terrace to the south, east and north (Northern terrace providing pedestrian access to Block A);
 - Separate Careers Room, to the north of the northern terrace;
 - Level 3
 - Open-plan Resource Centre;
 - Work Room;
 - Seminar room with divide;
 - Store;
 - Food Services, including Dry Store and Freezer;
 - Terrace to the south, east and west (Western terrace providing pedestrian access to Block A);
 - Terrace to the north to provide a new Assembly area and new Amphitheatre;
 - Roof Terrace;
 - Lift Access throughout all four (4) levels (including Roof Terrace level);
 - External stairs and terracing for pedestrian access;
 - Associated Landscaping works.
- Deletion of condition D234 which relates to the maximum height of the approved buildings.

3.0 STATUTORY & POLICY CONSIDERATIONS

The following planning legislation, environmental planning instruments, development control plans and policies are relevant to the subject Development Application:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- Rural Fires Act 1997;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No.55 – Remediation of Land;
- Planning for Bushfire Protection 2006;
- Pittwater Local Environmental Plan 1993;
 - Zoned 1(b) Non-Urban "B"
- Pittwater Local Environmental Plan 2014 (commenced 27/06/2014);
 - Zoned SP2 – Infrastructure
 - Acid Sulphate Soils Map - Class 5
 - Height of Buildings Map – 8.5m
 - Biodiversity Map
 - Geotechnical Hazard Map
- Pittwater 21 Development Control Plan;
 - Warriewood Valley Land Release Area Locality (Sector 8)
 - Warriewood Locality
 - Geotechnical Risk Management Policy for Pittwater
 - Flood Risk Management Policy 2017
- RMS Guidelines for Traffic Generating Development.

P21 DCP identifies the site as being:

- Bushfire prone
- Landslip prone
- Flood prone
- Containing areas of Heathland vegetation and Saltmarsh & Foreshore vegetation other than Mangroves
- Flora and Fauna Category 1 and 2
- Within 40m of a river, stream or foreshore.

4.0 ZONING AND PERMISSIBILITY

The site is zoned 1(b) Non-Urban "B" under the provisions of the Pittwater LEP 1993. The proposed development being redevelopment of Mater Maria College (a School) is permissible with consent pursuant to the Pittwater Local Environmental Plan 1993. The site is zoned SP2 - Infrastructure under the provisions of the Pittwater LEP 2014. The purpose shown on the Land Zoning Map is for an Educational Establishment. The proposed development, being a school, falls under the definition of an Educational Establishment and is permissible with consent pursuant to the land use table in Part 2 of Pittwater Local Environmental Plan 2014.

The modifications proposed remain consistent with the land use proposed and approved by N1038/00 and are permissible with consent, as identified by Clause 9 of PLEP 1993 and the Land Use Table of PLEP 2014.

5.0 BACKGROUND

The subject site has been subject to numerous Development Applications, which were primarily for the construction of security fencing and shade sails. The below background provides a summary of the original development application for the redevelopment and the subsequent modification applications.

23 November 2001

Development Application N1038/00 for the redevelopment of Mater Maria College, was approved by Council under the delegation of the Development Unit.

11 October 2002

An application for the modification of development consent N1038/00 was approved by Council. The modification application sought consent for the reinstatement of the Chapel and associated landscaping works, which was originally deleted from the development application due to Bushfire and tree removal concerns.

28 August 2017

Section 96(2) Modification Application N1038/00/S96/2 was lodged with Council. The application was subsequently referred to Council's Development Engineer, Catchment Management and Climate Change Unit, Natural Environment Officer, and Reserves and Recreation Unit/Landscape Architect for comments and/or recommendations. The application was externally referred to Roads and Maritime Service and NSW Rural Fire Service.

5.0 NOTIFICATIONS

Modification Application N1038/00/S96/2 was notified to adjoining property owners from 08 September through to 22 September 2017 in accordance with Council's Notification Policy. During this time, no submissions were received.

6.0 ASSESSMENT

COMPLIANCE TABLE

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

| Control | Standard | Proposal | T | O | N |
|----------------------------------------------------------|----------|--------------------------------|---|---|---|
| Pittwater Local Environmental Plan 2014 | | | | | |
| 1.9A Suspension of covenants, agreements and instruments | | | Y | Y | Y |
| Zone SP2 Infrastructure (Educational Establishment) | | See discussion in Section 4.0. | Y | Y | Y |
| 4.3 Height of Buildings | | See discussion in Section 7.0. | N | Y | Y |
| 4.6 Exceptions to development standards | | See discussion in Section 7.0. | | | |
| 5.10 Heritage conservation | | | Y | Y | Y |
| 7.1 Acid Sulfate soils | | Class 5 | Y | Y | Y |
| 7.2 Earthworks | | | Y | Y | Y |

| Control | Standard | Proposal | T | O | N |
|---------------------------------------------------------------------------------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| 7.6 Biodiversity protection | | <i>Natural Environment & Climate Change – Biodiversity Division, have no objection to approval subject to conditions, as recommended.</i> | Y | Y | Y |
| 7.7 Geotechnical hazards | | <i>Geotechnical report has been prepared by JK Geotechnics (dated July 17) and addresses Councils Geotechnical Risk policy 2009.</i> | Y | Y | Y |
| 7.10 Essential services | | | Y | Y | Y |
| Pittwater 21 Development Control Plan 2014 | | | | | |
| A1.7 Considerations before consent is granted | | See discussion in Section 7.0. | Y | Y | Y |
| A4.14 Warriewood Locality | | | Y | Y | Y |
| A4.16 Warriewood Valley Locality | | | Y | Y | Y |
| A5.1 Exhibition, Advertisement and Notification of Applications | | | Y | Y | Y |
| A1.4 Aboriginal Heritage Significance | | <i>Natural Environment & Climate Change – Biodiversity Division, have no objection to approval subject to conditions, as recommended.</i> | Y | Y | Y |
| B3.1 Landslip Hazard | | <i>Geotechnical report has been prepared by JK Geotechnics (dated July 17) and addresses Councils Geotechnical Risk policy 2009.</i> | Y | Y | Y |
| B3.2 Bushfire Hazard | | See discussion in Section 9.0. | Y | Y | Y |
| B3.6 Contaminated Land and Potentially Contaminated Land | | | Y | Y | Y |
| B3.11 Flood Prone Land | | | Y | Y | Y |
| B3.13 Flood Hazard – Flood Emergency Response planning | | | Y | Y | Y |
| B4.15 Saltmarsh Endangered Ecological Community | | | Y | Y | Y |
| B4.18 Heathland/Woodland Vegetation | | See discussion in Section 7.0. | Y | Y | Y |
| B5.9 Stormwater Management – Water Quality – Other than Low Density Residential | | <i>The stormwater management plan prepared by Meinhardt (dated August 2017) proposes to install a bio retention system within the existing stormwater detention basin. A Music model had also been prepared to support the design of the bio retention system.</i> | Y | Y | Y |
| B5.10 Stormwater Discharge into Public Drainage System | | | Y | Y | Y |
| B5.12 Stormwater Drainage Systems and Natural Watercourses | | | Y | Y | Y |
| B5.13 Development on Waterfront Land | | | | | |

| Control | Standard | Proposal | T | O | N |
|-------------------------------------------------------------------------|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System) | | | | | |
| B6.3 Off Street Vehicle Parking Requirements | | See discussion in Section 7.0. | | | |
| B8.1 Construction and Demolition Excavation and Landfill | | | Y | Y | Y |
| B8.2 Construction and Demolition Erosion and Sediment Management | | | Y | Y | Y |
| B8.3 Construction and Demolition Waste Minimisation | | | Y | Y | Y |
| B8.4 Construction and Demolition Site Fencing and Security | | | | | |
| B8.5 Construction and Demolition Works in the Public Domain | | | Y | Y | Y |
| C2.21 Food Premises Design Standards | | | Y | Y | Y |
| C5.1 Landscaping | | <i>Natural Environment & Climate Change – Biodiversity Division, have no objection to approval subject to conditions, as recommended.</i> See discussion in Section 7.0 for further comment. | N | Y | Y |
| C5.4 View Sharing | | | Y | Y | Y |
| C5.8 Waste and Recycling Facilities | | No changes proposed in relation to the waste and recycling facilities. | | | |
| C5.9 Signage | | No signage proposed. | | | |
| C5.17 Pollution control | | | Y | Y | Y |
| C5.19 Food Premises Design Standards | | | Y | Y | Y |
| C5.22 Environmental Sustainability | | Supported by an Energy Efficiency Evaluation Assessment Report. Proposal shall comply with the current standards. | Y | Y | Y |
| C6.2 Natural Environment and Landscaping Principles | | See discussion in Section 7.0. | N | Y | Y |
| C6.3 Ecologically Sustainable Development, Safety and Social Inclusion | | Supported by an Energy Efficiency Evaluation Assessment Report. Proposal shall comply with the current standards. | Y | Y | Y |
| C6.5 Utilities, Services and Infrastructure Provision | | | Y | Y | Y |
| D14.1 Character as viewed from a public place | | See discussion in Section 7.0. | Y | Y | Y |
| D14.2 Scenic protection – General | | See discussion in Section 7.0. | Y | Y | Y |
| D14.3 Building colours and materials | | | Y | Y | Y |
| D14.7 Front building line | | See discussion in Section 7.0. | | | |

| Control | Standard | Proposal | T | O | N |
|---------------------------------------------------------------------------------------|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| D14.8 Side and rear building line | | See discussion in Section 7.0. | | | |
| D16.1 Character as viewed from a public place | | See discussion in Section 7.0. | Y | Y | Y |
| D16.6 Front building lines | | See discussion in Section 7.0. | | | |
| D16.7 Side and rear building lines | | See discussion in Section 7.0. | | | |
| D16.9 Solar access | | | Y | Y | Y |
| D16.11 Form of construction including retaining walls, terracing and undercroft areas | | | Y | Y | Y |
| D16.13 Building colours and materials | | | Y | Y | Y |
| State Environmental Planning Policies | | | | | |
| SEPP (Infrastructure) 2007 | | The application was referred to RMS who provided a response on 27 September 2017 advising that there were no objections to the proposed S96 application. | Y | Y | Y |

7.0 DISCUSSION OF ISSUES

A1.7 Considerations before consent is granted

While no submissions were received during the course of the assessment, verbal concerns were raised with regards to the potential increase in the capacity of the school and number of children. There shall be no change to the capacity of the school, and condition D232 of the consent, which limits the capacity of the school to a maximum of 850 students, shall be retained.

Built form

- **Clause 4.3 Height of Buildings of PLEP**
- **Clause 4.6 Exceptions to development standards of PLEP**
- **Clause D14.1 Character as viewed from a public place of P21 DCP**
- **Clause D14.2 Scenic protection - General of P21 DCP**
- **Clause D14.7 Front building line of P21 DCP**
- **Clause D14.8 Side and rear building line of P21 DCP**
- **Clause D16.1 Character as viewed from a public place of P21 DCP**
- **Clause D16.6 Front building lines of P21 DCP**
- **Clause D16.7 Side and rear building lines of P21 DCP**

Building Height

The proposed modifications result in an overall building height of 12.6m above the existing ground level and result in a technical non-compliance with clause 4.6 of PLEP, which identifies a maximum building height of 8.5m for the site. As the application is a modification application made pursuant to s96 of the EP&A Act, a clause 4.6 variation is not required. The application is assessed in consideration of s79C and s96(2) of the EP&A Act.

While the proposed modifications shall result in a building that does not comply with the maximum height requirement, the non-compliance is considered to be consistent with the objectives of clause 4.3 and acceptable in this instance for the following reasons:

- The extent of the non-compliance is a result of the existing ground level of the site, in which substantial earthworks and alteration to the existing landform have been carried out under the original development consent. This includes the site being partially excavated.
- The original approval departed from the maximum height requirement, permitting the following maximum RLs for the three buildings: RL45.7 for the TAS Extension, RL50.7 for the Admin/Canteen building and RL57.0 for the Library building. The proposed development shall have a maximum RL of RL41.5 to the Level 2 terrace balustrade, RL45.5 to the level 3 terrace balustrade, RL49.6 to the Roof terrace and RL51.8 to the lift over-run (which provides access to the roof terrace). It is considered that the apparent height of the development and building scale shall be substantially less than that originally approved.
- The site is unique in that it is a stand-alone use within the area, being a school. As such there are no comparative buildings within the immediate vicinity, which is predominantly low and medium-density residential development and rural residential properties. The proposed modifications are not considered to be out of scale or character with that originally approved on the site under development consent N1038/00, and as such the resultant height and built form is not incompatible with the surrounding developments.
- The proposed development shall not result in any unreasonable impacts upon adjoining sites with regards to view loss or overshadowing.
- The proposed building shall be integrated into the hillside and stepped in accordance with the slope of the site, with the height of the building stepped as it ascends towards to the south-east.
- The proposed development is located largely within the approved building footprint with no trees proposed for removal. It is considered that the proposed development will not cause any adverse impacts on the natural environment, heritage conservation areas or heritage items.

Building setbacks and Visual Impact

P21 DCP controls do not stipulate any front, side or rear setbacks for the purpose of the subject development, being an Educational Establishment. As such the proposed setbacks, and subsequent built form, are considered on merit.

The proposed building shall be located a minimum of 44.96m from the adjoining residential properties to the east and in excess of 100m from the adjacent residential properties to the north-east. As such it is considered that there is sufficient spatial separation between the proposed building and adjoining sites, and residential amenity to the adjoining and adjacent properties will be maintained. Notwithstanding the above, concern is raised regarding the visual impact of the development, given the horizontal massing of built form as a result of one (1) singular building. The subject site is located on the escarpment, and is highly visible from the surrounding areas, particularly on the lower valley areas to the east and south-east. Although the approved buildings were taller than the proposed building, and more dominating in the skyline/backdrop, the use of three (3) buildings rather than one large building broke up the built form. The proposed building shall result in one continuous horizontal mass of building with little landscaping to break up the built form. Notwithstanding this, in consideration of the purpose of the proposed modifications – to meet the needs of the users of the school and bring the development in line with current standards and regulations, it must be acknowledged that the proposed design shall provide a better planning outcome with regards to accessibility of the site and the school. The original approval relied on numerous ramps throughout the site to provide accessibility between buildings. The amendment to one (1) building shall enable access through all levels of the building as well as to the adjoining school buildings and terrace areas, significantly increasing the accessibility of the site.

The concerns regarding the built form were reiterated by Council's Senior Landscape Architect, in which further comments can be found under the Natural Environment heading below. Council's Senior Landscape Architect recommended a condition of consent with regards to the landscaping as follows, which shall assist in minimising the visual impact of the development from the surrounding visual catchment area:

Embankment Planting along eastern boundary adjoining 13-19 Angophora Circuit.

Additional tree planting within the eastern boundary embankment to provide effective boundary tree screening of the site as seen from the eastern residential areas shall be planted and maintained, as follows:

- 3 x Angophora costata (25 litre size)*
- 3 x Glochidion ferdinandi (25 litre size)*
- 5 x Banksia integrifolia (25 litre size)*
- 5 x Elaeocarpus reticulatus (25 litre size)*

All trees shall be staked.

The location shall be determined on-site to ensure adequate canopy coverage to establish a buffer screen.

Reason: to soften the built form of the development.

In addition to the above condition, the integrated landscaping throughout the building and on adjoining areas shall be integral to minimising the visual impact of the development and integrating the development with the landscape. As such a condition of consent is also recommended for any landscaping within the proposed building and adjoining areas to be implemented prior to the issue of any Occupation Certificate, including an Interim Occupation Certificate, to provide certainty to Council that landscaping shall be implemented within a reasonable timeframe.

It is considered that in view of the benefits of having one (1) building from a functionality perspective, and subject to the recommended conditions of consent regarding landscaping, the proposed development can be accepted on merit.

Natural Environment

- **Clause B4.18 Heathland/Woodland Vegetation**
- **C5.1 Landscaping**
- **C5.10 Protection of Residential Amenity**
- **C6.2 Natural Environment and Landscaping Principles**

The proposed modifications do not require the removal of any trees to be retained as part of the original approval and no objections were raised by Council's Natural Environment Officer with regards to the Biodiversity of the site. However the application was referred to Council's Senior Landscape Architect, who raised concerns regarding the proposed built form and its domination of the landscape. The following comments and recommendations were made:

The existing site buildings as seen from surrounding roadways east of the College exhibit a built form that is complimentary to the surrounding landscape character, where the built form generally sits at the bottom of the valley and the built form is not massed nor continuous in the horizontal plane. Thus the vegetated landform behind allows the existing buildings to integrate into the landscape and not dominate.

The current S96 design proposal, with an expanded building footprint and associated plaza space creates a built form that is dominant in the landscape. Effectively the proposed design creates a continuous built form that does not provide sufficient deep soil areas to allow for the built form to be softened along the eastern elevation.

C5.1 Landscaping

This control requires that the built form be softened and complemented by landscaping, where the landscaping reflects the scale and form of development.

Two large canopy trees are proposed along the southern side of the proposal in close proximity to the building, and hence realistically retention into the future of such large trees will be unlikely, with building structural and personal safety issues likely to give rise to an application for removal. Other proposed small trees are unlikely to reach a height to achieve softening of the development.

Along the eastern elevation, insufficient landscape planting is proposed, and softening of the built form is limited to planting at ground level.

The result of such spatial building design is that the built form dominates the landscape as seen from the residential area east of the College.

The proposal for planter box landscape treatment will not provide any softening of the built form, with the planters supporting groundcovers and cascading species only.

C5.10 Protection of Residential Amenity

The landscape proposal, subject to limited deep soil areas due to the architectural building layout, will have an adverse impact upon adjoining residential development, with its built form dominating the landscape.

Advice

Consideration should be given to increasing canopy tree planting along the boundary embankment to provide effective boundary tree screening of the site as seen from the eastern residential areas. This would alleviate the concern with the built form of the development.

As observed on site, there is a thin vegetation treatment along the adjoining boundary with 13-19 Angophora Circuit (southern townhouse building as seen from the internal cul-de-sac at the end of lower carpark).

Effective tree screen planting to this area, established and maintained, will provide a landscaped buffer for the proposed development.

A condition of consent is recommended for the planting of additional landscaping to soften the visual impact of the development, particularly from the nearby residential areas. Subject to the proposed recommendations, the application is considered acceptable on merit.

B6.3 Off-Street Vehicle Parking Requirements

The proposed modifications do not involve any changes to the existing off-street parking, including the number of parking spaces.

However, it is noted that the approval contained a delivery/loading area to the east of the approved building to the south (known as the "TAS Extension"). The proposed building is to be located over this area and as such the delivery area shall be lost. Notwithstanding the above, it is considered that there is sufficient space on site for deliveries and as such the loss of the delivery area is acceptable.

Council's Development Engineer raised no concerns with the loss of the delivery area, advising that there is ample space elsewhere on site.

8.0 INTERDEPARTMENTAL COMMENTS

| Officer | Comments |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Development Engineer | Supported (subject to additional conditions) |
| Environmental Health | Supported (subject to additional conditions) |
| Flooding | Supported (no additional conditions) Officer comments: <i>"There is some High, Medium and Low Flood Risk Precinct and Flood Life Hazard Category H1 H5 on the property, but it is all either in the creek along the southern boundary or on the southern playing field, well away from the proposed development. Road access to the property is from the north, and is completely flood free. There are no flood related development controls."</i> |
| Natural Environment | Supported (subject to additional conditions) Officer comments: <i>Natural Environment & Climate Change – Biodiversity Division, have no objection to approval subject to conditions, as recommended."</i> |
| Reserves and Recreation | Supported (subject to additional conditions) See Section 7.0. for further comments |

9.0 EXTERNAL REFERRALS

The application was referred to RMS who raised no objection to the proposed modifications.

The application was also referred to NSW RFS for comments and recommendations. NSW RFS provided a response on 26 September 2017 which included a series of conditions to be incorporated into the consent. The recommendations of NSW RFS shall be imposed in the modified consent.

The original application was referred to the Department of Land and Water Conservation in relation to the proximity of the development to the creek, being within 40m of a creek line. The proposed modifications are located in excess of 100m from the creek and as such referral to NSW Office of Water was not considered necessary in this instance.

10.0 S96 CONSIDERATION

The proposed modification involves the consolidation of three approved buildings to one single building for the purpose of meeting the needs of students, staff and visitors, and the deletion of condition D234 which relates to the maximum building height. The modified development has been assessed in accordance with the relevant controls and policies.

As the proposal is for the modification of a previously approved Development Application, the provisions of Section 96(2) of the EPA Act are applicable. Section 96(2) deals with other modifications, and a consent authority may modify the consent if the development satisfies the following:

- (a) *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*

To establish if development is substantially the same as what was granted consent, reference is made to the case of *Moto Projects (No.2) v North Sydney Council* [1999] NSW LEC 280, which provides the following judgement:

"The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified.....

....The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development is granted).

The application originally approved the redevelopment of Mater Maria College, which included several new buildings throughout the site, and associated works, to upgrade the existing facility to meet the needs of the students, staff and visitors.

The current application seeks consent to modify three (3) approved buildings to one (1) single building to improve accessibility, safety and security, and upgrade the unbuilt structures to meet current construction and building standards. The proposed building will largely be located within the approved building footprint of the original development, located within the central portion of the school. While it is acknowledged that the proposed modified building provides a different built form to that approved, the test requires Council to consider not only the physical features but undertake a quantitative and qualitative assessment of the development.

Quantitatively, the below table summarises the three (3) approved buildings in relation to the proposed building subject of this application, with particular reference to the Floor Area comparison and location of the development.

| | Approved | Proposed | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|---------------------|---------|---------------|---------------------|---------|---------|--------------------|---------|----------------|---------------------|---------|-------------|---------------------|---------|---------|-------------------|--------------|--|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|----------------------------------|-------------------|---------|-------------------------------------------------------|-------------------|---------|--------------------------------|-------------------|--------------|--|--------------------------|
| Total GFA | <table> <tr> <td>Level 1</td><td>TAS Extension</td><td>210.3m²</td></tr> <tr> <td>Level 2</td><td>TAS Extension</td><td>125.3m²</td></tr> <tr> <td>Level 2</td><td>Canteen</td><td>86.6m²</td></tr> <tr> <td>Level 3</td><td>Administration</td><td>338.8m²</td></tr> <tr> <td>Level 3</td><td>Staff Study</td><td>590.8m²</td></tr> <tr> <td>Level 4</td><td>Library</td><td>703m²</td></tr> <tr> <td>TOTAL</td><td></td><td>2054.8m²</td></tr> </table> | Level 1 | TAS Extension | 210.3m ² | Level 2 | TAS Extension | 125.3m ² | Level 2 | Canteen | 86.6m ² | Level 3 | Administration | 338.8m ² | Level 3 | Staff Study | 590.8m ² | Level 4 | Library | 703m ² | TOTAL | | 2054.8m² | <table> <tr> <td>Level 1</td><td>Administration, Staff Study area</td><td>675m²</td></tr> <tr> <td>Level 2</td><td>Student Services, Staff Common Room, Staff Study area</td><td>567m²</td></tr> <tr> <td>Level 3</td><td>Food services, Resource Centre</td><td>711m²</td></tr> <tr> <td>TOTAL</td><td></td><td>1954m²</td></tr> </table> | Level 1 | Administration, Staff Study area | 675m ² | Level 2 | Student Services, Staff Common Room, Staff Study area | 567m ² | Level 3 | Food services, Resource Centre | 711m ² | TOTAL | | 1954m² |
| Level 1 | TAS Extension | 210.3m ² | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Level 2 | TAS Extension | 125.3m ² | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Level 2 | Canteen | 86.6m ² | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Level 3 | Administration | 338.8m ² | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Level 3 | Staff Study | 590.8m ² | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Level 4 | Library | 703m ² | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | 2054.8m² | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Level 1 | Administration, Staff Study area | 675m ² | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Level 2 | Student Services, Staff Common Room, Staff Study area | 567m ² | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Level 3 | Food services, Resource Centre | 711m ² | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | 1954m² | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Building Setbacks | <p><u>Forest Road Boundary (North east)–</u> 145m <u>Eastern boundary –</u> 58.96m</p> <p>The existing buildings on site are located to the west and north west of the proposal, with the playing fields located to the south. As such the setback to these boundaries shall remain unchanged.</p> | <p><u>Forest Road Boundary (North east)–</u> 132m <u>Eastern boundary –</u> 44.96m</p> <p>The existing buildings on site are located to the west and north west of the proposal, with the playing fields located to the south. As such the setback to these boundaries shall remain unchanged.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| There shall be no change to the existing and approved parking, and no increase to the capacity of the school. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

As identified above, the proposed building shall be largely contained within the approved building footprint, with minor extension towards the north-east and eastern boundary. There shall be a reduction to the overall floor area, however the change is not considered to be substantial in view of the scale of the overall development, and the use of the floor areas shall remain consistent with the originally approved buildings.

Furthermore, the development, as modified by the proposed changes, continues to fall within the scope of the original description, being the redevelopment of the school. Subject to the recommended conditions, the proposed modifications shall not give rise to any significant built or environment impacts upon the Warriewood Valley and Warriewood locality or the surrounding properties.

The term “substantially” means “*essentially or materially having the same essence*”.

The intent of the proposed building remains the same as the approved development, providing staff and student facilities of similar use, and although the overall built form has changed it is considered that the essence of the building is consistent with that approved. Furthermore, any amended/additional conditions of consent are primarily in relation to achieving compliance with the current standards and requirements, and updated documentation. In view of the above, and the judgement in *Moto Projects (No.2) v North Sydney Council [1999] NSW LEC 280*, it is considered in this instance the fundamental characteristics and essence of the development would remain the same and as such Council can be satisfied that the resultant development is considered to be substantially the same development as originally approved.

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

The application was externally referred to NSW RMS and NSW RFS, pursuant to SEPP (Infrastructure) 2007 and Section 100B of the Rural Fires Act 1997.

- (c) *it has notified the application in accordance with:*
- i. *the regulations, if the regulations so require, or*
 - ii. *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Adjoining property owners were notified from 08 September through to 22 September 2017 in accordance with Council's Notification Policy. A notification sign was also placed out the front of the subject property to advise any passersby of the application. The receipt of the modification application was also advertised on a listing within the Manly Daily.

It is considered that the modification application has been adequately notified in accordance with the relevant legislation and Council's Notification Policy.

- (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.*

Over the course of the notification period, no (0) submissions were received in response to the proposed development.

The proposal is therefore considered to fall under the provisions of Section 96(2) of the Environmental Planning and Assessment Act.

10.0 CONCLUSION

This proposed modification application has been assessed under Section 96(2) of the Environmental Planning and Assessment Act 1979. The proposed modifications are not considered to result in any unreasonable impacts upon adjoining properties or surrounding area and remain consistent with the desired future character of the Warriewood and Warriewood Valley Locality. The proposed modifications shall facilitate a better resolution to the accessibility of the school, and safety and security of the premises. Accordingly, the application is recommended for approval.

RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER

That Council as the consent authority pursuant to Section 96(2) of the Environmental Planning & Assessment Act 1979 modify Development Consent N1038/00 which approved redevelopment of Mater Maria College at 5 Forest Road, Warriewood in the following way:

As further modified by;

- **Architectural drawings, all prepared by Alleanza Architecture:**
 - **DA001 (Proposed Site Plan) Issue P6, dated 26 July 2017**
 - **DA200 (Elevations & Section) Issue A, dated 02 November 2016**

- DA100 (Level 1 Floor Plan) Issue P6, dated 26 July 2017
- DA101 (Level 2 Floor Plan) Issue P5, dated 26 July 2017
- DA102 (Level 3 Floor Plan Part 1) Issue P4, dated 20 July 2017
- DA103 (Level 3 Floor Plan Part 2) Issue P4, dated 20 July 2017
- DA104 (Roof Plan) Issue P4, dated 20 July 2017.
- Landscape Plan LA-01 through to LA-04, dated 11 August 2017, prepared by Ground Ink.
- Documents
 - Bushfire Risk Assessment Report, dated 03 April 2017, prepared by Australian Bushfire Protection Planners Pty Ltd;
 - NSW Rural Fire Service Letter, Ref: D17/3092, dated 26 September 2017;
 - Arboricultural Impact Assessment Report, dated 10 July 2017, prepared by Naturally Trees;
 - Flora and Fauna Report, dated 13 July 2017, prepared by UB Ecological;
 - Geotechnical Risk Management Assessment Report, dated 24 July 2017, prepared by JK Geotechnics;
 - Energy Efficiency Evaluation Report, dated 07 July 2017, prepared by Partners Energy;
 - BCA Assessment Report, dated 07 July 2017, prepared by Building Control Group;
 - Accessibility Assessment Report, dated 03 July 2017, prepared by Morris Goding Accessibility Consulting.

Deleted conditions:

D234. The building identified as "the library staff building" is to be no higher than 10m to be measured from natural ground level.

Amended conditions:

B16. All trees are to be retained as identified in the tree retention and removal plan by Knox & Partners dated 21/5/01, **and the Tree Management Plan Prepared by Naturally trees Reference No TMP01, dated 10 July 2017**, and are to be tagged to identify them for retention prior to the issue of the Construction Certificate and identified by botanical name prior to commencement of works.

B80. Compliance with the recommendations of the Accessibility Audit Report dated June 2001 by Accessibility Solutions, **and Accessibility Assessment Report, dated 03 July 2017, prepared by Morris Goding Accessibility Consulting.** In this regard, further documentation and plans must be submitted prior to release of the Construction Certificate, incorporating the matters raised as footnotes in the above report.

C100. In accordance with Pittwater Council's Tree Preservation and Management Order, all existing trees as indicated on Survey Plan No A1-6610, EX-101 dated 30/06/00 and Tree Retention and Removal plan by Knox and Partners dated 21/05/01 (5 pages), **and on the Tree Management Plan Prepared by Naturally trees Reference No TMP01, dated 10 July 2017**, shall be retained except where Council's prior written consent has been obtained, or where after approval of the relevant Construction Certificate Application/s, trees stand within the envelope of approved buildings or within the alignment of approved permanent paved vehicular access roads and parking areas.

The establishment procedure for the Fuel free Zone outlined in the letter from Knox and Partners dated 15/10/01 is to be implemented.

D215. Compliance with the recommendations of the Geotechnical investigation by Jeffery & Katauskas Pty Ltd No 15427SL Rpt, dated 18/10/00, and **Geotechnical Risk Management Assessment Report, dated 24 July 2017, prepared by JK Geotechnics.**

E89. Prior to the issue of an Occupation Certificate a certificate of compliance with the accessibility audit report dated June 2001 by Accessibility Solutions, and **Accessibility Assessment Report, dated 03 July 2017, prepared by Morris Goding Accessibility Consulting, is to be submitted to Council, prepared by an accredited access advisor.**

Additional conditions:

A. PRESCRIBED CONDITIONS

A9. The development is to be constructed and operated in accordance with the following, for the life of the development:

- 1. The construction, fit out and finishing of the kitchen and food handling and storage areas must comply with; Australian Standard 4674-2004 Design, construction and fit-out of food premises, and The Food Safety Standard 3.2.3 (as part of the Food Standards Code) required by the Food Regulation 2010.**
- 2. Walls in and adjoining food handling areas must be of solid masonry construction (no voids or cavities) and finished as specified in table 3.2 of AS 4674-2004 Design, construction and Fit-out of food premises.**
- 3. Floors with an epoxy resin finish must comply with AS 3554**
- 4. Floors shall be:**
 - a) appropriate for the area;**
 - b) able to be effectively cleaned;**
 - c) laid in accordance with the relevant Standards (see AS 3958.1 for ceramic tiles) so that there is no likelihood of pooling water and harbourage of pests**
- 5. Covering shall be a minimum of 25mm radius at the floor wall joint, this will increase to a minimum of 50mm when splayed at 45 degrees. No "feather edge skirting" is permitted. Where vinyl or similar sheeting is installed and the sheeting is turned up to form a cove, a solid preformed coving fillet shall be used to support the sheeting.**
- 6. Cupboards, cabinets and counter construction must be free of voids, cracks and crevices and designed so they can be easily cleaned and not give harbourage for vermin. They should be fitted a minimum of 150mm above the floor level or situated on a solid plinth a minimum of 75mm in height and meet the same specifications as the floor and be coved.**
- 7. Fixtures, fittings and equipment shall be designed and constructed in accordance with the requirements given in Table 4.3 and 4.4 of AS 4674-2004 Design, construction and fit-out of food premises.**

8. *The ceiling over all food handling areas (including over the servery and bar) must be non-performed and finished free of open joints, cracks and crevices. The ceiling shall be finished with a sealant that is of light colour, washable and an impervious material. Drop panel type ceilings are not appropriate for these areas.*
9. *Hand washbasins must be provided in the food servery/preparation area, preferably installed with hands free taps. A hand wash basin should ideally be located within 5 metres of any food handling and be easily accessible and usable.*
10. *Hand washbasins must be provided with:*
 - a) *an adequate supply of potable warm running water delivered through a single spout;*
 - b) *a supply of liquid soap; and*
 - c) *single use hand towel*
11. *The premises shall be provided with equipment for cleaning and sanitizing as specified within Tables 4.1 and 4.2 of AS 4674-2004 Design, construction and fit-out of food premises.*
12. *Dishwasher and glass washers that are used for sanitizing food contact surfaces and eating and drinking utensils must comply with AS 2945.*
13. *Grease arrestors and access openings to the sanitary drainage must not be located within any food preparation and/or handling area.*
14. *All service pipes, conducts and electrical wiring shall be either concealed in floors, walls, ceiling of plinths or be fixed on brackets so as to provide at least 25mm clearance between the pipe and the adjacent vertical surface and 100mm between the pipe and the adjacent horizontal surface.*
15. *All food preparation areas and areas where food is displayed must be suitably protected from the likelihood of contamination.*
16. *All shelving, cupboards, doors and the like must be impervious and easy to clean on all exposed surfaces and as far as practicable and constructed and installed to prevent vermin harbourage.*
17. *A commercial kitchen must be provided with a kitchen exhaust hood complying with AS/NZS 1668.1:1998 (fire and smoke control in multi-compartment buildings) and AS 1668.2-2012 (mechanical ventilation for acceptance indoor-air quality) where -*
 - a) *any cooking apparatus has:*
 - i. *a total maximum electrical power input exceeding 8 kW; or*
 - ii. *a total gas power input exceeding 29 MJ/h; or*
 - b) *the total maximum power input to more than one apparatus exceeds -*
 - i. *0.5 kW electrical power; or*
 - ii. *1.8 LJ gas,**Per m2 of floor area of the room or enclosure.*

18. *Should the premise require a kitchen exhaust/mechanical ventilation system, no works in relation to the installation or operation of the system shall be undertaken prior to the submission of a development application to Council for approval to install, operate and use a mechanical ventilation system at the site.*
19. *No odour nuisance, to the public or any adjoining premises, shall be created by the operation of any plant or equipment or any procedures carried out at the premises.*
20. *No noise nuisance shall be caused through the operation of the business or any plant or equipment at the premises. Noise generated from the premises must not exceed the limits as specified in the NSW Industrial Noise Policy.*
21. *Sanitary facilities are to comply with the requirements set out within Table F2.3 of the BCA.*
- a) *Structural requirements for the Garbage and Recycling room/s include: A room/enclosure is to be dedicated for the storage of garbage and recyclables.*
 - b) *The room/enclosure used for the storage and washing down of garbage/recycling receptacles shall be constructed of solid material (brick, concrete, concrete blocks, structural fibrous cement or other similar homogeneous material) so as to prevent the formation of cavities which become possible harbourages for insects and vermin. Framing in timber is not permitted. The walls of the room shall be cement rendered and steel trowelled to a smooth, even surface. The floor shall be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room/enclosure.*
 - c) *Stormwaters are to be prevented from entering the garbage/recycling enclosure/room.*
 - d) *The garbage/recycling enclosure/room shall be vented to the external air by natural or artificial means. The installation and operation of the mechanical ventilation system shall comply with AS 1668, Parts 1 & 2.*
 - e) *Hot and cold water hose cocks shall be located within the garbage/recycling enclosure/room or in close proximity.*
 - f) *Clear access to the garbage/recycling enclosure/room must be available for the garbage service provider.*
 - g) *Domestic garbage/recycling enclosure/rooms shall be separated from commercial premises garbage/recycling rooms.*
22. *Provision must be made for storage of garbage containers and recyclable materials in an external area of the premises or in a room specifically for that purpose.*

External garbage areas must be provided with a hose tap connected to the water supply, be paved with an impervious material, be graded and drained to sewer and be designed and constructed so they are easy to clean.

Roomed garbage areas must have impervious floors that are coved at the floor/wall intersection and be graded and drained to the sewage system. Walls of roomed garbage areas must be smoothed and impervious. The room must be ventilated and proofed against pests and be provided with a hose tap connected to the water supply.

B. MATTERS TO BE SATISFIED PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE

B45b. *Prior to the issue of the Construction Certificate, the landscape plan is to be amended to include the following:*

Embankment Planting along eastern boundary adjoining 13-19 Angophora Circuit.

Additional tree planting within the eastern boundary embankment to provide effective boundary tree screening of the site as seen from the eastern residential areas shall be planted and maintained, as follows:

- 3 x *Angophora costata* (25 litre size)
- 3 x *Glochidion ferdinandi* (25 litre size)
- 5 x *Banksia integrifolia* (25 litre size)
- 5 x *Elaeocarpus reticulatus* (25 litre size)

All trees shall be staked.

The location shall be determined on-site to ensure adequate canopy coverage to establish a buffer screen.

Reason: to soften the built form of the development.

B92. *Details in the Construction Certificate are to reflect the recommendations/requirements of the Bushfire Risk Assessment Report prepared by Australian Bushfire Protection Planners Pty Ltd dated 03 April 2017, and the NSW RFS Letter, Ref: D17/3092, dated 26 September 2017.*

B93. *The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by JK Geotechnics dated 24 July 2017 are to be incorporated into the construction plans.*

B94. *Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.*

B95. *Engineering details showing the stormwater quality treatment system are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified practicing Water Engineer with corporate membership of the Institute of Engineers Australia (MIE Aust), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with B5.10 of Pittwater 21 DCP.*

B96. *A certificate is to be provided to the Principal Certifying Authority with the Construction Certificate application by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field that the existing stormwater system performs satisfactorily and is capable of serving the proposed additions in accordance with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage.*

B97. Civil engineering details of the proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.

B98. The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

C. MATTERS TO BE SATISFIED PRIOR TO COMMENCEMENT OF WORK

C102. Prior to commencement of site works, a qualified arborist, horticulturist or landscape architect is to certify that protective fencing consisting of chain wire mesh fencing, a minimum 1.5 metres high with steel pipe support posts has been provided, as per provided Tree Management Plan by naturally Trees, dated 10 July 2017, drawing no. TMP01. No site works are to take place until this certification has been obtained and a copy forwarded to the Principal Certifying Authority.

C103. The developer or contractor will take all measures to prevent damage to trees and root systems during site works and construction activities including provision of water, sewerage and stormwater drainage services. In particular, works, erection of structures, excavation or changes to soil levels within 5 metres of the trunks of trees to be retained are not permitted, and the storage of spoil, building materials, soils or the driving or parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained, is not permitted.

NOTE: Trees that are part of an Endangered Ecological Community or are habitat for threatened species and endangered populations must comply with the requirements of the Threatened Species Conservation Act, 1995. Failure to do so may result in a penalty up to a maximum of \$250,000.00 and jail sentences.

Failure to comply with the requirements of the Pittwater 21 DCP Control B4.22 Preservation of Trees of Bushland Vegetation may result in a penalty up to a maximum of \$20,000.00.

C104. Where site fill material is necessary, fill materials must:

- 1. be Virgin Excavated Natural Material (VENM) only, as approved under the Department of Climate Change "General Resource Recovery Exemption*
- 2. be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.*

C105. The following measures shall be implemented in the sequence given below, to minimise soil erosion:

- *Approved runoff and erosion controls shall be installed before site vegetation is cleared (other than that associated with the construction of the controls). These shall be as shown on an ESCP approved by council.*
- *Topsoil shall be stripped only from approved areas and stockpiled for re-use during site rehabilitation and landscaping.*
- *Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, waters, footpath, kerb or road surface and shall have measures in place to prevent the movement of such materials onto the areas mentioned. All stockpiled materials are to be retained within the property boundaries. Uncontaminated runoff shall be intercepted up-site and diverted around all disturbed areas and other areas likely to be disturbed. Diversion works shall be adequately stabilised.*
- *Runoff detention and sediment interception measures shall be applied to the land. These measures will reduce flow velocities and prevent topsoil, sand, aggregate, or other sediment escaping from the site or entering any downstream drainage easements or waters.*
- *The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times to conform to the specifications and standards quoted and to any conditions of approval of those measures.*
- *Measures shall be applied, to the satisfaction of council, to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development.*
- *Measures required in permits issued under the Rivers and Foreshores Improvement Act shall be implemented. This Act requires that people obtain approval for any proposed excavation or fill in or within 40 metres of a watercourse. Permits should be sought from the Department of Natural Resources.*

C106. The site must be fenced throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

C107. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations.

C108. To minimise soil erosion and sediment movement during construction, the following measures shall be implemented:

- *Removal and/or disturbance of vegetation shall be confined to the basal area of the approved building, the site(s) of access ways, land extending a maximum of two metres beyond the outermost projection of the approved building and within a total of two metres of service trenches (that is the sum of the two sides to be a maximum of two metres).*
- *Topsoil stripped from the construction site shall be stockpiled and protected from erosion until re-use during landscaping. Soil is to be retained within the property.*
- *Stockpiles of construction and landscaping materials, and of site debris, shall be located clear of drainage lines and in such a position that they are protected from erosion and do not encroach upon any footpath, nature strip or roadway.*
- *Final site spoil shall be disposed of to conform to the specifications and standards quoted and to any conditions of approval of those measures.*
- *Trenches shall be backfilled, capped with topsoil and compacted to a level at least 75 mm above adjoining ground level.*

- *Stormwater from roof areas shall be linked to a council approved stormwater disposal system immediately before placement of any roofing materials.*
- *Vehicular access shall be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on adjoining roadways the same shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner that will prevent its mobilisation.*
- *Vehicular access paths shall be stabilised.*
- *All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for more than 14 days or other such period as may be approved after earthworks cease. All driveways and parking areas shall be stabilised with compacted sub-grade as soon as possible after their formation.*

C109. Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.

All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal.

The ongoing operation of Recycling and Waste Management Services is to be undertaken in accordance with the Waste Management Plan.

C110. No works are to be carried out in Council's Road Reserve without the written approval of the Council.

Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.

C111. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.

C112. No skip bins or materials are to be stored on Council's Road Reserve.

C113. Access to the site through an adjoining park/reserve is prohibited without the written approval of the Council.

D. CONDITIONS TO MINIMISE THE IMPACT OF THE DEVELOPMENT ON THE NATURAL AND BUILT ENVIRONMENT

D235. The existing landscaping required to be retained together with any additional landscaping required by this Development Consent is to be maintained for the life of the development.

D236. No water pollution shall result from the operation of any plant or equipment or activity carried out.

D237. Noise from the operation of any plant or equipment at the premises shall comply with the noise provisions of the Protection of the Environment Operations Act, 1993.

D238. No odour nuisance to the public or any adjoining premises, shall be created by the operation of any plant or equipment or any procedure carried out at the premises.

*D239. A 20000 litre rainwater tank for non-potable purposes is to be installed and used as part of an integrated on-site stormwater management system.
The non-potable purposes are prescribed in the NSW Code of Practice for Plumbing and Drainage and include toilet flushing and garden irrigation.
The overflow system of the rain water tank is to be directed to the on-site detention system.*

E. MATTERS TO BE SATISFIED PRIOR TO THE ISSUE OF OCCUPATION CERTIFICATE

E104. An Accredited Bushfire consultant is to provide a certification to the Principal Certifying Authority confirming that;

- a) The requirements of the NSW Rural Fire Service have been complied with. The listed requirements of the Rural Fire Service dated 26 September 2017 must be satisfied, as follows:*

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

- 1. At the commencement of building works, and in perpetuity, the property shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones' from the existing school buildings as follows:*
 - 30 metres to the north and northwest;*
 - 20 metres to the west; and,*
 - To the site boundaries to the east and south.*

Water and Utilities

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

- 2. The provision of water, electricity and gas shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006' including the provision of a hydrant in close proximity to the proposed fire trail turning area.*

Access

The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:

- 3. The proposed fire trail turning area shall be provided in accordance with the relevant provisions of section 4.1.3(3) of 'Planning for Bush Fire Protection 2006'.*

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

- 4. A Bush Fire Emergency Management and Evacuation Plan shall be prepared consistent with 'Development Planning- A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014'.**

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- 5. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959- 2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.**

Landscaping

- 6. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.**

E105. A landscape practical completion report is to be prepared by the consultant landscape architect/designer and submitted to the Principal Certifying Authority with the Occupation Certificate application. This report is to certify that all landscape works have been completed in accordance with the provided Landscape Plans by Groundlink, dated 11/ August 2017, Revision Draft, Drawing no. LA-01-LA-04, and any conditions of this development consent.

E106.

- a) The Certifying Authority is to submit to Council the completed and signed Food Premises Occupation Certificate Fit-Out Form, this form is available at http://www.pittwater.nsw.gov.au/business/commerce_and_industry_premises/information_for_food_premises.**
- b) Council's Environmental Health Officer is to be contacted (phone: 9970 1111) to make arrangements for an inspection of the premises for verification of compliance with the form. A minimum 48 hours notice is required for inspection.**
- c) Council is to forward written advice of the result of the inspection in order to confirm that there is no objection to the issuing of the Occupation Certificate.**

E107. Documentation supplied by Sydney Water regarding evidence of the trade waste agreement must be provided to the certifying authority prior to the issue of the Occupation Certificate.

E108. Documentation supplied by a practicing mechanical engineer certifying that all mechanical exhaust ventilation systems, as installed, complies with AS/NZS 1668.1:1998 (Fire and smoke control in multi-compartment buildings) and 1668.2-2012 (Mechanical ventilation for acceptable indoor-air quality), must be provided to the certifying authority prior to the issue of the Occupation Certificate.

E109. The certifying authority must be provided with evidence that the food business has been notified with Environmental Health - Northern Beaches Council by lodging a completed food notification form to Council.

E110. Prior to the issue of an Occupation Certificate, including an Interim Occupation Certificate, the following landscaping is to be implemented:

- **Any landscaping in association with the new building, as approved by development consent N1038/00/S96/2, including any terraces and any adjoining landscaped areas.**

Certification is to be provided to the Principal Certifying Authority by a suitably qualified person that that above landscaping has been planted, prior to the issue of any Occupation Certificate.

E111. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

E112. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards must be provided.

E113. Certification is to be provided to the Principal Certifying Authority by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a member and has appropriate experience and competence in the related field, that the stormwater drainage system has been completed in accordance with the engineering plans and specifications required under this consent.

E114. The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of all property, infrastructure, natural and man-made features that were originally recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

E115. Prior to the issue of an Occupation Certificate photographic evidence of the condition of the street trees and road reserve and area adjoining the site after the completion of all construction, must be submitted to the Principal Certifying Authority showing that no damage has been done and if damage has been done that it has been fully remediated. The photographs shall be accompanied by a statement that no damage has been done (or where damage has been remediated that Council has approved that work). In this regard Council's written agreement that all restorations have been completed satisfactorily must be obtained prior to the issue of any Occupation Certificate.

E116. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.

G. ADVICE

G30. The proposed food business requires a Food Safety Supervisor.

- 1. Ensure that, you have a staff member who is a suitably qualified Food Safety Supervisor.***
- 2. The Food Safety Supervisor certificate (or a copy) must be valid and remain onsite at all times.***
- 3. A food business must notify the NSW Food Authority of the appointed Food Safety Supervisor with seven days of commencement of trading. The food business owner can notify online at the Authority's website: www.foodauthority.nsw.gov.au,***
- 4. Should the current Food Safety Supervisor leave or cease to act in that role at the food premise, the business owner must appoint a new Food Safety Supervisor within 30 operational days (ie days that food is processed and sold) of that FSS leaving, or ceasing to act in that role. The business owner must then notify the NSW Food Authority of the new FSS' details within seven days of their appointment.***

***For further information regarding the Food Safety Supervisor training and certification please refer to the NSW Food Authority's website:
<http://www.foodauthority.nsw.gov.au/industry/fss-food-safety-supervisors/>***

Report prepared by

Angela Manahan
PRINCIPAL PLANNER

MODIFICATION OF DEVELOPMENT CONSENT NO: N1038/00

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

NOTICE TO APPLICANT OF DETERMINATION

OF A DEVELOPMENT APPLICATION

Applicant's Name and Address:

AVIUM PTY LTD
PO BOX 6172
ALEXANDRIA
NSW 2015

Being the applicant in respect of Development Application No N1038/00

Pursuant to section 81 of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of this Development Application for: -

Modification of Development Consent N1038/00 for Redevelopment of Mater Maria College, Warriewood

At:-

Lot 1 DP 785132

**5 FOREST ROAD
WARRIEWOOD NSW 2102**

Decision:

The Development Application has been determined by the granting of consent in accordance with plans noted as Amendment: A revised in November 2001 & numbered DD101 to DD104; DD201 to DD210; DD301 to DD306, DD310, dated 11/10/00, 25/9/00 and 3/10/00 prepared by Fulton Trotter & Partners and Plans numbered 209215 – DA – 200 to 203; 300; 400; 401; 700 and 710 dated 9/10/00 prepared by Young Consulting Engineers, Landscape Strategy Report by Knox & Partners Landscape Architects dated October 2000, Bushland Survey and Plan of Management by Urban Bushland Management Consultants Pty Ltd dated October 2000, Bushfire Hazard Assessment and Management Guidelines by AVK Environmental Management dated October 2000, Statement of Environmental Effects by Louise Menday dated 2/10/00, Acoustic Assessment DA report by Renzo Tonin and Associates Pty Ltd dated 20/10/00, Geotechnical Investigation by Jeffery and Katauskas Pty Ltd dated 18/10/00, Addendum Report - Fauna Issues by Urban Bushland Management Consultants Pty Ltd dated June 2001 and Schedule of Existing Tree Removal/Retention by Knox and Partners dated 21 May 2001; **and plans numbered AWD 102, 210 and 310 by Fulton Trotter Carthey Architects** as amended in red (shown clouded) or as modified by any conditions of this consent.

As further modified by;

- **Architectural drawings, all prepared by Alleanza Architecture:**
 - **DA001 (Proposed Site Plan) Issue P6, dated 26 July 2017**
 - **DA200 (Elevations & Section) Issue A, dated 02 November 2016**

- *DA100 (Level 1 Floor Plan) Issue P6, dated 26 July 2017*
- *DA101 (Level 2 Floor Plan) Issue P5, dated 26 July 2017*
- *DA102 (Level 3 Floor Plan Part 1) Issue P4, dated 20 July 2017*
- *DA103 (Level 3 Floor Plan Part 2) Issue P4, dated 20 July 2017*
- *DA104 (Roof Plan) Issue P4, dated 20 July 2017.*
- *Landscape Plan LA-01 through to LA-04, dated 11 August 2017, prepared by Ground Ink.*
- **Documents**
 - *Bushfire Risk Assessment Report, dated 03 April 2017, prepared by Australian Bushfire Protection Planners Pty Ltd;*
 - *NSW Rural Fire Service Letter, Ref: D17/3092, dated 26 September 2017;*
 - *Arboricultural Impact Assessment Report, dated 10 July 2017, prepared by Naturally Trees;*
 - *Flora and Fauna Report, dated 13 July 2017, prepared by UB Ecological;*
 - *Geotechnical Risk Management Assessment Report, dated 24 July 2017, prepared by JK Geotechnics;*
 - *Energy Efficiency Evaluation Report, dated 07 July 2017, prepared by Partners Energy;*
 - *BCA Assessment Report, dated 07 July 2017, prepared by Building Control Group;*
 - *Accessibility Assessment Report, dated 03 July 2017, prepared by Morris Goding Accessibility Consulting.*

In accordance with Part A3 "Classification of Buildings and Structures" of the Building Code of Australia, it has been determined that the building or part subject of this consent has a Class 9b Classification.

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

Note: For ease of reference, all of the previous conditions have been re-listed. Those conditions amended or deleted have been highlighted.

Endorsement of date of consent 23/11/2001, Modified **06 December 2017**

Angus Gordon
GENERAL MANAGER

Per:

CONDITIONS OF DEVELOPMENT CONSENT

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

A. PRESCRIBED CONDITIONS

A1. The proposed works are to be carried out in accordance with the provisions of Clauses 78 A-I of the Environmental Planning and Assessment (Amendment) Regulation, 1998.

A2. Compliance with the Building Code of Australia

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there is to be such a contract in force.

A3. Excavations and backfilling

1. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
2. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

A4. Retaining walls and drainage

If the soil conditions require it:

1. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
2. adequate provision must be made for drainage.

A6. Protection of public places

1. If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconveniently, or
 - b. building involves the enclosure of a public place,
a hoarding or fence must be erected between the work site and the public place.
2. If necessary, an awning or other structure is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
3. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

4. Any such hoarding, fence or awning is to be removed when the work has been completed.

NOTE: Hoardings and temporary awnings erected on or over public places are required to be subject to a separate approval from Council.

A7. Signs to be erected on building and demolition sites

A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is to be carried out other than when work is carried out inside an existing building or where the premises is to be continuously occupied (both during and outside working hours):

1. stating that unauthorised entry to the work site is prohibited, and
2. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

A8. Toilet facilities

Toilet facilities are to be provided, at or in the vicinity of the work site in accordance with section 78I of the Environmental Planning and Assessment (Amendment) Regulation 1998.

A9. Food Safety and Design

The development is to be constructed and operated in accordance with the following, for the life of the development:

1. *The construction, fit out and finishing of the kitchen and food handling and storage areas must comply with; Australian Standard 4674-2004 Design, construction and fit-out of food premises, and The Food Safety Standard 3.2.3 (as part of the Food Standards Code) required by the Food Regulation 2010.*
2. *Walls in and adjoining food handling areas must be of solid masonry construction (no voids or cavities) and finished as specified in table 3.2 of AS 4674-2004 Design, construction and Fit-out of food premises.*
3. *Floors with an epoxy resin finish must comply with AS 3554*
4. *Floors shall be:*
 - a) *appropriate for the area;*
 - b) *able to be effectively cleaned;*
 - c) *laid in accordance with the relevant Standards (see AS 3958.1 for ceramic tiles) so that there is no likelihood of pooling water and harbourage of pests*
5. *Covering shall be a minimum of 25mm radius at the floor wall joint, this will increase to a minimum of 50mm when splayed at 45 degrees. No "feather edge skirting" is permitted. Where vinyl or similar sheeting is installed and the sheeting is turned up to form a cove, a solid preformed coving fillet shall be used to support the sheeting.*

6. *Cupboards, cabinets and counter construction must be free of voids, cracks and crevices and designed so they can be easily cleaned and not give harbourage for vermin. They should be fitted a minimum of 150mm above the floor level or situated on a solid plinth a minimum of 75mm in height and meet the same specifications as the floor and be coved.*
7. *Fixtures, fittings and equipment shall be designed and constructed in accordance with the requirements given in Table 4.3 and 4.4 of AS 4674-2004 Design, construction and fit-out of food premises.*
8. *The ceiling over all food handling areas (including over the servery and bar) must be non-perforated and finished free of open joints, cracks and crevices. The ceiling shall be finished with a sealant that is of light colour, washable and an impervious material.
Drop panel type ceilings are not appropriate for these areas.*
9. *Hand washbasins must be provided in the food servery/preparation area, preferably installed with hands free taps. A hand wash basin should ideally be located within 5 metres of any food handling and be easily accessible and usable.*
10. *Hand washbasins must be provided with:*
 - a) *an adequate supply of potable warm running water delivered through a single spout;*
 - b) *a supply of liquid soap; and*
 - c) *single use hand towel*
11. *The premises shall be provided with equipment for cleaning and sanitizing as specified within Tables 4.1 and 4.2 of AS 4674-2004 Design, construction and fit-out of food premises.*
12. *Dishwasher and glass washers that are used for sanitizing food contact surfaces and eating and drinking utensils must comply with AS 2945.*
13. *Grease arrestors and access openings to the sanitary drainage must not be located within any food preparation and/or handling area.*
14. *All service pipes, conducts and electrical wiring shall be either concealed in floors, walls, ceiling or plinths or be fixed on brackets so as to provide at least 25mm clearance between the pipe and the adjacent vertical surface and 100mm between the pipe and the adjacent horizontal surface.*
15. *All food preparation areas and areas where food is displayed must be suitably protected from the likelihood of contamination.*
16. *All shelving, cupboards, doors and the like must be impervious and easy to clean on all exposed surfaces and as far as practicable and constructed and installed to prevent vermin harbourage.*

17. A commercial kitchen must be provided with a kitchen exhaust hood complying with AS/NZS 1668.1:1998 (fire and smoke control in multi-compartment buildings) and AS 1668.2:2012 (mechanical ventilation for acceptance indoor-air quality) where-
- a) any cooking apparatus has:
 - i. a total maximum electrical power input exceeding 8 kW; or
 - ii. a total gas power input exceeding 29 MJ/h; or
 - b) the total maximum power input to more than one apparatus exceeds -
 - i. 0.5 kW electrical power; or
 - ii. 1.8 LJ gas,
- Per m2 of floor area of the room or enclosure.
18. Should the premise require a kitchen exhaust/mechanical ventilation system, no works in relation to the installation or operation of the system shall be undertaken prior to the submission of a development application to Council for approval to install, operate and use a mechanical ventilation system at the site.
19. No odour nuisance, to the public or any adjoining premises, shall be created by the operation of any plant or equipment or any procedures carried out at the premises.
20. No noise nuisance shall be caused through the operation of the business or any plant or equipment at the premises. Noise generated from the premises must not exceed the limits as specified in the NSW Industrial Noise Policy.
21. Sanitary facilities are to comply with the requirements set out within Table F2.3 of the BCA.
22. Structural requirements for the Garbage and Recycling room/s include:
- a) A room/enclosure is to be dedicated for the storage of garbage and recyclables.
 - b) The room/enclosure used for the storage and washing down of garbage/recycling receptacles shall be constructed of solid material (brick, concrete, concrete blocks, structural fibrous cement or other similar homogeneous material) so as to prevent the formation of cavities which become possible harbourages for insects and vermin. Framing in timber is not permitted. The walls of the room shall be cement rendered and steel trowelled to a smooth, even surface. The floor shall be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room/enclosure.
 - c) Stormwaters are to be prevented from entering the garbage/recycling enclosure/room.
 - d) The garbage/recycling enclosure/room shall be vented to the external air by natural or artificial means. The installation and operation of the mechanical ventilation system shall comply with AS 1668, Parts 1 & 2.
 - e) Hot and cold water hose cocks shall be located within the garbage/recycling enclosure/room or in close proximity.
 - f) Clear access to the garbage/recycling enclosure/room must be available for the garbage service provider.
 - g) Domestic garbage/recycling enclosure/rooms shall be separated from commercial premises garbage/recycling rooms.

23. Provision must be made for storage of garbage containers and recyclable materials in an external area of the premises or in a room specifically for that purpose.

External garbage areas must be provided with a hose tap connected to the water supply, be paved with an impervious material, be graded and drained to sewer and be designed and constructed so they are easy to clean.

Roomed garbage areas must have impervious floors that are coved at the floor/wall intersection and be graded and drained to the sewage system. Walls of roomed garbage areas must be smoothed and impervious. The room must be ventilated and proofed against pests and be provided with a hose tap connected to the water supply.

B. MATTERS TO BE SATISFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

NOTE: All outstanding matters referred to in this section are to be submitted together. Incomplete Construction Certificate applications/details will not be accepted.

- B1a. A contribution of \$69,089.79 is to be made to Account No GL91317C1210000 pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 (as amended), for Water management and Multi-function Creekline Corridors in accordance with Warriewood Valley Section 94 Contributions Plan. The Contributions Plan may be inspected at Pittwater Council, Unit 11, No 5 Vuko Place, Warriewood. The Section 94 contribution is to be paid prior to issue of the Construction Certificate or Subdivision Certificate, where relevant.
- B1b. A contribution of \$56,529.55 is to be made to Account No GL91311C1210000 pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 (as amended), for Pedestrian and Cycleway Network in accordance with Warriewood Valley Section 94 Contributions Plan. The Contributions Plan may be inspected at Pittwater Council, Unit 11, No 5 Vuko Place, Warriewood. The Section 94 contribution is to be paid prior to issue of the Construction Certificate or Subdivision Certificate, where relevant.
- B1c. A contribution of \$5375.37 is to be made to Account No GL91314C1210000 pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 (as amended), for Bushfire Protection in accordance with Warriewood Valley Section 94 Contributions Plan. The Contributions Plan may be inspected at Pittwater Council, Unit 11, No 5 Vuko Place, Warriewood. The Section 94 contribution is to be paid prior to issue of the Construction Certificate or Subdivision Certificate, where relevant.
- B2. Section 94 Contributions required in accordance with Conditions B1a, B1b and B1c are to be paid or Material Public Benefit Agreement finalised in accordance with Section 94 Contributions Plan No 10 - Material Public Benefits and Dedication of Land, prior to the release of the Construction Certificate.
- B3. Dedication to Council of 1054 square metres of land (up to 6 metres north of the centreline of Fern Creek where it adjoins the subject land) is to be made pursuant to Section 94 of the Environmental Planning and Assessment Act 1979, for the provision of the Water Management and Multi-functional Creekline Corridors in accordance with the Warriewood Valley Section 94 Contributions Plan.

- B10. Three sets of detailed working drawings that comply in all respects with the Building Code of Australia and the conditions of the Development Consent are to be submitted prior to the release of the Construction Certificate.
- B14. Three copies of an amended bushland management strategy based on the proponents "Bushland Survey and Plan of Management – Mater Maria College, Warriewood complying with Council's Landscape Management Policy and Council's Conservation of Biodiversity Development Control Plan is to be submitted prior to release of the Construction Certificate. Plans are to indicate strategies/works, removal of weeds and subsequent regeneration and ongoing maintenance and are to be accompanied by a certification from an appropriately qualified and experienced Bushland Management Consultant stating that the plan/strategy complies with Council's Landscape Management Policy, Council's Conservation of Biodiversity Development Control Plan and the Management Plan for Threatened Fauna and Flora in Pittwater.
- B15. The specific Bushland Management strategies and sequence of works are to be timetabled and developed, detailing the following:
1. Define each project task to be undertaken during regeneration/ revegetation/ restoration; how each task will be done; the duration of each task; the priority order for each task; and who will be responsible for undertaking each task.
 2. Prepare a timeframe for all tasks involved.
 3. Local native species to be used – identify local native plant stock source.
 4. Prepare maps/ diagrams and plant species lists including existing vegetation, site constraints and trees, vegetation, habitat, bush rock and other natural features to be retained.
 5. Prepare maps/ diagrams including proposed vegetation (species/ communities), density of planting, size of plants (virocells, longstems, tubestock, etc), sediment and erosion control to protect the vegetation, etc.
 6. Prepare maps/ diagrams including zonation from water to land, or zonation from retained bushland to fire protection zone, areas for wastewater disposal, or corridors/ linkages, etc.
 7. Specify techniques to be used for domestic and feral animal control.
 8. Specify fire prescriptions that will be applied to maintain the ecology of the site.
 9. Detail site preparation, including:
 - a. Protection of trees, vegetation, habitat, bush rock or other natural features to be retained
 - b. Installation of sediment and erosion control devices
 - c. Completion of any site works (if any)
 - d. Weed control prior to site disturbance (techniques and sequences of removal)
 - e. Weed control immediately following completion of site works (techniques and sequences of removal)
 - f. Application of herbicides (if any) prior to site disturbance
 - g. Application of herbicides (if any) immediately following completion of site works
 - h. Top soil/ litter layer storage

- i. Soil remediation
 - j. Surface preparation (including levelling, deep ripping, scarifying, mulching)
 - k. Surface stabilisation (must be suitable for the site vegetation) – matters including erosion matting, mulch, brush matting, sterile cover crops, binding sprays
 - l. Site drainage.
- 10. Planting program and method including installation of weed matting, mulch, stakes and ties, tree guards, use of fertiliser and type (including justification of use of fertiliser), use of water retaining crystals.
- 11. Site and vegetation maintenance including sediment and erosion control, watering, replacement of plant losses, disease and insect control, mulch, maintenance for a period of 24 months commencing at establishment of vegetation work.
- 12. Site management to prevent the placement of soil or storage of any materials in the drip line of trees or native vegetation or habitat to be retained on the site.
- 13. Monitoring and review (develop method for performance evaluation, replacement of plant losses and other relevant matters).
- 14. Other issues including public safety, signage, relevant legislation, planning instruments/ guidelines, OH&S, community involvement, liaison with Department of Land and Water Conservation and other government departments, how other areas of the property and adjacent areas can be managed to complement the vegetation strategy (weed control, drainage, planting of indigenous canopy)
- 15. Detail the enhancement and regeneration of retained remnants. Where thickets of noxious or environmental weeds are to be removed, such removal is to be gradual and staged to prevent a sudden complete loss of habitat.
- 16. Identification of protection of trees, vegetation, habitat, bush rock or other natural features, prior to works commencing on the site to prevent damage or injury during development
- 17. Materials, stockpiles and vehicle stockpile areas are to be located on already cleared and disturbed land well away from creek line, trees, vegetation, habitat, bush rock or other natural features.
- 18. Local native vegetation only is to be planted within the creek line corridor or riparian zone. Any vegetation planted is to be consistent with:
 - a. Species listed in the Warriewood Valley Landscape Masterplan
 - b. Warriewood Valley Water Management Strategy and Specifications
 - c. Species listed in the Plan of Management.

19. Specifically the plan shall be amended as follows:
Changes to the timeframes are to be made to ensure a more rapid regeneration of the site, therefore in Table 7.1 (page 60-67) the timeframe code shall be changed to: -

| | |
|----------------|------------------------------------------------------------|
| ST Short Term | Action complete within 1 year |
| MT Medium Term | Action complete within 2-5 years |
| LT Long Term | Action complete within 5-10 years |
| O Ongoing | Action to be carried out on a regular basis or as required |

The start time for actions is to be the commencement of works with the exception of the removal of noxious weeds. Noxious and Environmental weeds are to be removed and controlled in areas of construction works prior to the commencement of works in each respective stage to prevent the distribution of weeds. Noxious weeds are to be controlled in accordance with the Noxious Weeds Act, 1993.

- B16. All trees are to be retained as identified in the tree retention and removal plan by Knox & Partners dated 21/5/01, **and the Tree Management Plan Prepared by Naturally trees Reference No TMP01, dated 10 July 2017**, and are to be tagged to identify them for retention prior to the issue of the Construction Certificate and identified by botanical name prior to commencement of works.
- B17. In order to ensure retention all identified trees to be retained, a bond or bank guarantee of \$20,000 is to be lodged with Council prior to the commencement of works for each stage of the whole development. An amount of \$2000 will be deducted for the loss of each tree identified as being retained. The bond or guarantee will be released not less than 12 months and no later than 2 years from the date of issue of the Occupation Certificate for that stage.
- B19. Three sets of Drainage details showing on-site stormwater detention facilities, are to be submitted prior to release of the Construction Certificate. Such details are to be accompanied by a certification by a qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with Council's Policy and Guidelines for the on-site detention of stormwater- Feb 1996. The details shall include disposal of the site stormwater from the OSD facility to a public drainage system (ie. kerb and gutter or natural watercourse.)
- B19a. The applicant is to consult with Sydney Water to establish whether there are any Section 73 Compliance Certificate requirements for this proposal, under the provisions of the Sydney Water Act, 1994. A copy of any Notice of Requirements letter which may be issued by Sydney Water, is to be forwarded to Council or the Accredited Certifier, prior to issue of the Construction Certificate.
- B20. Three sets of Drainage details showing site stormwater management are to be submitted prior to the release of the Construction Certificate. Such details are to be accompanied by a certificate from a qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 "Drainage" of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site stormwater to a public system (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Civil (Geotechnical) Engineer's report).

- B25. A Certificate is to be submitted by a qualified Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and have appropriate experience and competence in the related field, Architect or Surveyor confirming to the satisfaction of Council or the accredited certifier that the proposed means of access to and within the site complies with the requirements of Council's policy DCP No. E3 "Driveways and Internal Roadways" and AS 2890.1 - 1993: Parking Facilities - Off-street Car Parking.

NOTE: Prior to the submission of the Construction Certificate, a crossing application with appropriate fees is to be made to Council for the levels required for the construction of the concrete footpath and gutter crossing. The levels provided by Council are to be incorporated into the design of the internal driveway.

- B25a. Two copies of a "Water Management Strategy" showing compliance with the water quantity/quality requirements of the valley. The details are to be certified by a qualified Civil Engineer. The strategy is to deal only with the increase in runoff as a result of the development.
- B29. An Erosion and Sediment Management Plan is to be submitted with the Construction Certificate application. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises shall be undertaken through the installation of erosion control devices such as catch drains, diversion drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, sedimentation basins. Such plan is to be accompanied by a certification from an appropriately qualified person, that the plans/ details have been designed in accordance with the requirements of the N.S.W. Department of Land and Water Conservation's "Urban Erosion and Sediment Control" manual.
- B29a. The plan is to include specific details required to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
- B33. The finished surface materials, including colours and texture of any building, shall blend with the surrounding and/or natural materials and shall be non-glare. A specification shall be submitted to Council for approval in the form of a "Schedule of Finishes" prior to issue of the Construction Certificate.

Colours and materials must satisfy the requirements of Section 3.1.7 of Development Control Plan LP24 - Non-Urban Locality Plan.

In particular, metal roofing is to be finished in a mid to dark green or grey colour that is equivalent to or darker than Colorbond 'Rivergum' or 'Armour grey'. The wall colours of the Movement Centre are to be finished in a dark colour to minimise the visual impact of the structure when viewed from adjacent properties and public areas.

- B37. A schedule of essential fire safety measures required to be installed within and/or in association with the building including the minimum standard for performance of each measure is to be submitted prior to release of the Construction Certificate. The schedule is to include a signed statement from an Accredited Certifier/Fire Engineer confirming that all essential fire safety measures as required by the Building Code of Australia have been listed so as to ensure the safety of persons in the building in the event of an outbreak of fire.

B45. Three sets of detailed landscape working drawings, which comply in all respects with the conditions of development consent, are to be submitted prior to release of the Construction Certificate. Each plan/sheet is to be certified by a qualified landscape architect, landscape designer/environmental designer or horticulturist, confirming that the plans/details provide for the works to be carried out in accordance with Development Control Plan No 23 – Landscape and Vegetation Management.

B45a. In particular, the landscape working drawing is to provide full details of the following:

1. the usage of the dominant tree species growing in the area or locally indigenous species.
2. all existing trees and vegetation to be retained, removed and proposed, including canopy spread, trunk location and condition;
3. a plant schedule including stratum, species/common names, species' numbers, pot size and staking details;
4. a schedule of materials (including such elements as turfing, edging, walling, paving and fencing);
5. the proposed finished treatment of garden areas, including soil depth and mulching details;
6. the location of underground/overhead services;
7. details of irrigation and any on-slab planting;
14. Species selection is to incorporate the dominant trees and shrubs in this or adjacent to this commercial area. Further, the applicant is to discuss tree species' selection with officers of Council's Reserves and Recreation Business Unit, to ensure that the landscape treatment is consistent with any master plan for the area.
15. The required landscape working drawing shall provide for the planting of shade trees in and around open parking areas at the ratio of 1 shade tree for every 6 spaces.
16. The required plantings are to be maintained for the life of the development.
17. A signed statement from a qualified practising Landscape Architect or Horticulturist is to be provided confirming that the plantings comply with the provisions of Council's Development Control Plan No. 23 Landscape and Vegetation Management.
40. The landscape plan must provide for the planting of a minimum of 270 new trees on the site, of which, 110 trees are to be advanced plants located within the body of the site development area, comprising a mix of pot sizes with a minimum of 20 100litre specimens.
50. Screen planting, incorporating a suitable mix of canopy trees (achieving a height of approximately 14 to 20m) and understorey species must be provided along the eastern slopes and northern areas adjacent to the proposed Movement Complex, to address the height and visual impact of the development when viewed from Forest Rd, MacPherson Street and surrounding areas within Warriewood Valley.

B45b. Prior to the issue of the Construction Certificate, the landscape plan is to be amended to include the following:

Embankment Planting along eastern boundary adjoining 13-19 Angophora Circuit.

Additional tree planting within the eastern boundary embankment to provide effective boundary tree screening of the site as seen from the eastern residential areas shall be planted and maintained, as follows:

- 3 x *Angophora costata* (25 litre size)
- 3 x *Glochidion ferdinandi* (25 litre size)
- 5 x *Banksia integrifolia* (25 litre size)
- 5 x *Elaeocarpus reticulatus* (25 litre size)

All trees shall be staked.

The location shall be determined on-site to ensure adequate canopy coverage to establish a buffer screen.

Reason: to soften the built form of the development.

B47. The development is to be phased so that the land disturbance is confined to areas of workable size. Further, stabilisation measures are to be finalised in the first section, before works commence in the next section. Further, all disturbed areas which would otherwise remain exposed for 30 days or more are to be treated with an organic mulch or, on steep sites, an erosion control mat and nylon netting. Full details in this regard are to be included in the Construction Certificate details.

B60. Three sets of Structural Engineering details relating to the roadworks, slabs, footings, retaining walls, structural framing are to be submitted prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or is eligible to become a corporate member and has appropriate experience and competence in the related field. Design and construction for the works in the public road will require the approval from the Council's Urban Infrastructure Unit as required under the Roads Act.

B60a. As the site is located in a slip liable area, the structural details relating to the roadworks, slabs, footings, retaining walls, structural framing are to be endorsed by a qualified practising Geotechnical Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or is eligible to become a corporate member and has appropriate experience and competence in the related field.

B61. A Schedule of Works prepared by a qualified practicing Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or is eligible to become a corporate member and has appropriate experience and competence in the related field is to be submitted in respect of the following items:

1. The details and location of all intercept drains, provided uphill of the excavation, to control runoff through the cut area.
2. The proposed method of disposal of collected surface waters is to be clearly detailed;
3. Procedures for excavation and retention of cuts, to ensure the site stability is maintained during earthworks.

- B61a. As the site is located in a slip liable area, the structural details relating to Condition B61 are to be endorsed by a qualified practising Geotechnical Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or is eligible to become a corporate member and has appropriate experience and competence in the related field.

- B64. Two copies of Civil Engineering details showing compliance with the Roads Master Plan for Warriewood Valley and Aus Spec #1 Design. The details are to be certified by a qualified Civil Engineer.

- B80. Compliance with the recommendations of the Accessibility Audit Report dated June 2001 by Accessibility Solutions, **and Accessibility Assessment Report, dated 03 July 2017, prepared by Morris Goding Accessibility Consulting.** In this regard, further documentation and plans must be submitted prior to release of the Construction Certificate, incorporating the matters raised as footnotes in the above report.

- B90. The submission of a Construction Management Plan identifying measures to be implemented to maximise the safety of students, staff and all users of Forest Rd and MacPherson Street, and minimise disruption to carparking and traffic flows within these streets during and between construction periods. The plan shall provide for the on-site storage of all construction materials and equipment as well as accommodation of the majority of vehicles associated with construction works. The temporary use of the sportsfield may be required for this purpose. The plan shall identify that construction access is only to be gained from Forest Rd.

- B91. In the event the project is implemented in stages involving the staged release of Construction Certificates, the Construction Management Plan shall identify those conditions within this consent that are applicable for each stage of the development for approval by Council. Any staging of works shall ensure that all traffic, carparking, water quality, sewerage and drainage facilities are completed early in the development process and prior to occupation of any new buildings.

- B92. **Details in the Construction Certificate are to reflect the recommendations/requirements of the Bushfire Risk Assessment Report prepared by Australian Bushfire Protection Planners Pty Ltd dated 03 April 2017, and the NSW RFS Letter, Ref: D17/3092, dated 26 September 2017.**

- B93. **The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by JK Geotechnics dated 24 July 2017 are to be incorporated into the construction plans.**

- B94. **Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.**

- B95. **Engineering details showing the stormwater quality treatment system are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified practicing Water Engineer with corporate membership of the Institute of Engineers Australia (MIE Aust), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with B5.10 of Pittwater 21 DCP.**

- B96. *A certificate is to be provided to the Principal Certifying Authority with the Construction Certificate application by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field that the existing stormwater system performs satisfactorily and is capable of serving the proposed additions in accordance with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage.***
- B97. *Civil engineering details of the proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.***
- B98. *The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.***

C. MATTERS TO BE SATISFIED PRIOR TO COMMENCEMENT OF WORK

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

- C1. Prior to commencement of site works, a qualified experienced bushland management consultant is to certify that they have been engaged to conduct a program of Bushland Management covering the regeneration/ revegetation/ restoration of the site. All details of the Bushland Management Program are to be in accordance with the Bushland Management Strategy approved and/or nominated on the Construction Certificate.**
- C1a. In particular, the following matters are to be certified as being completed prior to commencement of works in accordance with the Bushland Management Plan/Strategy approved prior to Construction Certificate:**
- 1. A preorder or evidence of supply of local native plant material to be used identifying local native plant stock source is to be submitted to Council or the accredited certifier. Failure to submit will involve breach of this consent / approval.**
 - 2. A qualified ecologist is to certify that protective fencing has been installed around the fuel free zone to protect remaining vegetation**
 - 3. A qualified ecologist is to certify that protective fencing has been installed around the trees, vegetation, habitat, bush rock or other natural features to be retained.**
 - 4. The Site Manager is to certify that sediment and erosion control devices have been installed.**
 - 5. A qualified ecologist is to certify that site works have been completed.**

6. A qualified experienced bushland management consultant is to certify that the weed control required prior to disturbance of the site has been completed in accordance with the techniques and sequences of removal weed control.
 7. A qualified experienced bushland management consultant is to certify that application of herbicides required prior to disturbance of the site has been completed.
 8. The Site Manager is to certify that the top soil/ litter layer storage has been completed.
 9. The Site Manager is to certify that the soil remediation has been completed.
 10. The Site Manager is to certify that the surface preparation has been completed.
 11. A qualified experienced bushland management consultant is to certify that surface stabilisation suitable for the site vegetation has been completed.
 12. A qualified experienced bushland management consultant is to certify that site drainage has been completed.
 13. The Site Manager is to certify that no soil or storage of any materials has been placed in the drip line of trees or native vegetation or habitat to be retained on the site.
 14. The Project Manager is to certify that other issues including public safety, signage, relevant legislation, planning instruments/ guidelines, OH&S, community involvement, liaison with Department of Land and Water Conservation and other government departments, how other areas of the property and adjacent areas can be managed to complement the vegetation strategy (weed control, drainage, planting of indigenous canopy) have been addressed.
 15. A qualified experienced bushland management consultant is to certify that the thickets of noxious or environmental weeds have been removed gradually and staged to prevent a sudden complete loss of habitat.
 16. The Site Manager is to certify that materials, stockpiles and vehicle stockpile areas are located on already cleared and disturbed land well away from creek line, trees, vegetation, habitat, bush rock or other natural features.
- C6. A certificate prepared by an appropriate qualified person is to be submitted for the following building components, certifying to the satisfaction of Council or the Accredited Certifier that the nominated works have been carried out in accordance with the Building Code of Australia, relevant Australian Standards and any conditions of Development Consent. Works are not to progress past this point until Council or the Accredited Certifier has confirmed that this condition has been satisfied (see copy of form attached).

Where this confirmation of compliance is issued by a private certifier, for the purposes of keeping a public record, a copy of the letter is to be forwarded to Council within 5 working days of the date of issue.

- C6a. Building setout BS-1
- C6b. Erosion Controls ER-1
- C6c. Protection fencing (landscaping) PF-1

- C19. Prior to commencement of site works, a qualified arborist, horticulturist or landscape architect is to certify that protective fencing consisting of chain wire mesh fencing, a minimum 1.5 metres high with steel pipe support posts (or similar Council approved protective fencing) has been provided, as far as is practicable from the tree trunks or landscaped areas shown on the tree retention plans and approved landscape drawings (except where approved construction works encroach into these areas). No further site works are to take place until this certification has been obtained and a copy forwarded to the accredited certifier or Council (see copy of form TP-1 attached).

Where the project is being supervised by a private certifier, for the purposes of keeping a public record, a copy of the certification is to be forwarded by the certifier to Council within 5 working days of the date of issue.

Further, the project manager is to erect signs advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.

- C25. A Department of Land and Water Conservation (DLWC) permit under Part 3A of the Rivers and Foreshores Improvement Act, 1948 is required in relation to this development. You will find attached the Department's "General Terms of Approval" which are required to be included as part of any consent given by Council.

NOTE: If the plans are amended and there is a change to any works proposed within 40 metres of a waterway, Council needs to contact the Department to ascertain if the amended plans will require a fresh review.

The General Terms of Approval is not the actual permit and therefore a permit application is required to be made to the Department prior to commencement of work. Information regarding the above may be obtained by contacting the DLWC Sydney Metropolitan Office, Level 9, 2-10 Wentworth Street, Parramatta NSW 2150 or PO Box 3935 Parramatta NSW 2124. Telephone (02) 9895-7503. Facsimile (02) 9895-7255.

- C30. Exclusion fencing must be provided around all bushland areas on-site to avoid accidental damage of bushland during construction work.
- C31. A landscape buffer of locally indigenous plants to be provided along the eastern boundary with a minimum of two rows of vegetation a minimum of 8 metres in height to screen the development. Details to be submitted to and approved by the Council prior to issue of the Construction Certificate.
- C32. A specific area for parents to drop off and pick up students on site being shown on the plans and designated on site prior to the issue of the Occupation Certificate.
- C33. All external finishes are to be submitted to and approved by the Council prior to the issue of the Construction Certificate.
- C34. All details of lighting on the proposed sports fields and courts are to be submitted to and approved by Council prior to the issue of the Construction Certificate.

C100. In accordance with Pittwater Council's Tree Preservation and Management Order, all existing trees as indicated on Survey Plan No A1-6610, EX-101 dated 30/06/00 and Tree Retention and Removal plan by Knox and Partners dated 21/05/01 (5 pages) , **and on the Tree Management Plan Prepared by Naturally trees Reference No TMP01, dated 10 July 2017**, shall be retained except where Council's prior written consent has been obtained, or where after approval of the relevant Construction Certificate Application/s, trees stand within the envelope of approved buildings or within the alignment of approved permanent paved vehicular access roads and parking areas.

The establishment procedure for the Fuel free Zone outlined in the letter from Knox and Partners dated 15/10/01 is to be implemented.

C101. Prior to commencement of site works, a qualified and experienced bushland management consultant or arborist is to certify that protective fencing has been installed along the edge of remaining bushland as shown on Site Plan – Stage 1 (Drawing No AWD – 102, Rev B). Protective fencing is to be positioned at least 4 metres from the trunk of trees to be retained. No further site works are to take place until certification has been obtained and a copy forwarded to the accredited certifier or Council.

C102. Prior to commencement of site works, a qualified arborist, horticulturist or landscape architect is to certify that protective fencing consisting of chain wire mesh fencing, a minimum 1.5 metres high with steel pipe support posts has been provided, as per provided Tree Management Plan by naturally Trees, dated 10 July 2017, drawing no. TMP01. No site works are to take place until this certification has been obtained and a copy forwarded to the Principal Certifying Authority.

C103. The developer or contractor will take all measures to prevent damage to trees and root systems during site works and construction activities including provision of water, sewerage and stormwater drainage services. In particular, works, erection of structures, excavation or changes to soil levels within 5 metres of the trunks of trees to be retained are not permitted, and the storage of spoil, building materials, soils or the driving or parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained, is not permitted.

NOTE: Trees that are part of an Endangered Ecological Community or are habitat for threatened species and endangered populations must comply with the requirements of the Threatened Species Conservation Act, 1995. Failure to do so may result in a penalty up to a maximum of \$250,000.00 and jail sentences.

Failure to comply with the requirements of the Pittwater 21 DCP Control B4.22 Preservation of Trees of Bushland Vegetation may result in a penalty up to a maximum of \$20,000.00.

C104. Where site fill material is necessary, fill materials must:

- 1. be Virgin Excavated Natural Material (VENM) only, as approved under the Department of Climate Change "General Resource Recovery Exemption**
- 2. be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.**

- C105.** *The following measures shall be implemented in the sequence given below, to minimise soil erosion:*
- *Approved runoff and erosion controls shall be installed before site vegetation is cleared (other than that associated with the construction of the controls). These shall be as shown on an ESCP approved by council.*
 - *Topsoil shall be stripped only from approved areas and stockpiled for re-use during site rehabilitation and landscaping.*
 - *Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, waters, footpath, kerb or road surface and shall have measures in place to prevent the movement of such materials onto the areas mentioned. All stockpiled materials are to be retained within the property boundaries.*
Uncontaminated runoff shall be intercepted up-site and diverted around all disturbed areas and other areas likely to be disturbed. Diversion works shall be adequately stabilised.
 - *Runoff detention and sediment interception measures shall be applied to the land. These measures will reduce flow velocities and prevent topsoil, sand, aggregate, or other sediment escaping from the site or entering any downstream drainage easements or waters.*
 - *The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times to conform to the specifications and standards quoted and to any conditions of approval of those measures.*
 - *Measures shall be applied, to the satisfaction of council, to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development.*
 - *Measures required in permits issued under the Rivers and Foreshores Improvement Act shall be implemented. This Act requires that people obtain approval for any proposed excavation or fill in or within 40 metres of a watercourse. Permits should be sought from the Department of Natural Resources.*
- C106.** *The site must be fenced throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.*
- C107.** *The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations.*
- C108.** *To minimise soil erosion and sediment movement during construction, the following measures shall be implemented:*
- *Removal and/or disturbance of vegetation shall be confined to the basal area of the approved building, the site(s) of access ways, land extending a maximum of two metres beyond the outermost projection of the approved building and within a total of two metres of service trenches (that is the sum of the two sides to be a maximum of two metres).*
 - *Topsoil stripped from the construction site shall be stockpiled and protected from erosion until re-use during landscaping. Soil is to be retained within the property.*
 - *Stockpiles of construction and landscaping materials, and of site debris, shall be located clear of drainage lines and in such a position that they are protected from erosion and do not encroach upon any footpath, nature strip or roadway.*
 - *Final site spoil shall be disposed of to conform to the specifications and standards quoted and to any conditions of approval of those measures.*

- *Trenches shall be backfilled, capped with topsoil and compacted to a level at least 75 mm above adjoining ground level.*
- *Stormwater from roof areas shall be linked to a council approved stormwater disposal system immediately before placement of any roofing materials.*
- *Vehicular access shall be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on adjoining roadways the same shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner that will prevent its mobilisation.*
- *Vehicular access paths shall be stabilised.*
- *All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for more than 14 days or other such period as may be approved after earthworks cease. All driveways and parking areas shall be stabilised with compacted sub-grade as soon as possible after their formation.*

C109. *Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility. All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal. The ongoing operation of Recycling and Waste Management Services is to be undertaken in accordance with the Waste Management Plan.*

C110. *No works are to be carried out in Council's Road Reserve without the written approval of the Council.*

Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.

C111. *A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.*

C112. *No skip bins or materials are to be stored on Council's Road Reserve.*

C112. *Access to the site through an adjoining park/reserve is prohibited without the written approval of the Council.*

D. CONDITIONS TO MINIMISE THE IMPACT OF THE DEVELOPMENT ON THE NATURAL AND BUILT ENVIRONMENT

- D1. In order to provide satisfactory car parking for the total development, car parking provision shall be made for a minimum of 75 cars.
- D2. Provision shall be made for construction vehicle spaces on-site during construction.
- D3. Trees within the fuel free zone on the western side of the buildings are to be preserved where possible with a concurrence of the Rural Fire Service of NSW.
- D5. Car parking spaces for persons with disabilities shall have appropriate pavement and pillar signage.
- D6. Directional signage to parking spaces for persons with disabilities shall be provided from the entry to the car park.
- D11. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-1991 "The Demolition of Structures".

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

- 1. Protection of site workers and the general public.
- 2. Erection of hoardings where appropriate.
- 3. Asbestos handling and disposal where applicable.
- 4. Any disused service connections shall be capped off.

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

- D20. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site
- D21. Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
- D23. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
- D28. All excavated material is to be removed from the site, except where clean material is to be used in approved construction works. This is due to the site's location in an area identified as being subject to possible landslide.
- D29. Any fill material imported to the site is to consist of clean fill material only, that is, non-contaminated excavated material and soil, rock or similar material. Putrescible and non-putrescible solid waste (including demolition material) is not permitted.
- D30. Any fill shall be deposited and works carried out in strict compliance with the N.S.W. Department of Land and Water Conservation's "Urban Erosion and Sediment Control" manual.
- D32. No fill is to be introduced within the drip line of canopy trees on the site.

- D33. No fill is to be introduced in the area of native vegetation or habitat remaining on the site.
- D60. The footpath and adjacent roadway is to be kept free of obstruction by building materials and/or plant. All concrete trucks, pumps and associated plant are to be kept wholly within the site. No concrete or slurry is to be discharged into the street or the street drainage system.
- D72. All garbage enclosures are required to be roofed. Roofwaters shall be directed to the approved stormwater disposal system.
- D76. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
- D85. All external glazing is to have a maximum reflectivity index of 25%.
- D105. The landscaping is to be maintained for the life of the development.
- D106. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas.

Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.

Further, the project manager is to erect signs advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
- D107. All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.
- D109. Revegetation is to be carried out as soon as the site preparation/excavation has been completed.
- D111. During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained. Erosion controls are to be maintained around the stockpile.
- D122. All declared noxious weeds under the Noxious Weeds Act 1993 together with other environmental weeds are to be removed and/or controlled using an appropriate technique.
- D143. If any Aboriginal Engravings or Relics are unearthed during construction all work is to cease immediately and the Metropolitan Local Aboriginal Land Council (M L A L C) and National Parks and Wildlife Service (N P W S) are to be notified.
- D190. The removal or destruction of bush rock has been listed as a Key Threatening Process under the NSW Threatened Species Conservation Act, 1995. No bush rock is to be removed or destroyed without prior consultation and approval by NSW National Parks and Wildlife Service and Council.

- D191. The Threatened Species Conservation Act, 1995, protects threatened species, endangered ecological communities or endangered populations and their habitat. No site disturbance, development, clearing of native vegetation, planting of exotic vegetation, removal or destruction of bush rock, or other activities shall be carried out that adversely impacts on threatened species, endangered ecological communities or endangered populations or their habitat. Specifically, the Spotted Gum Forest (listed under the NSW Threatened Species Conservation Act, 1995) or its habitat has been recorded on this property.
- D198. The developer or contractor will take all measures to prevent damage to trees and root systems during site works and construction activities including provision of water, sewerage and stormwater drainage services. In particular, works, erection of structures, excavation or changes to soil levels within 5 metres of the trunks of trees to be retained are not permitted unless part of the development as approved, and the storage of spoil, building materials, soils or the driving or parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained, is not permitted.
- NOTE: Trees that are part of an Endangered Ecological Community or are habitat for threatened species and endangered populations must comply with the requirements of the Threatened Species Conservation Act, 1995. Failure to do so may result in a penalty up to a maximum of \$250,000.00 and jail sentences.
- Failure to comply with the requirements of the Pittwater Council Tree Preservation and Management Order may result in a penalty up to a maximum of \$20,000.00.
- D199. All works within 5 metres of the existing trees to be retained including pruning, demolition, excavation, civil works, fencing and the like must be carried out by hand under the supervision of an experienced and qualified Arborist. Should roots larger than 50mm be encountered all excavation works are to cease immediately and a qualified Arborist is to advise on the impacts of the roots removal on the tree's survival and report to Council's Landscape Architect.
- If tree roots are present a pier and beam method of footing construction is to be adopted so as to bridge/span any identified lateral roots.
- D200. When working within the drip line of the trees, hand digging is to occur in sensitive areas. Liaison on a daily basis is to be maintained during the excavation works between the Builder and Arborist. No filling or compaction shall occur over tree roots within the area defined by the outer drip line of the crown. Root protection/ compaction mitigation in the form of planks or metal decking supported clear of the ground fixed to scaffolding is to be installed as required.
- D201. Advise contractors and visitors to the site of the purpose for the tree/native vegetation/habitat protection/exclusion fencing installed in accordance with this consent by the placement of a suitable warning sign.
- D203. Construction access to the property is to be via the approved driveway only.
- D204. A minimum of 200mm clearance is to always be maintained to the tree trunk from the bearers, joists and decking.
- D215. Compliance with the recommendations of the Geotechnical investigation by Jeffery & Katauskas Pty Ltd No 15427SL Rpt, dated 18/10/00, **and Geotechnical Risk Management Assessment Report, dated 24 July 2017, prepared by JK Geotechnics..**

D217. Construction of the turning circle in Forest Road as Part of Stage: 1 of the proposed development. The turning circle must be completed within 6 months of commencement of stage: 1. In consideration of these works, no section 94 contributions are attributable in relation to traffic and transport facilities.

D221. The cycleway shown on drawing DD102 between the bus turning area and the creek must conform to the Bushfire trail requirements outlined in the Warriewood Valley DCP. The cycle way forms part of the bushfire protection trail, providing access linkages between the school and other sectors of the valley land release area.

The trail is not to be designed as a direct public thoroughfare to or from Mona Vale Road, and must not incorporate carparking areas or other obstructions that may prevent the free access of emergency vehicles for evacuation procedures. The bushfire protection trail will be designed to meet or better the following specifications and objectives:

- The trail shall have a minimum cleared width of 6 metres, a formed width of 4 metres and surface construction of 175 millimetres thick, 20MP a reinforced concrete. The fire trail is to have a minimum vertical clearance of 5m to any overhanging branches.
- The trail is to have a concrete oxide pigment of a colour to be approved by Council. This colour is to complement the nature surroundings;
- The trail is to be adequately drained and constructed to provide suitable access and passing bays for fully loaded fire-fighting vehicles (28 tonnes or 8 tonnes per axle);
- Passing bays are to be constructed at 400 metre intervals or less, with dimensions of 25 x 8 metres. Turning areas and bends in the trail are to be constructed having a minimum radius of 10 metres;
- Maximum grades should not exceed 15% (1 in 7) and preferably not more than 10% (1 in 10).
- Frequent access links from the trail to the internal road system shall be provided. Linkages to the trail shall confirm with these specification;
- The final physical location of the trail is subject to determination on a sector development basis in conjunction with other planning instruments. This is to be undertaken by the developer to the satisfaction of Council; and
- Fire trail sections constructed by the developers of sectors will need to be certified by a qualified practising engineer confirming that the firetrail complies with the above specification.

D222. Other fire trails are to run through the fuel free zone providing a demarcation between fuel free zone and bushland. All fire trails are to conform to "Planning for Bushfire Protection". Most importantly this requires that the maximum grade no exceeding than 10%. However, short sections of the firetrail maybe up to 25%.

D223. Plan species selection is to occur after consultation with Council's Fire Control Officer, in relation to exclusion zones and fuel free and fuel reduced areas. In terms of canopy planting, Council recommends the use of locally indigenous rainforest species, which contain a natural fire retardant.

D224. All declared noxious weeds under the Noxious Weeds Act 1993 together with other environmental weeds and undesirable weed species listed on Council's Tree Preservation Order in areas to be disturbed are to be removed and/or controlled using an appropriate technique immediately following establishment of the fuel free bushfire mitigation zone.

D225. All wetland vegetation species associated with the water quality/detention works are to be consistent with the Warriewood Valley Landscape Masterplan, Pittwater Council 2000.

D230. DELETED.

D231. The area to the northwest of the 30m fuel free zone is to be maintained as bushland. The outdoor learning centre is not to involve the construction of any buildings or any native tree removal and pathways servicing this area must be constructed in loose gravel or a similar formation only.

D232. The capacity of the school is to be restricted to a maximum of 850 students.

D233. This consent will not have effect so as to suspend any of the rights of the registered proprietor of Lot 1 in Deposited Plan 18303 pursuant to the easements created by Dealing No C676454.

D234. DELETED.

D235. *The existing landscaping required to be retained together with any additional landscaping required by this Development Consent is to be maintained for the life of the development.*

D236. *No water pollution shall result from the operation of any plant or equipment or activity carried out.*

D237. *Noise from the operation of any plant or equipment at the premises shall comply with the noise provisions of the Protection of the Environment Operations Act, 1993.*

D238. *No odour nuisance to the public or any adjoining premises, shall be created by the operation of any plant or equipment or any procedure carried out at the premises.*

**D239. *A 20000 litre rainwater tank for non-potable purposes is to be installed and used as part of an integrated on-site stormwater management system.
The non-potable purposes are prescribed in the NSW Code of Practice for Plumbing and Drainage and include toilet flushing and garden irrigation.
The overflow system of the rain water tank is to be directed to the on-site detention system.***

E. MATTERS TO BE SATISFIED PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

NOTE: It is an offence to occupy a building prior to issue of an Occupation Certificate.

E5. All parking areas and driveways are to be sealed to an all weather standard, line marked, signposted and maintained prior to occupation/use of the site.

E6. In order to avoid vehicular conflict, the ingress and egress crossings shall be suitably sign posted.

- E10. A certificate prepared by an appropriate qualified person is to be submitted for the following building components, certifying to the satisfaction of Council or the accredited certifier that the nominated works have been carried out in accordance with the Building Code of Australia, relevant Australian Standards and any conditions of Development Consent. Works are not to progress past this point until Council or the Accredited Certifier has confirmed that this condition has been satisfied (see copy of form attached).

Where this confirmation of compliance is issued by a private certifier, for the purposes of keeping a public record, a copy of the letter is to be forwarded to Council within 5 working days of the date of issue.

- E10b. Geotechnical requirements GO-1
- E10c. Ground floor levels FL-1
- E10d. Footings/slabs/piers/retaining walls FN-1
- E10e. Bearers and joists and subfloor ventilation BJ-1
- E10f. Wall, roof frames and window location FM-1
- E10g. Wet areas WA-1
- E10h. Masonry construction, accessories and weatherproofing MC-1
- E10i. Subsequent floor levels FL-2
- E10j. Stair construction ST-1
- E10k. Balustrading adequacy BA-1
- E10l. Glazing GL-1
- E10m. Artificial lighting and mechanical ventilation LV-1
- E10n. Roof cladding RC-1
- E10o. Roof ridge levels RL-1
- E10p. Smoke alarms SA-1
- E10q. Site stormwater management SW-1
- E10r. Onsite stormwater detention OSD-1
- E10s. Driveway construction DW-1
- E10t. Excavation and/or filling EX-1
- E10w. Landscaping LS-1
- E10x. Mechanical ventilation (Noise levels) MVN-1

E11b. Bushland management strategy BM-1

E11c. Native vegetation planting NV-1

E11d. Arborist AR-1

E12b. BCA certification BCA-1

E12c. Structural certification SC-1

E12d. Disabled facilities (Public Buildings/SEPP5) DF-1

E16. On completion of the erection of the building, the Owner of the building shall submit to Council or the accredited certifier a **Fire Safety Certificate** with respect to each essential fire safety measure installed in association with the building – as listed on the Fire Safety Schedule. Such certificate must be received by Council or the accredited certifier prior to occupation of the building.

Copies of the Fire Safety Certificate(s) must also be forwarded by the Owner to the Commissioner of the NSW Fire Brigades, and copies displayed in a prominent location specified in the schedule, within the building.

E31. Prior to the issue of the Occupation Certificate, an Accredited Certifier is to certify to the satisfaction of Council or the Accredited Certifier that the attached requirements of Department of Land and Water Conservation, dated 22/12/00 have been satisfied.

E32. (a) That the development is constructed in accordance with Australian Standard AS 3959 - 1999 "Construction of buildings in bushfire-prone areas" and should be considered a level 1 under this standard.

(b) Leafless gutters or other mechanical means to be installed to prevent the built up of flammable materials with the gutters.

(c) A Fuel Free Zone is to be created and maintained to the west, southwest and northwest of the proposed development for a distance of 30 meters from all buildings to be retained and proposed buildings, designed to bound the facility between the bushland and the structures.

(d) A Bushland Management Plan is to be developed to ensure this zone is maintained and reviewed annually, preferably in September or October of each year as October 1st is the commencement of the Bush Fire Danger Period.

(e) An access road capable of carrying vehicles weighing a minimum of 20 Tonnes is to be constructed into the upper area of the development to allow access for firefighting vehicles. It is envisaged this would require some upgrade of the existing fire trail network in this area and must encompass turning areas as shown in the site plan (DD102). It should be noted that the ideal would be to construct a perimeter road however the steepness of the slope does not allow this to occur.

(f) An access road to the proposed Warriewood valley fire trail network will need to be constructed. It is envisaged that the main entry from Forest Road into the bus turning area would be used with a further gated access allowing firefighting appliances access onto the trail from this area.

(g) Access across or around the sporting field or cycleway would need to be capable of carrying vehicles weighing a minimum of 20 tonnes.

(h) Compliance with the requirements (attached) of the NSW Rural Fire Service dated 28 August 2002.

- E41. A landscape practical completion report is to be prepared by the consultant landscape architect/designer and submitted to Council or the accredited certifier within 14 working days of the date of practical completion of all landscape works. This report is to certify that all landscape works have been completed in accordance with the landscape working drawing. A copy of this report is to accompany the request for issue of an Occupation Certificate.

Where the project is being supervised by a private certifier, for the purposes of keeping a public record, a copy of the report is to be forwarded to Council within 5 working days of the date of issue.

- E42. Prior to issue of the Certificate of Occupation, the applicant is to submit evidence of an agreement for the maintenance of all site landscaping by a qualified horticulturist, landscape contractor or landscape architect, for a period of 2 years, from the date of issue of the Certificate of Occupation.

- E43. At the completion of the landscape maintenance period, the consultant landscape architect/designer is to submit a final report to Council or the accredited certifier within 14 working days, certifying that all plant material has been successfully established and that all of the outstanding maintenance works or defects have been rectified prior to preparation of the report.

Where the project is being supervised by a private certifier, for the purposes of keeping a public record, a copy of the report is to be forwarded to Council within 5 working days of the date of issue.

- E70. A copy of the Section 73 Compliance Certificate issued under the provisions of the Sydney Water Act, 1994, is to be forwarded to Council or the accredited certifier, prior to release of the Occupation Certificate.

- E86. The building is not to be occupied or used until an Occupation Certificate has been issued, confirming that the project complies with the relevant standards and the conditions of development consent. The request for an Occupation Certificate is to be accompanied by a copy of all of the Compliance Certificates required by the conditions of development consent (see copy of form attached).

- E89. Prior to the issue of an Occupation Certificate a certificate of compliance with the accessibility audit report dated June 2001 by Accessibility Solutions, **and Accessibility Assessment Report, dated 03 July 2017, prepared by Morris Goding Accessibility Consulting**, is to be submitted to Council, prepared by an accredited access advisor.

- E100. A certificate is to be provided by a qualified Civil Engineer stating that the water quality/quantity controls have been installed in accordance with approved plans and the "Water Management Specification for Warriewood Valley.

- E101. A certificate is to be provided by a qualified Civil Engineer stating that the access roads to and within the site have been constructed in accordance with the approved plans, Warriewood Road Master Plan and Access Spec #1 – Construction.

- E102. Dedication of land at the north-eastern corner of the site to Council to provide for a minimum footpath width from kerb to the property boundary of 2.5m, adjacent to the proposed turning area at the entrance in Forest Road.
- E103. Prior to the issue of the Occupation Certificate, a qualified and experienced arborist is to certify that all trees located outside the area of site works for the Chapel construction as shown on the Site Plan – Stage 1 (Drawing No AWD – 102 Rev B) have been retained in a safe and healthy condition.
- E104. An Accredited Bushfire consultant is to provide a certification to the Principal Certifying Authority confirming that;**

b) The requirements of the NSW Rural Fire Service have been complied with. The listed requirements of the Rural Fire Service dated 26 September 2017 must be satisfied, as follows:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

- 1. At the commencement of building works, and in perpetuity, the property shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones' from the existing school buildings as follows:***
 - 30 metres to the north and northwest;***
 - 20 metres to the west; and,***
 - To the site boundaries to the east and south.***

Water and Utilities

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

- 2. The provision of water, electricity and gas shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006' including the provision of a hydrant in close proximity to the proposed fire trail turning area.***

Access

The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:

3. *The proposed fire trail turning area shall be provided in accordance with the relevant provisions of section 4.1.3(3) of 'Planning for Bush Fire Protection 2006'.*

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

4. *A Bush Fire Emergency Management and Evacuation Plan shall be prepared consistent with 'Development Planning- A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014'.*

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

5. *New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959- 2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.*

Landscaping

6. *Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.*

E105. *A landscape practical completion report is to be prepared by the consultant landscape architect/designer and submitted to the Principal Certifying Authority with the Occupation Certificate application. This report is to certify that all landscape works have been completed in accordance with the provided Landscape Plans by Groundlink, dated 11/ August 2017, Revision Draft, Drawing no. LA-01-LA-04, and any conditions of this development consent.*

E106.

- a) *The Certifying Authority is to submit to Council the completed and signed Food Premises Occupation Certificate Fit-Out Form, this form is available at http://www.pittwater.nsw.gov.au/business/commerce_and_industry_premises/information_for_food_premises.*
- b) *Council's Environmental Health Officer is to be contacted (phone: 9970 1111) to make arrangements for an inspection of the premises for verification of compliance with the form. A minimum 48 hours notice is required for inspection.*
- c) *Council is to forward written advice of the result of the inspection in order to confirm that there is no objection to the issuing of the Occupation Certificate.*

E107. *Documentation supplied by Sydney Water regarding evidence of the trade waste agreement must be provided to the certifying authority prior to the issue of the Occupation Certificate.*

- E108.** Documentation supplied by a practicing mechanical engineer certifying that all mechanical exhaust ventilation systems, as installed, complies with AS/NZS 1668.1:1998 (Fire and smoke control in multi-compartment buildings) and 1668.2-2012 (Mechanical ventilation for acceptable indoor-air quality), must be provided to the certifying authority prior to the issue of the Occupation Certificate.
- E109.** The certifying authority must be provided with evidence that the food business has been notified with Environmental Health - Northern Beaches Council by lodging a completed food notification form to Council.
- E110.** Prior to the issue of an Occupation Certificate, including an Interim Occupation Certificate, the following landscaping is to be implemented:
- Any landscaping in association with the new building, as approved by development consent N1038/00/S96/2, including any terraces and any adjoining landscaped areas.
- Certification is to be provided to the Principal Certifying Authority by a suitably qualified person that that above landscaping has been planted, prior to the issue of any Occupation Certificate.
- E111.** Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
- E112.** The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.
- A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards must be provided.
- E113.** Certification is to be provided to the Principal Certifying Authority by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a member and has appropriate experience and competence in the related field, that the stormwater drainage system has been completed in accordance with the engineering plans and specifications required under this consent.
- E114.** The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of all property, infrastructure, natural and man-made features that were originally recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

E115. Prior to the issue of an Occupation Certificate photographic evidence of the condition of the street trees and road reserve and area adjoining the site after the completion of all construction, must be submitted to the Principal Certifying Authority showing that no damage has been done and if damage has been done that it has been fully remediated. The photographs shall be accompanied by a statement that no damage has been done (or where damage has been remediated that Council has approved that work). In this regard Council's written agreement that all restorations have been completed satisfactorily must be obtained prior to the issue of any Occupation Certificate.

E116. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.

F. MATTERS TO BE SATISFIED PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

Nil

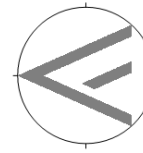
G. ADVICE

- G1. You are reminded of your obligations under the provisions of the Disability Discrimination Act.
- G5. This approval does not prejudice any action in respect of upgrading the building pursuant to the provisions of the Section 121B of the Environmental Planning and Assessment (Amendment) Act, 1997.
- G23. Failure to comply with the relevant provisions of the Environmental Planning and Assessment Act, 1979 (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
- G24. The applicant is also advised to contact the various supply and utility authorities, ie Sydney water, Sydney electricity, Telstra etc. to enquire whether there are any underground utility services within the proposed excavation area.
- G25. It is the Project Manager's responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with Council. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent Council from issuing the Occupation Certificate or the Building Certificate.
- G26. In accordance with Section 80A(1)(d) and (e) of the Act, any consent given shall be void if the development to which it refers is not commenced within two (2) years after the date of approval, provided that Council may, if good cause be shown, grant an extension of renewal of such consent beyond such period.

NOTE: Council may be prepared to consider an extension of this Consent period for a further 12 months, however, the request for extension would have to be received during the initial 2 year period.

- G27. To ascertain the date upon which the determination becomes effective, refer to Section 83 of the Environmental Planning and Assessment Act, 1979 (as amended).
- G28. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing together with a \$500 fee, within 28 days from the date of determination.
- G29. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 12 months of the date of endorsement of this Consent.
- G30. *The proposed food business requires a Food Safety Supervisor.***
- 1. *Ensure that, you have a staff member who is a suitably qualified Food Safety Supervisor.***
 - 2. *The Food Safety Supervisor certificate (or a copy) must be valid and remain onsite at all times.***
 - 3. *A food business must notify the NSW Food Authority of the appointed Food Safety Supervisor with seven days of commencement of trading. The food business owner can notify online at the Authority's website: www.foodauthority.nsw.gov.au,***
 - 4. *Should the current Food Safety Supervisor leave or cease to act in that role at the food premise, the business owner must appoint a new Food Safety Supervisor within 30 operational days (ie days that food is processed and sold) of that FSS leaving, or ceasing to act in that role. The business owner must then notify the NSW Food Authority of the new FSS' details within seven days of their appointment.***

***For further information regarding the Food Safety Supervisor training and certification please refer to the NSW Food Authority's website:
<http://www.foodauthority.nsw.gov.au/industry/fss-food-safety-supervisors/>***



PROJECT
MATER MARIA COLLEGE
ADDRESS
5 FOREST RD. WARREWOOD NSW 2102

SCALES @ A3
As indicated

PROJECT NUMBER
15122

DATE
July 2016

DRAWING
NUMBER
DA900

CLIENT
AVIUM
DRAWING
NOTIFICATION DRAWING

PROJECT
MATER MARIA COLLEGE
ADDRESS
5 FOREST RD. WARREWOOD NSW 2102

DRAWN
A200

ISSUE
P1

DATE
2007-17

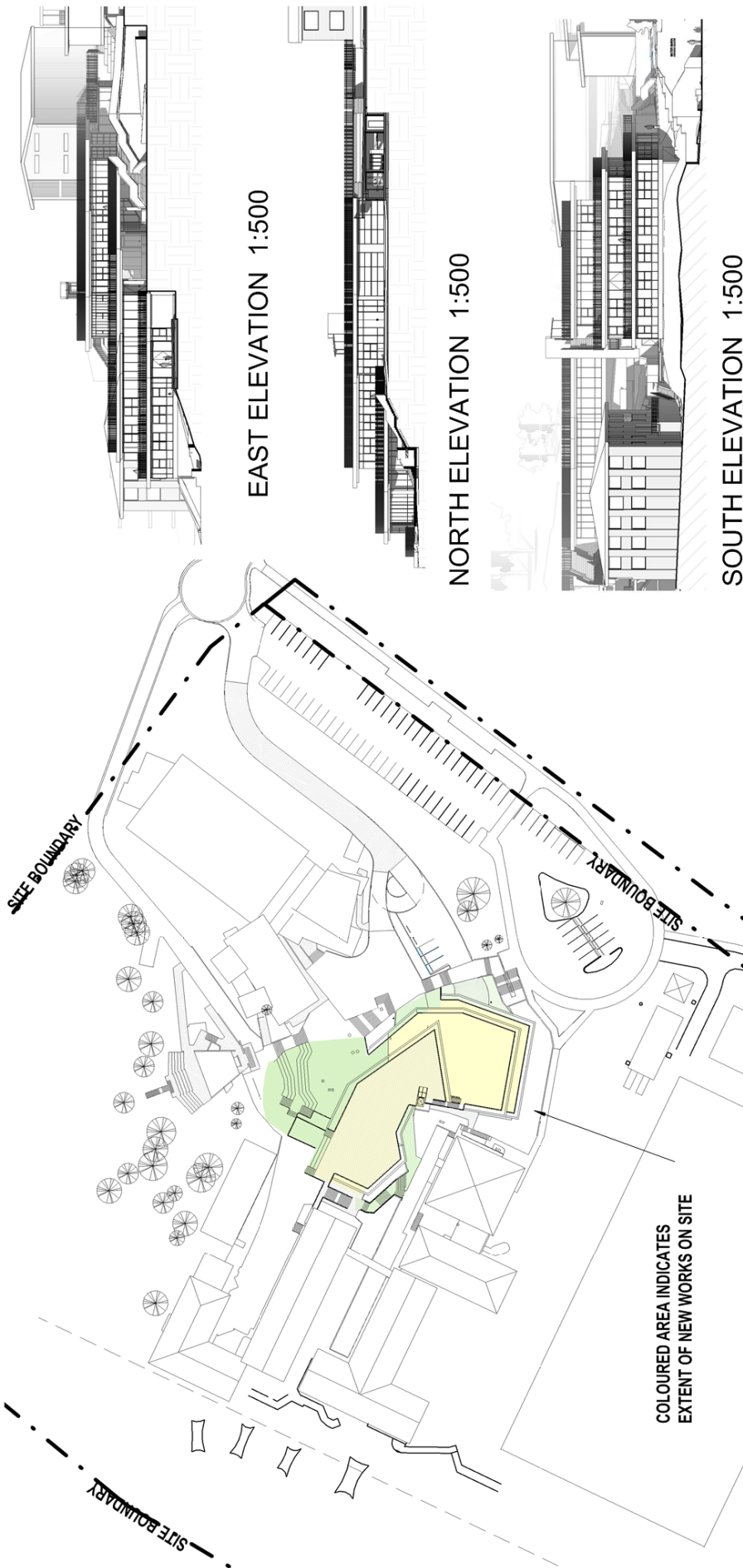
AMENDMENT
PRELIMINARY

APPROVED
Approver

CHECKED
Approver

ALLEANZA
ARCHITECTURE

12



ITEM 3.4

DA 326/2016 - 79A LAUDERDALE AVENUE, MANLY - SECTION 82 REVIEW OF DETERMINATION OF REFUSED ALTERATIONS AND ADDITIONS TO THE EXISTING BUILDING AND USE AS A DUAL OCCUPANCY (ATTACHED) AND STRATA SUBDIVISION – PART 2

REPORTING MANAGER Rodney Piggott

TRIM FILE REF 2017/484509

ATTACHMENTS 1 [↓](#) Assessment Report
 2 [↓](#) DDP Plans - Site and Elevation Plans

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

That Council as the consent authority grant consent to Section 82 Review of Determination of DA 326/2016 for alterations and additions to the existing building and use as a dual occupancy (attached) and strata subdivision at 79A Lauderdale Avenue subject to the conditions outlined in the report.



Development Assessment Report

2017/469063

| | |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DA No. | 326/2016 |
| Site Address | 79A Lauderdale Avenue, Manly; Lot 11 DP 867302 |
| Proposal | Section 82- Review of determination of refused alterations and additions to the existing building and use as a dual occupancy (attached) and strata subdivision- Part 2. |
| Officer | Tom Prosser |

SUMMARY:

Application Lodged:

27 October 2017

Applicant:

Jon Adams C/O David McRae

Owner:

Stepping Stone P/L

Estimated Cost:

\$1,200,00.00

Zoning:

MLEP, 2013 – R1 General Residential

Heritage:

In vicinity to the south of the site- I49

NSW LEC:

Not applicable.

Notification:

31 October 2017 to 16 November 2016.

Submissions received:

12 (one in support)

Site Inspected:

3 March 2017 and various site visits to assess views.

LEP (4.6) Variations proposed:

Height, FSR.

DCP Variations proposed:

Wall height, number of Storeys, setbacks, fence height

Recommendation:

Approval

Subject Property and surrounding area



The subject property is commonly known as 79A Lauderdale Avenue and legally known as Lot 11 in DP 867302. The site is located on the southern side of Lauderdale Avenue. The property is an irregular in shape and has a frontage of 13.24m to Lauderdale Avenue, an average depth of 20m and an overall site area of 264.8m². The property currently contains a 2 & 3 storey building with vehicular access via two existing driveways from Lauderdale Avenue to a hard stand space above a garage area to the front of the existing building. The property slopes from the front at Lauderdale Avenue to the rear and includes a crossfall of approximately 5 metres. The land further slopes to the rear at the adjoining battle-axe property toward the harbour foreshore.

The area is characterised by sloping land down to the harbour foreshore which has residential development on both sides of Lauderdale Avenue. This provides a situation in which dwellings on the northern side of Lauderdale Avenue are at a higher level of topography and often have water views over and around the dwellings on the southern side of the street.

Property Burdens and Constraints

A sewerline intersects the property at the rear of the property. There is also an easement for carriageway which services the subject site and the adjoining battle-axe allotment.

Site History/Background

DA326/2016 was recommended for approval but refused by the determining body, Councils Development Determination Panel (DDP), on 8 September 2017 for the following reasons:

- 1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Clause 4.3 Height provisions contained within the Manly LEP 2013*
- 2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Clause 4.4 Floor Space Ratio provisions contained within the Manly LEP 2013*
- 3. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provision of Clause 3.4.3 Maintenance of Views contained within the Manly DCP 2013.*
- 4. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provision of Clause 4.1.2 Number of Storeys contained within the Manly DCP 2013.*

Section 82A Review of determination

The applicant has not amended the proposal from the original in any way and has not submitted any additional information with the Review. The original assessment report is therefore attached to this report for reference.

This report will address the provisions of Section 82A and the additional submissions received through the notification process. It is noted the original application had 4 objections and the Section 82A Review has 11 objections and 1 letter of support.

Assessment against the provision of Section 82A is provided:

- (1) *If the consent authority is a council, an applicant may request the council to review a determination of the applicant's application, other than:*
 - (a) *a determination to issue or refuse to issue a complying development certificate, or*
 - (b) *a determination in respect of designated development, or*
 - (c) *a determination in respect of integrated development, or*
 - (d) *a determination made by the council under Division 4 in respect of an application by the Crown.*

Comment: The proposal is not designated or integrated development

- (2) *A council must, on a request made in accordance with this section, conduct a review.*
 (2A) *A determination cannot be reviewed:*
 (a) *after the time limited for the making of an appeal under section 97 expires, if no such appeal is made against the determination, or*
 (b) *after an appeal under section 97 against the determination is disposed of by the Court, if such an appeal is made against the determination.*

Comment:

Council is reviewing the application in accordance with this section.

- (3) *(Repealed)*
 (3A) *In requesting a review, the applicant may make amendments to the development described in the original application, subject to subsection (4) (c).*

Comment:

The applicant has not made amendments to the original application.

- (4) *The council may review the determination if:*
 (a) *it has notified the request for review in accordance with:*
 (i) *the regulations, if the regulations so require, or*
 (ii) *a development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations, and*
 (b) *it has considered any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan, as the case may be, and*
 (c) *in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same development as the development described in the original application.*

Comment:

The application was notified to nearby and adjoining property owners in accordance with Section 2.2 of Council's Development Control Plan 2013 with 10 submissions received from the following objectors raising the following concerns:

| Submission and Address | Main Issues raised in the submission | Comments on submission |
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| 1. M. Licardy. | <ul style="list-style-type: none"> Query as to why application is being considered when the proposal is above height restrictions. | <ul style="list-style-type: none"> Under the legislation and in particular Clause 4.6 of the Manly LEP, variations to development standards (such as height) can be considered in the assessment process. |
| 2. A Condell. | <ul style="list-style-type: none"> Support for application <ul style="list-style-type: none"> overall design will improve visual appeal of existing house privacy will not be impinged increase to overall height will not have a detrimental impact on the submitter. | None. |

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| <p>3. G. Selvaggi, 3/78 Lauderdale Avenue, Fairlight.</p> | <ul style="list-style-type: none"> • Inconsistent with height provisions, FSR and number of storeys. • Inconsistent with maintenance of views. Peaceful views will be lost. • This will set a precedent and detrimentally impact natural beauty in the area. | <ul style="list-style-type: none"> • <u>Height, FSR and number of storeys.</u> An assessment of building height and FSR under the Manly LEP including Clause 4.6 has found the proposed height to be reasonable. An assessment of the proposed number of storeys under the Manly DCP has found the proposal to be reasonable, despite the numerical non-compliance. • An assessment of the proposal in regards to the Streetscape and Foreshore Scenic Protection area has found the proposal to be reasonable. |
| <p>4. J Trope, Lauderdale Avenue.</p> | <ul style="list-style-type: none"> • Objection to height and FSR. • Objection to breach of clauses for Maintenance of Views and Number of Storeys. • Impact on views and precedent set for future impact on views. | <ul style="list-style-type: none"> • An assessment of building height and FSR under the Manly LEP including Clause 4.6 has found the proposed height to be reasonable. • An assessment of the proposed number of storeys under the Manly DCP has found the proposal to be reasonable, despite the numerical non-compliance. • An assessment of the proposal against the Clause for Maintenance of Views under the Manly DCP has found the proposal to be reasonable. |
| <p>5. D. Taylor.</p> | <ul style="list-style-type: none"> • Proposed development is above height restriction. Also inconsistent with clauses for number of storeys and FSR. • Impact on views. | <ul style="list-style-type: none"> • An assessment of Building height and FSR under the Manly LEP including Clause 4.6 has found the proposed height to be reasonable. • An assessment of the proposed number of storeys under the Manly DCP has found the proposal to be reasonable, despite the numerical non-compliance. • An assessment of the proposal against the Clause for Maintenance of Views under the Manly DCP has found the proposal to be reasonable. |

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| <p>6. L, Chapman & J Chapman.</p> | <ul style="list-style-type: none"> Plan not in accordance with Clause 4.6 of Manly LEP. Overdevelopment. Height level above approved levels Precedent to raise roof levels Obstruction of views. | <ul style="list-style-type: none"> An assessment has been made in relation to Clause 4.6 for Building height, FSR and Minimum subdivision lots size. As a result, it has been found that variations are reasonable in this circumstance. An assessment of the proposal against the Clause for Maintenance of Views under the Manly DCP has found the proposal to be reasonable. |
| <p>7. M. Montgomery, 72 Lauderdale Avenue, Manly.</p> | <ul style="list-style-type: none"> <u>Planning Principles</u> <ul style="list-style-type: none"> The height and bulk caused by non-compliance with development standards (FSR and height) grossly offends view preservation principles. The existing house exploits the land by exceeding permitted use standards. The developer applies for more without public benefit or any relevant justification. There have been no LEP Clause 4.6 applications submitted for the amended Plans. It is requested that the document be seen by the submitter and re-notified. <u>Severe loss of Neighbour's Harbour View</u> <ul style="list-style-type: none"> The amendment proposes to move the floor 995mm westward allowing a small glimpse of views of iconic Sydney Harbour. The proposed deck allows for balustrades, furniture, plants, umbrellas, pergolas and people. The proposal would block living area views of Jilling cove. If permitted, only a view of Davis Marina will remain. The marina and moored boats provide an iconic harbour view. The application fails to describe loss of views. The 4 storey height is unreasonable and could set a precedent. <u>Height</u> <ul style="list-style-type: none"> The increase in height southward towards the harbour increases blockage of views. Non-compliance with building and wall heights. This greater in terms of height and impact on views, than existing. | <ul style="list-style-type: none"> <u>Planning Principles</u> <ul style="list-style-type: none"> An assessment of relevant principles has been done earlier in this report and found no unreasonable impact. In addition, the clause 4.6 applications provided sufficiently justify contravening the standards. Amended Clause 4.6 applications were provided and did not require re-notification, consistent with DCP. The applications were available for viewing online. <u>Severe loss of Neighbour's Harbour View</u> <ul style="list-style-type: none"> An assessment of views for sites opposite the subject site has been undertake earlier in this report. <u>Height</u> <ul style="list-style-type: none"> An assessment of building height under the Manly LEP has found the proposed height to be reasonable. <u>Parking</u> <ul style="list-style-type: none"> The parking proposed is compliant with the requirements under the Manly DCP. It is also noted that there is reduction in number of dwellings from 3 to 2. <u>Density/FSR and Green areas</u> <ul style="list-style-type: none"> An assessment of FSR and Open Space under the Manly DCP has found the proposal to be reasonable. Open space is deemed to comply given the increase in |

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| | <ul style="list-style-type: none"> • <u>Parking</u> <ul style="list-style-type: none"> - The development fails to provide sufficient parking for tenants including inadequate angles for access. The proposal would increase accommodation without providing any added parking. - There is no parking available on the southern side of Lauderdale Avenue. This is where high density building exist in a small area. It is also effectively doubled by battle-axe lots. As a result, the parking shortage is severe. • <u>Increase in Density/FSR and lack of green areas</u> • <u>Foreshore area amenity</u> <ul style="list-style-type: none"> - The four storey gross bulk will detract aesthetically from Jilling Cove, Wellings Reserve and the Harbour scenic walkway, and the North harbour Recreational Park and beach area. There is no aesthetic sympathy to the sloped topography. • Failure of applicant to address and justify FSR under Clause 4.4 and 4.6. • The proposal is inconsistent with LEP Clause 4.3 for building height. • Inaccuracies in numerical information provided. • The development fails the clause 4.6 test under Blue Label Constructions Pty. Ltd. v Waverly Council [2017] NSWLEC 1059 at [93] to [94]. • The inconsistency with size, height and bulk controls and objectives mean that consent must not be granted under Clause 4.6. • | <p>total open space provided by the proposal.</p> <ul style="list-style-type: none"> • <u>Foreshore area amenity</u> • An assessment of the impact on the Foreshore Scenic protection has found the proposed development to be reasonable. • <u>Density/FSR and Green areas</u> • The applications to vary the development standards of Floor Space ratio and building height are supported under Clause 4.6 of the LEP. The reasons for this are outlined earlier in this report. • The inaccuracies in regards to measurement of non-compliance are not so substantial as to reasonably warrant refusal or resubmittal. • The development is considered to meet the clause 4.6 test under Blue Label Constructions Pty. Ltd. v Waverly Council [2017] NSWLEC 1059 at [93] to [94]. This is a result of the proposal not having any unreasonable impact on environmental amenity and sufficiently justifying the proposed variation of the standards under Clause 4.6. |
| <p>The following is the objection submitted by Michelle Montgomery to the Development Determination Panel on 8 September 2017.</p> | <ul style="list-style-type: none"> • The developer has not submitted sufficient Clause 4.6 applications. Council cannot fill in the blanks of a deficiently written Clause 4.6 application. • In the previous report, Council Officer wrongly addresses exceedances over existing use when the law strictly requires the applications and Council's consideration "for non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified." | <ul style="list-style-type: none"> • The Clause 4.6 applications submitted have been considered sufficient under the comments for the Manly LEP in this report. The report summarises the application submitted to vary the standard under (4) in each of the Clause 4.6 comments. • This consideration "for non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a |

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| | <ul style="list-style-type: none"> An illegal use has been identified by Council by considering that the site is a Residential Flat Building with 3 dwellings. All non-compliances have been identified as numerical. Council's inclusion of percentage increase over existing shows the officer considered irrelevant considerations. Referral that the proposal is in keeping with surroundings is selective in terms of reference to surrounding development. | <p>non-complying development is quantified," refers to the planning principle for Height, bulk and scale. Although considered, this principle was not referred to in this report or the previous report. As such, no "wrongly" addressed exceedance has been made.</p> <ul style="list-style-type: none"> A search of Council's records has found no existing use. Residential flat building are permissible with consent in the zone (R1- General Residential). The subject building meets the definition for a Residential Flat Building. As such, the report considers this as the existing use. Consideration of percentage increase of controls over existing is relevant to determine proposed impact as compared to the existing situation. The assessment took into consideration all relevant development including that within the identified streetscape and the Foreshore Scenic protection area. |
| 8. B, Neighbor. 5/78 lauderdale Avenue, Fairlight | <ul style="list-style-type: none"> Inconsistent with Clause 4.3 for Height under Manly LEP, being grossly above height limits. Inconsistent with Clause 4.4 for Floor space ratio under Manly LEP, being approximately double permitted ratio. Inconsistent with Clause 3.4.3 Maintenance of Views and Clause 4.1.2 Number of storeys under the Manly DCP. | <ul style="list-style-type: none"> An assessment of Building height and FSR under the Manly LEP including Clause 4.6 has found the proposed height to be reasonable. An assessment of the proposed number of storeys under the Manly DCP has found the proposal to be reasonable, despite the numerical non-compliance. An assessment of the proposal against the Clause for Maintenance of Views under the Manly DCP has found the proposal to be reasonable. |

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| 9. S and B Nisbett. | <ul style="list-style-type: none"> • Support of design intentions. • Objection to breach of height, floor space ratio and number of storeys. • Adverse impact to views and amenity. | <ul style="list-style-type: none"> • An assessment of Building height and FSR under the Manly LEP including Clause 4.6 has found the proposed height to be reasonable. • An assessment of the proposed number of storeys under the Manly DCP has found the proposal to be reasonable, despite the numerical non-compliance. • An assessment of the proposal against the Clause for Maintenance of Views under the Manly DCP has found the proposal to be reasonable. |
| 10 H and L Holmes, 1/84 Lauderdale Avenue, Fairlight. | <ul style="list-style-type: none"> • Proposed structure would be out of character. Surrounding developments are under 4 storeys. • Issues exist including proposal for four storeys and excessive floor space ratio. | <ul style="list-style-type: none"> • An assessment of the proposal in regards to the Streetscape and Foreshore Scenic Protection area has found the proposal to be reasonable. An assessment FSR under the Manly LEP including Clause 4.6 has found the proposed height to be reasonable. • An assessment of the proposed number of storeys under the Manly DCP has found the proposal to be reasonable, despite the numerical non-compliance. |
| 11. P. Rochester, 6/76 Lauderdale Avenue, Fairlight. | <ul style="list-style-type: none"> • If development approval is granted, precedent will be set for height. • Inconsistent with height provisions • Inconsistent with provisions for views. • Inconsistent with provision for number of storeys. | <ul style="list-style-type: none"> • An assessment of Building height under the Manly LEP including Clause 4.6 has found the proposed height to be reasonable. • An assessment of the proposed number of storeys under the Manly DCP has found the proposal to be reasonable, despite the numerical non-compliance. • An assessment of the proposal against the Clause for Maintenance of Views under the Manly DCP has found the proposal to be reasonable. |

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| 12. Confidential. | <ul style="list-style-type: none"> • The proposal does not comply with height of buildings. • The proposal does not comply with Number of Storeys. Not in the public interest because of this. • The proposal does not comply with Floor Space Ratio. Not in the public interest because of this. • Does not comply with Residential Density control. | <ul style="list-style-type: none"> • An assessment of Building height and FSR under the Manly LEP including Clause 4.6 has found the proposed height to be reasonable. • An assessment of the proposed number of storeys under the Manly DCP has found the proposal to be reasonable, despite the numerical non-compliance. • The proposal reduces dwelling density and in this circumstance this is considered a reasonable outcome. |
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- (4A) *As a consequence of its review, the council may confirm or change the determination.*
- (5) *(Repealed)*
- (6) *If the council reviews the determination, the review must be made by:*
- (a) *if the determination was made by a delegate of the council—the council or another delegate of the council who is not subordinate to the delegate who made the determination, or*

Comment: The applicant has lodged an application that has delegations to be referred to Development Determination Panel. The delegate will not be subordinate to the delegate who made the determination.

- (b) *if the determination was made by the council—the council.*
- (7)–(9) *(Repealed)*
- (10) *If on a review the council grants development consent, or varies the conditions of a development consent, the council is entitled, with the consent of the applicant and without prejudice to costs, to have an appeal made under section 97 in respect of its determination withdrawn at any time prior to the determination of that appeal.*
- (11) *(Repealed)*
- (12) *This section does not apply where a regional panel or a local planning panel exercises a council's functions as the consent authority.*

Description of proposed development

The existing building fits the definition of a Residential flat building under the Manly LEP, 2013 as there are three separate levels and each are capable of being occupied or used as a separate domicile. The top level does not have access at ground level and as so does not meet the definition for multi-dwelling housing which requires access for each dwelling at ground level. The proposal is for alterations and additions which provides an extra floor but a reduction in the "suite of rooms" capable of being occupied as a separate domicile, from three to two dwellings. This results in the proposed development fitting the definition for "dual occupancy" under the Manly LEP, 2013.

The proposed dual occupancy involves the addition of a floor and addition of stairs to provide two 2 storey dwellings. It is also proposed that the dwellings be strata subdivided. The proposal provides a new double carport at first floor level and alterations at the existing garage ground floor level to provide two car parking spaces. A summary of the additions for each dwelling and externally follows:

Unit 1 (bottom two floors)

- 4 bedrooms
- Ensuite
- Bathroom
- Laundry
- Study
- Dining area
- 2 living areas
- Staircase
- Toilet
- Courtyard

Unit 2 (top two floors)

- 3 bedrooms
- Living
- Dining
- Kitchen
- Laundry
- Study with ensuite
- Bathroom
- Balcony at lower level
- Deck at upper level

External

- Bin storage area
- Paving surrounding garage
- Planter boxes
- Double carport
- Front fence
- Strata subdivision.

Internal Referrals

The proposed development is for the same works as were proposed under DA326/2016. As such, the comments made and conditions recommended for this application by the referral bodies have been applied to this report.

However, the original application was not originally referred to Coastal Management officer. As a result, conditions have been imposed as recommended by the Coastal Management officer for this review (in addition to conditions originally recommended by referral bodies).

Engineering Comments

Council's Engineer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Building Comments

Council's Building Surveyor offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Landscaping Comments

The Council's Landscape Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Waste Comments

Council's Waste Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Traffic Comments

Council's Traffic Engineer provided the following comment on the proposal:

"I note that Lauderdale Ave has no parking permitted on the development's side of the road as such constructing the development will be problematic. Any Work Zone or Stand Plant applications would need to be supported by a Construction Traffic Management Plan and would require temporary relocation of Bus Stop.

The only concern I have in regard the additional information provided by the applicant in response to the concerns raised by No. 79B is with regard to the width of the proposed steps which at a minimum of 730mm will be very narrow. The available width of the steps is however constrained by the width of driveway adjacent which appears to be less than 3.0m in width. Additional details should therefore be provided.

I'd suggest that the following special conditions be added to any approval

- 1. That a Construction traffic management plan (CTMP) be submitted for approval prior to release of construction certificate outlining a) how the development will be constructed, b) what truck movements are anticipated to and from the site and at what stage of the project and c) outlining any traffic control measures that will be required to facilitate construction noting that No Parking and Bus Zone restrictions currently exist in the vicinity on the frontage of the site. The CTMP to also outline how pedestrian and vehicular access will be maintained to 79b Lauderdale Avenue throughout all stages of the project and to clearly outline any points within the construction schedule when vehicular access will be impacted. The CTMP to be prepared in liaison with the owners of 79b Lauderdale Avenue and submitted for approval prior to commencement.*
- 2. That additional plans be prepared and submitted for approval prior to construction of the driveway showing how the sandstone steps adjacent to the driveway will be reconstructed and indicating the proposed width of the steps and the remaining width of driveway adjacent to those steps. The new steps and any related driveway adjustments to be completed at the applicant's cost*
- 3. That any adjustment to the steps or the common driveway serving 79a and 79b Lauderdale Avenue required as a result of this development be completed at full cost to the applicant."*

Assessing officer comment

Suitable conditions have been imposed.

Driveway Comments

Council's Driveway Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

79C(1)(a)(iia)- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
No planning agreement has been entered into in relation to the proposed development.

79C(1)(a) (iv) - the regulations

The proposed development has been assessed having regard to the Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 (Amendment 8) and is considered to be satisfactory.

79C(1)(a)(v) - any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

There is no Coastal Zone Management Plan applicable for the Manly area.

79C(1) (b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposed development as modified by the conditions of consent is not considered to have any detrimental impact on the natural and built environments and is accordingly recommended for approval.

79C(1) (c) - the suitability of the site for the development,

The proposed development as modified by the conditions of consent is considered to be suitable for the site.

79C(1) (e) - the public interest.

The proposed development as modified by the conditions of consent is not considered to have an adverse impact on the public interest.

S94 Contribution towards provision or improvement of amenities or services

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- (1) *If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- (a) *the dedication of land free of cost, or*
 - (b) *the payment of a monetary contribution,*
- or both.*
- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

Comments:

In this case, the proposal is for a reduction in dwelling density. As a result there will be no additional dwellings and contributions are not applicable.

CONCLUSION:

The application has been assessed having regard to Section 82A and 79C of the Environmental Planning and Assessment Act 1979, Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 and is considered to be satisfactory for **approval**, subject to conditions.

RECOMMENDATION

In consideration of the written request made by the applicant pursuant to Clause 4.6 of the Manly Local Environmental Plan 2013, the consent authority is satisfied that compliance with the development standard contained in Clause 4.1 (Minimum Subdivision Lot Size), Clause 4.3 (Height of Buildings) and Clause 4.4 (Floor Space Ratio) and of the Manly Local Environmental Plan 2013 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify contravening the development standard.

That Section 82 to review DA326/2016 for Alterations and additions to the existing building and use as a dual occupancy (attached) and strata subdivision at 79A Lauderdale Avenue be **approved** subject to the following conditions:-

General Conditions

1. The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and reference documentation;

Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 326/2016:

| Plan No. / Title | Issue/ Revision & Date | Prepared by |
|-------------------------------------------------|-----------------------------------|-----------------|
| DA11-Site Plan | Issue D- 24/10/2017 | MM&J Architects |
| DA14- Lower Ground Floor Plan | Issue D- 24/10/2017 | MM&J Architects |
| DA15- Ground Floor Plan | Issue D- 24/10/2017 | MM&J Architects |
| DA16- First Floor Plan | Issue D- 24/10/2017 | MM&J Architects |
| DA17- Second Floor Plan | Issue D- 24/10/2017 | MM&J Architects |
| DA18- Carport Ground Floor | Issue D- 24/10/2017 | MM&J Architects |
| DA19- Carport First Floor | Issue D- 24/10/2017 | MM&J Architects |
| DA20- Sections 1 & 2 | Issue D- 24/10/2017 | MM&J Architects |
| DA21- Sections 3 & 4 | Issue D- 24/10/2017 | MM&J Architects |
| DA22- Section 5 | Issue D- 24/10/2017 | MM&J Architects |
| DA23- Section 6 | Issue D- 24/10/2017 | MM&J Architects |
| DA24- Sections 7 & 8 | Issue D- 24/10/2017 | MM&J Architects |
| DA25- North Elevation | Issue D- 24/10/2017 | MM&J Architects |
| DA26- South Elevation | Issue D- 24/10/2017 | MM&J Architects |
| DA27- East Elevation | Issue D- 24/10/2017 | MM&J Architects |
| DA28- West Elevation | Issue D- 24/10/2017 | MM&J Architects |
| DA29- Front Fence Detail | Issue D- 24/10/2017 | MM&J Architects |
| Strata Plan Lower Ground Floor and Ground Floor | Surveyor Reference:13630Astrata 1 | MM&J Architects |
| Strata Plan First Floor and Second Floor | Surveyor Reference:13630Astrata 1 | MM&J Architects |
| Lower ground floor landscape plan | 06/09/2016 | Terraneo |
| Ground floor landscape plan | 06/09/2016 | Terraneo |
| First floor landscape plan | 06/09/2016 | Terraneo |
| Second floor landscape plan | 06/09/2016 | Terraneo |

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

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 (DACPLB09)

GENERAL CONDITIONS RELATING TO APPROVAL**ANS01**

Prior to the issue of the Subdivision Certificate, a completed Subdivision Certificate form, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 are to be submitted to Council. Five copies of the final plan of subdivision are to be submitted (one original and four copies).

Reason: Statutory requirement of the Conveyancing Act 1919.

1A (1AP04)

Alteration and demolition of the existing building is limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is not shown to be altered or demolished.

Reason: To ensure compliance with the approved development.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**ANS02**

A Construction traffic management plan (CTMP) is to be submitted for approval prior to release of construction certificate outlining the following:

- a) how the development will be constructed,
- b) what truck movements are anticipated to and from the site and at what stage of the project,
- c) any traffic control measures that will be required to facilitate construction noting that No Parking and Bus Zone restrictions currently exist in the vicinity on the frontage of the site.

The CTMP is also to outline how pedestrian and vehicular access will be maintained to 79b Lauderdale Avenue throughout all stages of the project and to clearly outline any points within the construction schedule when vehicular access will be impacted. The CTMP to be prepared in liaison with the owners of 79B Lauderdale Avenue and submitted for approval prior to commencement.

Reason: To ensure appropriate management of traffic during construction.

ANS03

That additional plans be prepared and submitted for approval prior to construction of the driveway showing how the sandstone steps adjacent to the driveway will be reconstructed and indicating the proposed width of the steps and the remaining width of driveway adjacent to those steps. The new steps and any related driveway adjustments to be completed at the applicant's cost. Any adjustment to the steps or the common driveway serving 79a and 79b Lauderdale Avenue required as a result of this development be completed at full cost to the applicant.

Reason: To ensure the stairs are adequately maintained.

2A (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

3 (2CD04)

Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings and specifications certifying the shoring will be adequate for their intended purpose and must be submitted to the Council/Accredited Certifier for approval with the Construction Certificate. The documentation prepared and certified by an appropriately qualified and practicing structural engineer is to show all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements. A copy of this documentation must be provided to the Council for record purposes at the time of Construction Certificate application.

Reason: To ensure the protection of existing public infrastructure and adjoining properties.

4 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

5 (2CD07)

A Certificate of Adequacy signed by a practising structural engineer stating the existing structure is capable of supporting the proposed additions, is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: The existing building must be able to support proposed additional loading.

6 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council prior to issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

7 (2DS02)

A Stormwater Management Plan (SWMP) in line with Council's stormwater management guidelines and signed off by a practising Chartered Professional Engineer on the National Professional Engineer's Register (NPER) at Engineers Australia is to be submitted to the Council/Accredited Certifier, prior to issue of the Construction Certificate. The SWMP is to include but is not limited to the following:

- Increase in the impervious area (m²)
- Impervious percentage (%) post development
- Demonstration of no-adverse flooding issues to the downstream and upstream properties
- Peak flow rate to street drainage system in a 1:100 Average Recurrence Interval (ARI) flood event
- Connection details and location of the outlet drainage pipe, if applicable.
- If it is an absorption trench zone (Zone 2 as per Storm Water Management guidelines), then the detail calculations along with the soil report to be submitted for review by demonstrating no-adverse drainage issues due to this development.

- Details of the Chartered Engineer including full name, signature and registration number is required.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

8 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the Local Government Act 1993. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

9 (2FR01)

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) which should be implemented in the building premises must be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

Reason: Compliance with the Environmental Planning and Assessment Act 1979.

10 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

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

11 (2PT01)

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

12 (2PT02)

All driveways, car parking areas and pedestrian paths are to be suitably surfaced. Details of the treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

13 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

14 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

15 (3PT01)

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

16 (3PT02)

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

ANS04

During construction, all material associated with works is to be contained at source and within the construction area and covered while not in use. All material is to be removed off site and disposed of according to local regulations.

Reason: To mitigate against any potential damage to and pollution entering waters within Middle Harbour.

ANS05

During construction, the property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters the harbour.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within Middle Harbour throughout the construction period.

ANS05

Any excess materials such as cleaning paintbrushes and lacquers and any water from tool cleaning must not enter the waterway.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within Middle Harbour throughout the construction period.

17 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

18 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

19 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

20 (4CD05)

Retaining walls being constructed in conjunction with excavations must be in accordance with structural engineer's details. Certification by a suitably qualified structural engineer that the constructed works comply with the structural detail must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure the structural adequacy of the retaining walls.

21 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Work Health and Safety Act 2011.
- The Work Health and Safety Regulation 2011.
- How to Safely Remove Asbestos Code of Practice – WorkCover 2011.

The owner or occupier of the premises must consult an appropriately qualified and Australian Institute of Occupational Hygienists registered professional to undertake an assessment of the site to determine the potential for contamination. The owner or occupier must develop a management plan and be issued with Clearance Certificate before the commencement of any work.

Reason: To ensure the health of site workers and the public.

22 (4LD03)

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited. It is noted that this consent does not give approval for the removal of any trees, except that would be otherwise exempt for removal.

Reason: To prohibit the unnecessary damage or removal of trees without permission from Council during any construction.

23 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

24 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be revegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

25 (4MS04)

An approved Erosion and Sediment Management plan is to be implemented from the commencement of works and maintained until completion of the development.

The design and controls addressed in the Sediment and erosion management plan must comply with the criteria identified in:

- Manly Development Control Plan 2013, Amendment 2, and
- Manly Councils Guidelines for Sediment and Erosion Controls on building sites, 2005, and
- The document "Managing Urban Stormwater: Soils and Construction" Volume 1, 2004.

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

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

26 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

27 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

