

# Statement of Environmental Effects

## Application for Alterations and Additions to Existing Miramare Gardens Event Centre

UNDER THE  
*ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979*  
(AS AMENDED) AND REGULATIONS 2000



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**Property:**                      **No 48 Myoora Road, Terrey Hills**  
   **Lot 128 DP 752015**

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## 1. Introduction

This Statement of Environmental Effects has been prepared by Tomasy Pty. Ltd. on behalf of the project architects Squillace Architects. The Statement is to accompany a Development Application, which proposes alterations and additions to the existing Miramare Gardens Event Centre at 48 Myoora Road, Terrey Hills.

In preparing this document, consideration has been given to the following:

- *Environmental Planning and Assessment Act 1979 (EP&A Act) (as amended);*
- *Environmental Planning and Assessment Regulation 2000) (as amended);*
- State Environmental Planning Policies;
- Warringah Local Environmental Plan 2011;
- Warringah Development Control Plan;
- Development Consent 2003/0670 (as modified);
- Development Consent 2008/1356 (as modified).

The Statement of Environmental Effects describes the proposed development having regard to the provisions of Section 4.15 of the EP&A Act and examines any potential environmental impacts with regard to the relevant sections of the Act, State policies and relevant requirements of Council's DCP.

The conclusions of the Statement are that the proposed development is permissible with development consent and is consistent with the relevant provisions of relevant planning Warringah Local Environmental Plan 2011 and the Warringah Development Control Plan.

Accordingly, the Development Application succeeds on its merits and should be approved by Council, subject to conditions as may be deemed appropriate.

## 2. Background

Listed below is a brief summary of the history of development that has taken place on the subject site since early 2004:

**1 March 2004:** Warringah Council grants Development Consent No 2003/0670 DA for the purpose of an “education and events centre incorporating events rooms, class/ training rooms, kitchen, associated car parking areas and site landscaping works”.

**11 October 2004: *Modification No 1.*** This modification related to a variation of basement car park location, minor adjustment of access driveways and loading dock.

**31 January 2006: *Modification No 2 approved by Council.*** Modification 2 highlighted changes identified in plans numbered Drawing No 01, Revision C, undated; Drawing No WE-01, Amend. No D dated 21/2/05; Drawing No WE-02, Amend No D, dated 21/02/05; Drawing No WE-03, Amend. No D, dated 21/02/05; Drawing No WE-04, Amend No A, dated 21/02/05.

**22 June 2006: *Modification No 3 approved:*** Modification 3 highlighted changes identified in plans numbered 01 Rev C, 02 Rev E, 08 Rev E, 09 Rev J, 10 Rev H, 11 Rev A, 12 Rev P, 13 Rev A, dated 8 December 2005 (c1).

At the time of granting Modification No 3, Council issued a consolidated set of conditions in respect of DA No 2003/0670 as Modified.

**15 November 2006: *An Application for Modification No 4*** was submitted to Warringah Council. This application related to signage on Mona Vale Road and Myoora Road, as well as access from Mona Vale Road for the purpose of allowing EnergyAustralia to service its substation within the subject site. The Application for Modification No 4 was approved by Council on 17 May 2007.

**May 2007: *Modification No 5*** – was lodged with Council requesting that the screening around the exhaust systems on the front elevation be deleted and the exhaust system be painted the same (or similar) colour as the façade/parapet. This modification was approved by Council on 16 July 2007.

**27 July 2007: *Final Occupation Certificate No 2005/485*** was approved by private certifier Bruce Gaal.

**September 2008: *Development Application*** lodged for a demolition of two existing dwellings and the erection of a motel and associated facilities.

**23 December 2008: *The Development Application 2008/1356*** was refused by Council on a number of grounds.

**November 2009 an Appeal** was lodged with the Land & Environment Court of NSW in respect of Council's decision to refuse DA 2008/1356 for the proposed motel (Short term accommodation and associated facilities).

**19 March 2010 the Appeal was upheld** and the Development Application DA/2008/1356 for the demolition of two (2) dwellings and construction of a motel at

48 Myoora Road, Terrey Hills, was approved subject to the general conditions of consent.

**4 July 2012:** Council issued approval to the Application for Modification to enable compliance with Condition 6 of the approval granted by the NSW Land and Environment Court.

**2012 – 2013:** PCA2012/0684 Construction Certificate issued for demolition of two dwellings and construction of motel.

**1 September 2014:** application for signage approved (DA 2014/0687) in association with the approved events centre and motel.

**13 January 2015:** Council issued approval for the construction of retaining wall, fence and associated earthworks.

### 3. Site Profile

The subject property is described as No 48 Myoora Road, being Lot 128 DP 752017, and is known as Miramare Gardens Events Centre. ***Please refer to Locality Plan below.***

The subject site has a frontage of 60m to Mona Vale Road and 60m to Myoora Road. Access to the development is from Myoora Road.

On the subject land is erected two substantial buildings, one comprising an education and events centre incorporating event rooms, class/training rooms, kitchen, and associated carparking, and the other containing a motel. The site has extensive landscaping. The complex known as Miramare Gardens has developed a reputation for excellence in providing first-class facilities in the hospitality/conference industry.

On the land immediately east is the Hills Flower Market/Café and associated uses. This property has direct access from Mona Vale Road, together with access to Myoora Road. Also north-east of the subject property, along the Myoora Road frontage, is the Kuan Yin Buddhist Temple. On the land immediately south-west, with frontage to Myoora Road, is a Catholic Church. Directly opposite is a vacant parcel of land which has been approved as a Private Hospital and to the south of the vacant site is the German School.



Source: Six Maps 2019



Application for Alterations and Additions to Existing Miramare Gardens Event Centre  
48 Myoora Road, Terrey Hills



Source: Six Maps 2019

## 4. The Proposal

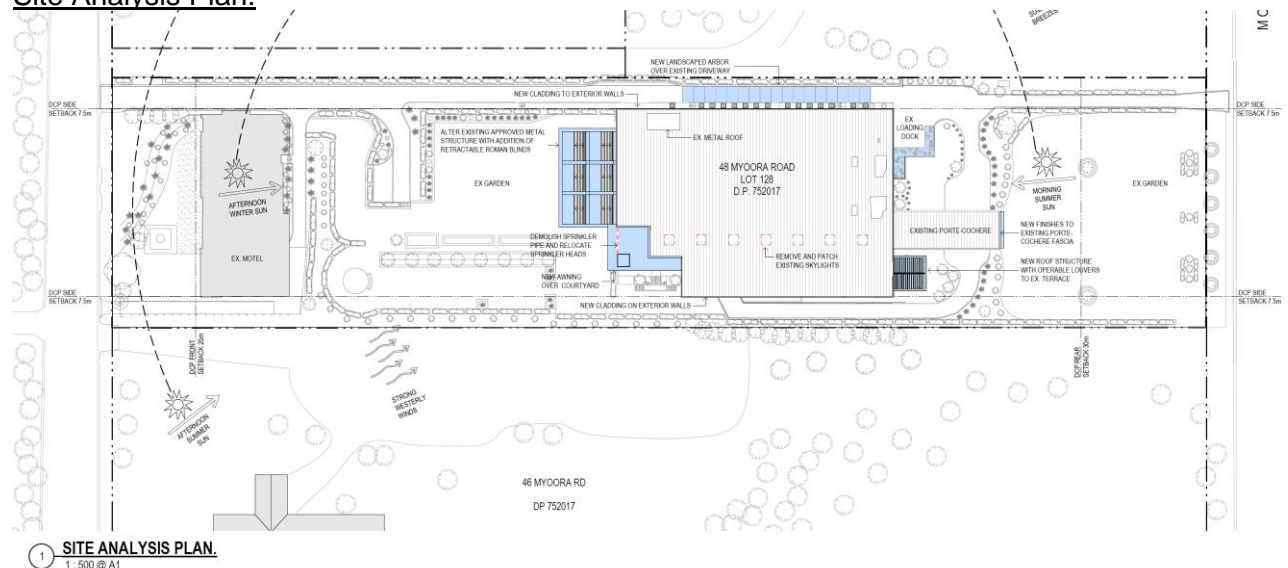
The proposal relates to alterations and additions to the existing Miramare Gardens Event Centre at 48 Myoora Road, Terrey Hills. It is important to note there is no increase to existing GFA with the works proposed relating to maintenance and the refurbishment of the existing building. The proposal also includes external works relating to an existing approved pergola structure and new landscaped arbor over existing driveway. The amendment includes the addition of roman blinds and new outdoor structures where the existing approved pergola structures are located.

The proposal should be read in conjunction with the following development application documentation:

Documentation	Author:
Statement of Environmental Effects	Tomasy Pty. Ltd.
Survey Plan	Benchmark Surveys NSW Pty Ltd
Architectural Plans	Squillace Architects
Landscape Plan	Paul Scrivener Landscape Architecture
Schedule of Materials and Finishes	Squillace Architects
Waste Management Plan	Squillace Architects
Erosion and Sediment Plan	Acor Consultants Pty Ltd
Stormwater Management Plan	Acor Consultants Pty Ltd
Bushfire Report	Building Code & Bushfire Hazard Solutions Pty Ltd
Fire Safety Schedule	Base Fire Protection
Section J Energy Efficiency Review	Peter O'Donnell & Associates Ptd Ltd

The architectural plans are shown below with a description for the proposed amendments:

### Site Analysis Plan:

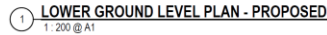


**Comment:** The Site Analysis Plan highlights the following external changes:

- Alter existing approved metal structure with addition of roman blinds



- ### Lower Ground Level Plan - Proposed:



- New full height glazed doors
- New pots for arbor climbing plants
- New landscaped arbor over existing driveway
- New planter box to loading area
- New glazing to lobby
- New courtyard extension
- Alter existing approved metal structure with addition of retractable roman blinds and tiles
- Existing rain water storage tank with new aluminium cladding over existing walls



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## 1:200 @ A1

## Com

- Remove and patch existing skylights

LEP MAX. BUILDING HEIGHT: 8.5m

EX. PORTE-COCHERE 9 2

NEW VERTICAL CABLES WITH CLIMBING VINES 2 4 6 1 2

EXIST.

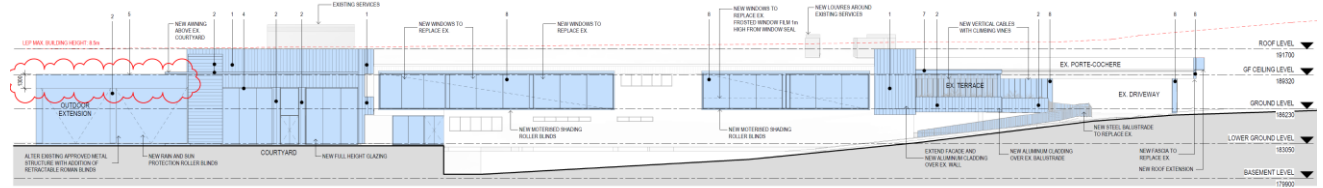
1:150 @A1

**Comments:** The N

## Com

- New vertical cables with climbing vines

### South West Elevation - Proposed:

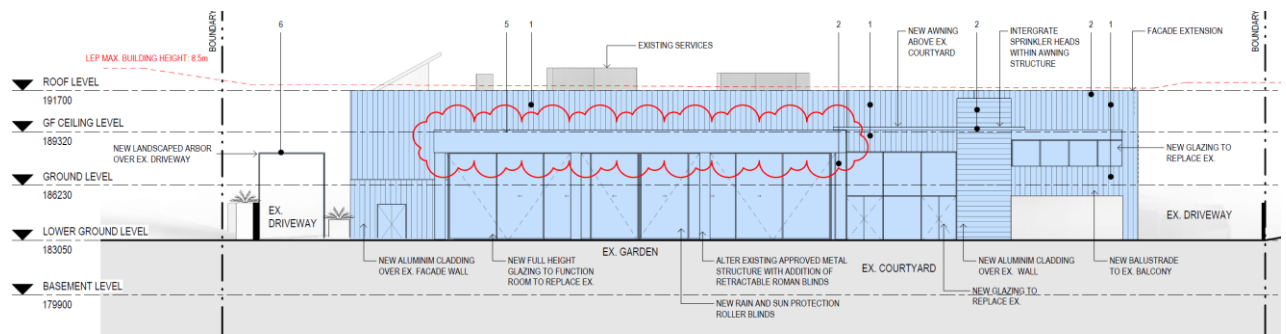


2 SOUTH WEST ELEVATION - PROPOSED  
1: 150 @ A1

**Comment:** The South West Elevation - Proposed highlights the following amendments:

- New awning above existing courtyard
- New blinds
- Alter existing approved metal structure with operable louvers
- New full height glazing
- New windows to replace existing with motorised operable roller blinds
- New windows to replace existing frosted window film 1m high from window seal
- New vertical cables with climbing vines
- Extend façade and new aluminium cladding over existing wall
- New steel balustrade to replace existing
- New aluminium fascia to replace existing with new steel reveal
- New rain and sun protection roller blinds

### North West Elevation - Proposed:

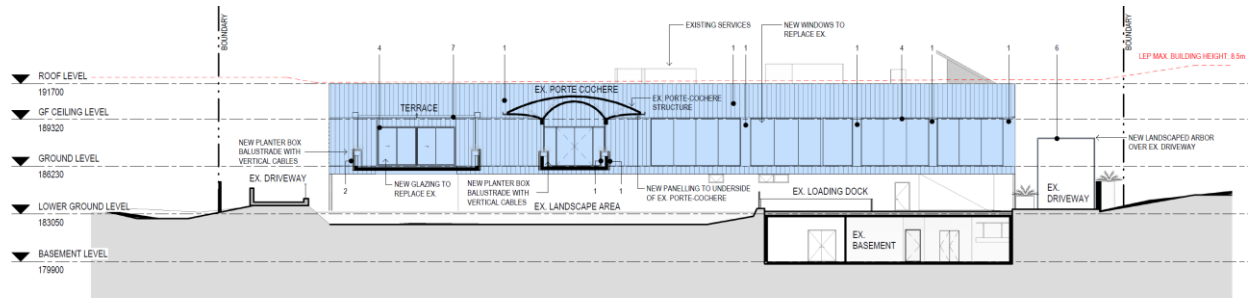


2 NORTH WEST ELEVATION PROPOSED  
1: 150 @ A1

**Comment:** The North West Elevation - Proposed highlights the following amendments:

- New aluminium cladding over existing façade wall
- New full height glazing to function room to replace existing
- Alter existing approved metal structure with addition of retractable roman blinds
- New glazing to replace existing
- New awning above existing courtyard
- Integrate sprinkler heads within awning structure
- Façade extension
- New balustrade to existing balcony
- New landscaped arbor over existing driveway
- New rain and sun protection blinds

### South East Elevation - Proposed:

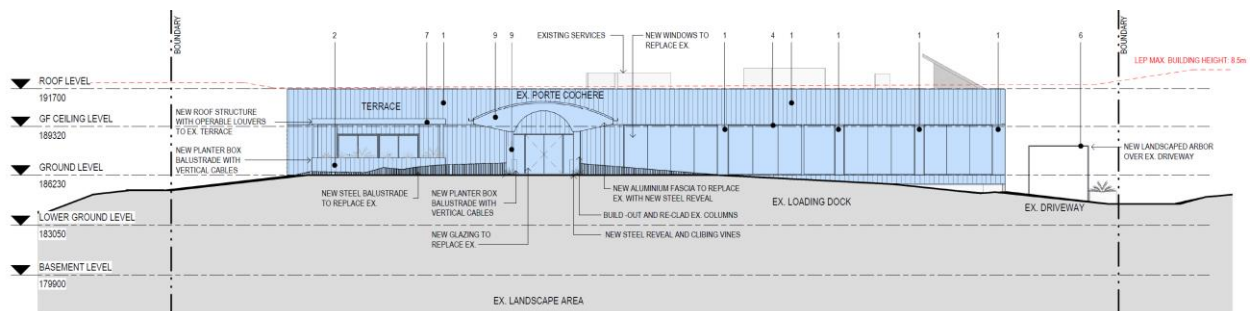


2 SOUTH EAST ELEVATION PROPOSED  
1:150 @ A1

**Comment:** The South East Elevation - Proposed highlights the following amendments:

- New planter box balustrade with vertical cables
- New glazing to replace existing
- New panelling to underside of existing porte-cochere
- New windows to replace existing
- New landscaped arbor over existing driveway

### South East Elevation Porte Choche - Proposed:



2 SOUTH EAST ELEVATION PORTE CHOCHÉ - PROPOSED  
1:150 @ A1

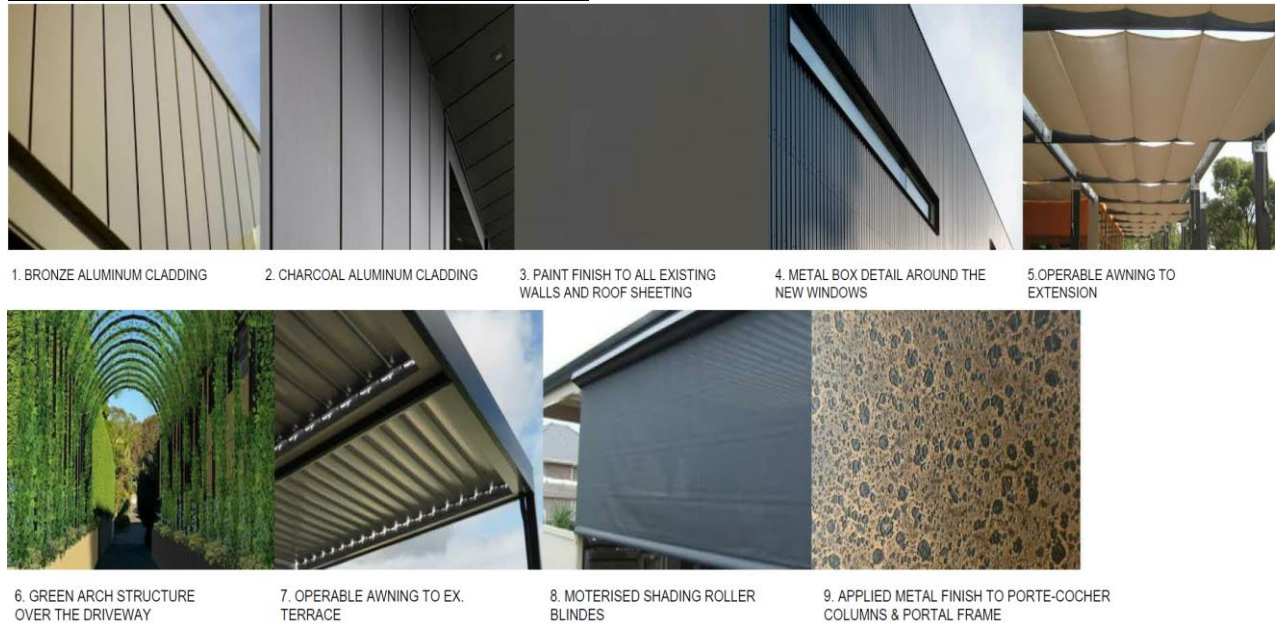
**Comment:** The South East Elevation Porte Choche - Proposed highlights the following amendments:

- New roof structure with operable louvers to existing terrace
- New planter box balustrade with vertical cables
- New steel balustrade to replace existing
- New glazing to replace existing
- New aluminium fascia to replace existing with new steel reveal
- Build-out and re-clad existing columns
- New windows to replace existing
- New steel reveal and climbing vines
- New landscaped arbor over existing driveway



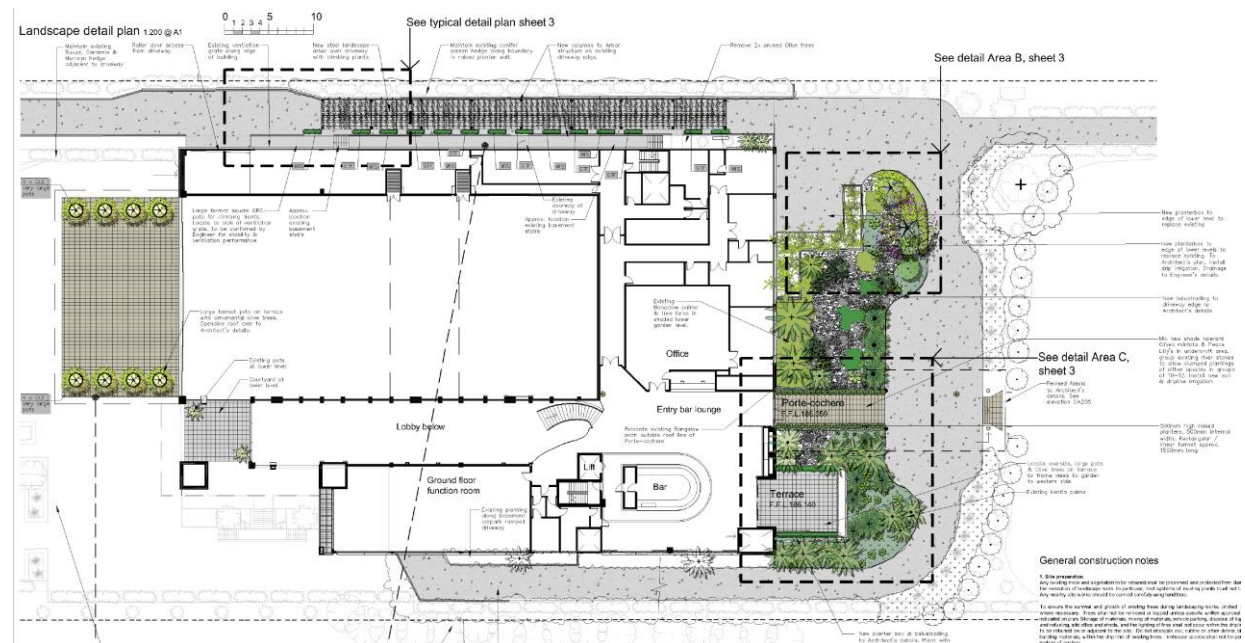
Application for Alterations and Additions to Existing Miramare Gardens Event Centre  
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Schedule of Finishes and Colours Proposed:



Landscape Plan:

The proposed landscaping amendments relate to the proposed additions of the landscaped arbor over the existing driveway and the addition of the roman blinds linking in with the main function room. The proposal also includes amendments to the south-eastern portion of the site relating to the front entrance and porte-cochere. The Landscape Plans were prepared by Paul Scrivener Landscape Architecture. Excerpts of the plans are shown below:





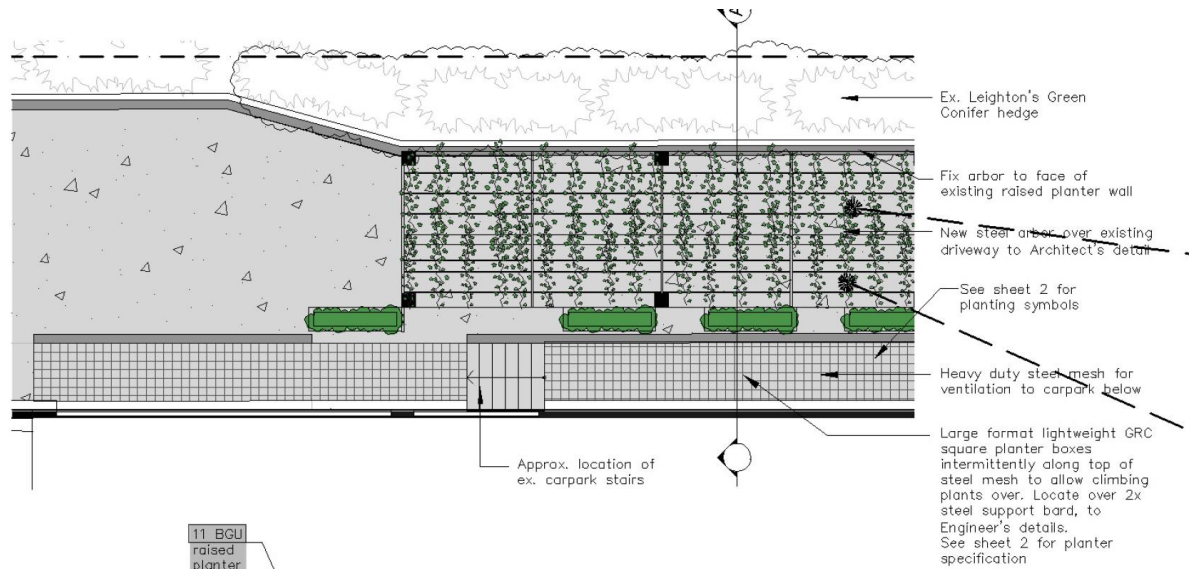
Application for Alterations and Additions to Existing Miramare Gardens Event Centre  
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## Planting schedule

Symbol	Botanical name	Common name	Cont. size	Staking	Mature height	No req.
<b>Trees</b>						
APA	Acer palmatum	Japanese Maple (small feature tree)	75Lt	nil	3-5.0M	0
PYR	Pyrus ussuriensis	Manchurian Pear (medium deciduous tree)	100Lt	2x50x50x1800	7-9.0M	0
<b>Shrubs / small feature trees</b>						
BMJ	Buxus microphylla 'Japonica'	Japanese Box Hedge (formal low hedging plant)	200mm	nil	0.4-1.2M	0
OLE	Olea Europa	European Olive (common olive fruit tree)	45Lt	in oversized pot	1.6-2.2M	0
WFG	Westringia fruticosa 'Grey Box'	Ozbreed Grey Box® (hardy low screen can be hedged)	200mm	hedged	0.4-0.7M	0
WFA	Westringia fruticosa 'Aussie Box'	Ozbreed Aussie Box® (hardy low plant. Can be hedged tightly)	200mm	hedged	0.75-0.9M	0
XJ	Xylosma serotinum (japonicum)	Glossy Xylosma (Screening plant)	300mm	nil	3-4.0M	0
<b>Ferns / Palms / Succulents / ornamental bamboos</b>						
ARC	Archontophoenix cunninghamiana	Bangalow Palm (Tropical style tall palm)	Semi adv.	wire guys	8-12M	0
BGU	Bambusa guangxiensis	Dwarf Chinese Bamboo (ornamental bamboo can be hedged)	200mm	nil	2-3.5M	0
CAA	Cyathea australis	Tree Fern (Native tree ferns)	300mm	nil	2-4.0M	0
LAV	Livistona australis	Cabbage Palm (tall indigenous palm)	semi adv.	wire guys	8-12.0M	0
RHA	Raphis excelsior	Lady Finger Palm	300mm	nil	2-2.5M	0
XM	Xanthorrhoea media	Grass Tree (striking ornamental Grass tree with tall spike)	300mm	nil	1.5-2.5M	0
<b>Groundcovers/Climbers</b>						
DSF	Dichondra 'Silver Falls'	Silver Falls (cascading groundcover in roof garden)	200mm	nil	0.15M	0
HIS	Hibbertia scandens	Guinea Flower (flowering climber / groundcover)	200mm	nil	0.3M	0
SDY	Strobilanthes dyerianus	Persian Shield (flowering border plant)	200mm	nil	0.5-0.8M	0
STF	Stephanotis floribunda	Madagascar Vine (flowering fragrant climbing plant)	300mm	over pergola	5-6.0M	0
TJA	Trachelospermum asiaticum	Flatmat Star Jasmine (Prostrate cascading flowering climber)	200mm	nil	0.2M	0
WIS	Wisteria sinensis	Chinese Wisteria (deciduous climber over pergola)	300mm	over pergola	5-6.0M	0
<b>Ornamental grasses/strappy leaved plants</b>						
CM	Clivia miniata	Kaffir Lily (shade tolerant groundcover)	200mm	nil	0.5M	0
DIA	Dianella 'Cassa Blue'	Hybrid Flax Lily (native grass like plant)	100mm	nil	0.4M	0
DIG	Dietes grandiflora	Wild Iris (low vertical hardy wild iris)	150mm	nil	0.7-0.9M	0
EQT	Equisetum hyemale Bog Plant	Horsetail Rush (Fine vertical narrow ornamental rushes)	150mm	nil	0.6-1.0M	0
ISN	Isolepis (Finicia) nodosa	Knobby Club Rush (native ornamental grass)	150mm	nil	0.6M	0
UM	Liriope Evergreen Giant	Turf Lily (shade tolerant groundcover)	150mm	nil	0.4M	0

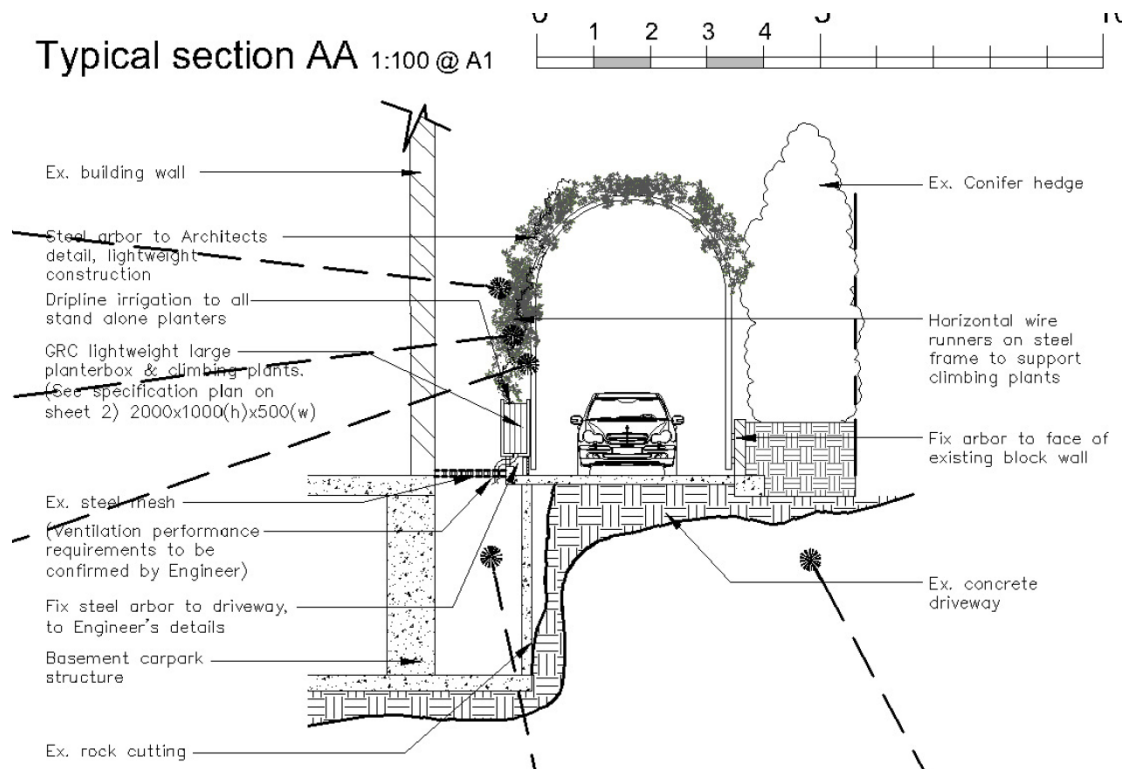
Planting schedule species to be sourced from local nurseries supplying plants of local provenance wherever possible. Landscape contractor is to check plant numbers on plan against the schedule prior to submitting tender price. Contact landscape architect if any number discrepancies are found. Council compliance controls require that any substitution of species variety or container size MUST be confirmed with landscape architect to ensure a compliance certificate can be issued that meets the specific development consent conditions of the project.

## Area A + Typical Section AA:

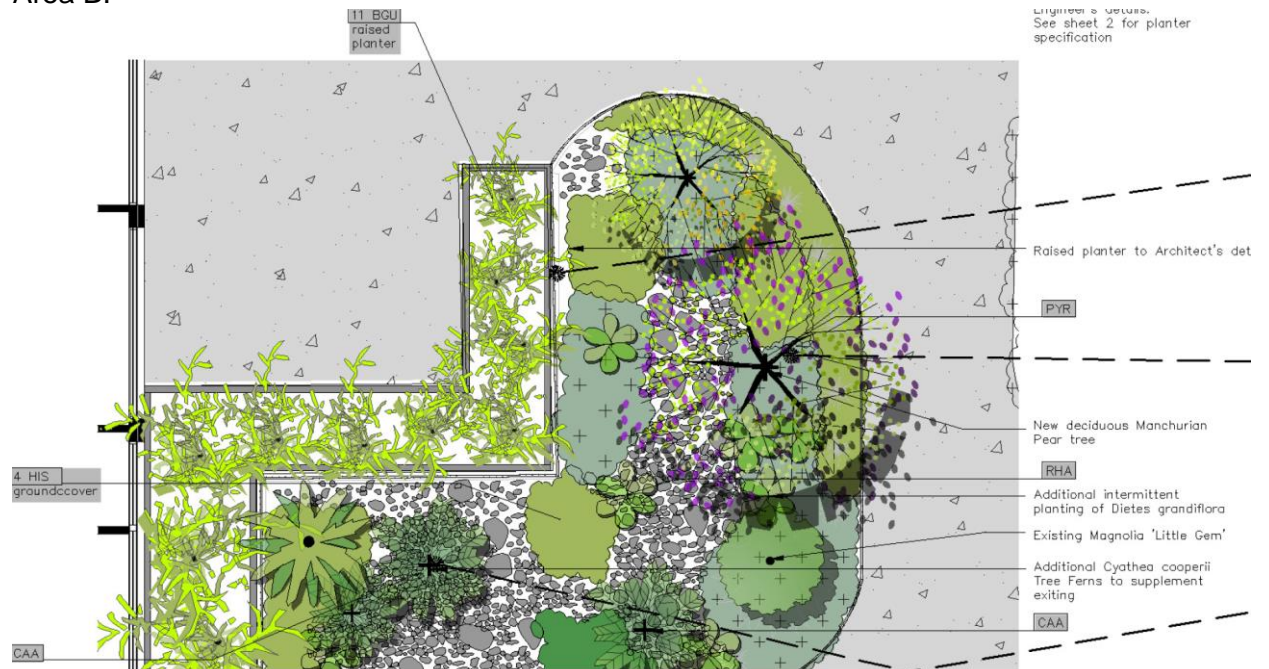


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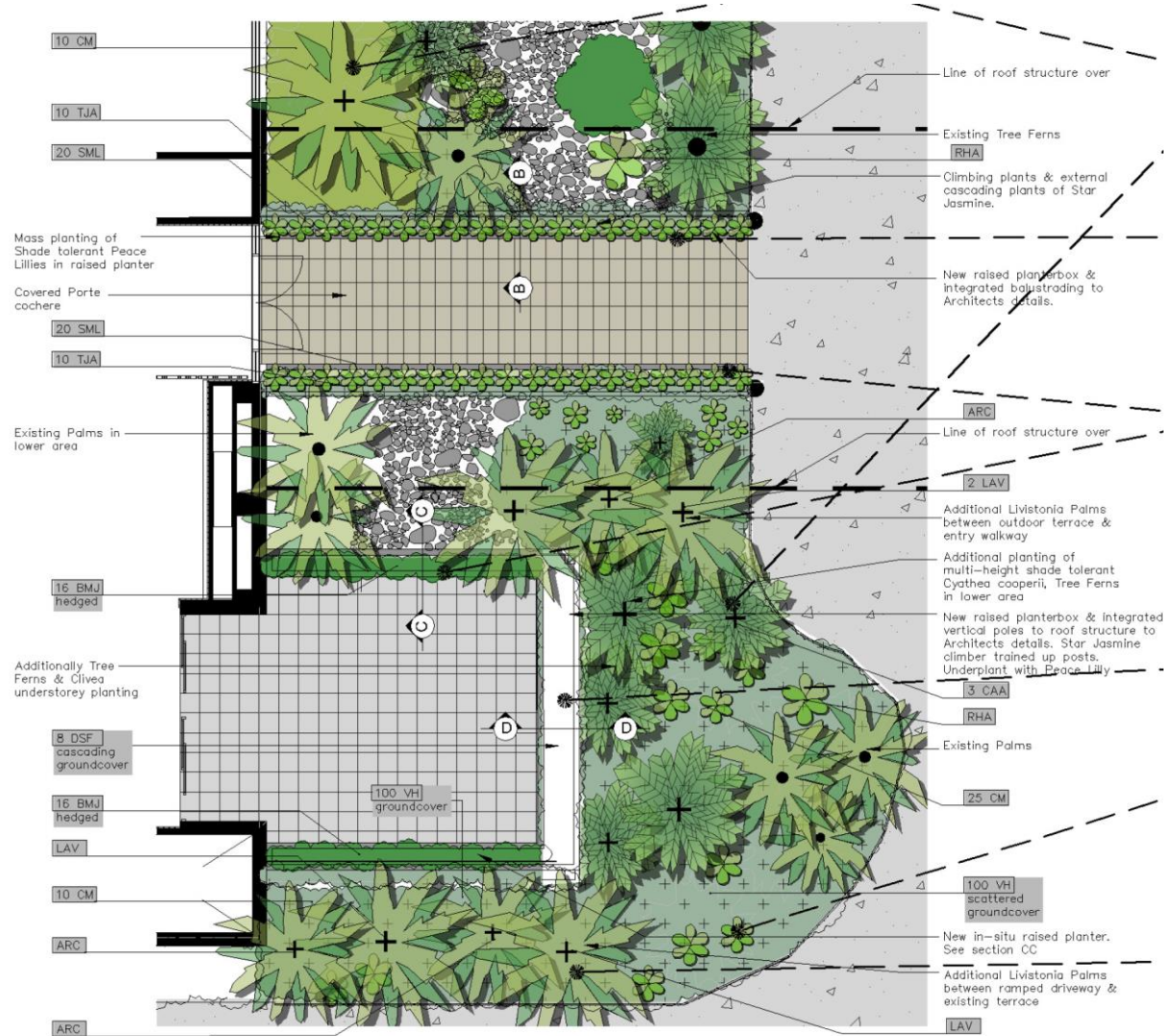
Typical section AA 1:100 @ A1



Area B:



Area C:





## 5. Statutory Planning Controls

The relevant statutory controls that are applicable to the proposed development are as follows:

- *Environmental Planning and Assessment Act 1979*;
- *Environmental Planning and Assessment Regulation 2000*;
- State Environmental Planning Policies;
- Warringah Local Environmental Plan 2011;
- Warringah Development Control Plan.

### 5.1 Environmental Planning and Assessment Act 1979, No. 203 and Environmental Planning and Assessment Regulation 2000

#### ***Environmental Planning and Assessment Act 1979, No. 203***

In accordance with Clause 4.65 of the “Environmental Planning and Assessment Act, 1979” – ‘existing use’ is *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use and the use of a building, work or land for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use.*

**Comment:** The subject site is located within an RU4 Primary Production Small Lots Zone and Function Centres (Events Centres) are a prohibited form of land use within the zone under the Warringah Local Environmental Plan 2011. The use was granted consent on 1 March 2004 by Warringah Council under D/2003/0670 for the purpose of an “education and events centre incorporating events rooms, class/ training rooms, kitchen, associated car parking areas and site landscaping works”. The use has been operating on a continual basis since the occupation certificate was granted for the site and therefore complies as an existing use.

#### **4.66 Continuation of and limitations on existing use** (cf previous s 107)

(1) *Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.*

(2) *Nothing in subsection (1) authorises:*

- (a) *any alteration or extension to or rebuilding of a building or work, or*
- (b) *any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
- (c) *without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or*
- (d) *the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 4.17 (1) (b), or*
- (e) *the continuance of the use therein mentioned where that use is abandoned.*

*(3) Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.*

**Comment:** As per Clause 4.66 above, a use is presumed to have been abandoned if the use ceases for a continuous period of 12 months, unless the contrary is established. In the circumstances of the subject application and the existing development on the subject site, the use for the purpose of an “education and events centre incorporating events rooms, class/ training rooms, kitchen, associated car parking areas and site landscaping works” has not been abandoned and has been continually operated since occupation was granted. Adequate evidence can be provided if required to demonstrate that the existing use has neither been extinguished nor abandoned.

**4.67 Regulations respecting existing use** *(cf previous s 108)*

*(1) The regulations may make provision for or with respect to existing use and, in particular, for or with respect to:*

- (a) the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and*
- (b) the change of an existing use to another use, and*
- (c) the enlargement or expansion or intensification of an existing use.*
- (d) (Repealed)*

*(2) The provisions (in this section referred to as **the incorporated provisions**) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.*

*(3) An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.*

*(4) Any right or authority granted by the incorporated provisions or any provisions of an environmental planning instrument extending, expanding or supplementing the incorporated provisions do not apply to or in respect of an existing use which commenced pursuant to a consent of the Minister under section 4.33 to a development application for consent to carry out prohibited development.*

**Comment:** The proposal the subject of this application falls under Clause 4.67 (1) (a) which relates to alterations or extensions to the existing building. It is important to note there is no increase to existing GFA with the works proposed relating to maintenance and refurbishment of the existing building. The proposal also includes external works relating to an existing approved pergola structure. The proposal includes the addition of roman blinds and new outdoor structures where the existing approved pergola structures are located.

## ***Environmental Planning and Assessment Regulation 2000***

### **41 Certain development allowed** (cf clause 39 of EP&A Regulation 1994)

(1) *An existing use may, subject to this Division:*

- (a) *be enlarged, expanded or intensified, or*
- (b) *be altered or extended, or*
- (c) *be rebuilt, or*
- (d) *be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or*
- (e) *if it is a commercial use—be changed to another commercial use (including a commercial use that would otherwise be prohibited under the Act), or*
- (f) *if it is a light industrial use—be changed to another light industrial use or a commercial use (including a light industrial use or commercial use that would otherwise be prohibited under the Act).*

(2) *However, an existing use must not be changed under subclause (1) (e) or (f) unless that change:*

- (a) *involves only alterations or additions that are minor in nature, and*
- (b) *does not involve an increase of more than 10% in the floor space of the premises associated with the existing use, and*
- (c) *does not involve the rebuilding of the premises associated with the existing use, and*
- (d) *does not involve a significant intensification of that existing use.*
- (e) *(Repealed)*

(3) *In this clause:*

**commercial use** *means the use of a building, work or land for the purpose of office premises, business premises or retail premises (as those terms are defined in the Standard Instrument).*

**light industrial use** *means the use of a building, work or land for the purpose of light industry (within the meaning of the standard instrument set out in the [Standard Instrument \(Local Environmental Plans\) Order 2006](#)).*

**Comment:** As per Clause 41 of the EPA Regulations 2000, an existing use may be enlarged, expanded, intensified, altered, extended or rebuilt. The proposal the subject of this application purely relates to general maintenance and minor alterations and additions which do not change the approved GFA of the development. The proposal is for cosmetic changes and maintenance to the existing building along with external changes to the existing approved pergola structures. The proposal complies with the parameters set out under Clause 41 of the EPA Regulations 2000.

### **43 Development consent required for alteration or extension of buildings and works** (cf clause 41 of EP&A Regulation 1994)

(1) *Development consent is required for any alteration or extension of a building or work used for an existing use.*

(2) *The alteration or extension:*



- (a) must be for the existing use of the building or work and for no other use, and*
- (b) must be erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.*

**Comment:** The subject application is required to be submitted for approval by the consent authority and relates to the existing use only as approved on 1 March 2004 by Warringah Council under D/2003/0670 for the purpose of an “education and events centre incorporating events rooms, class/ training rooms, kitchen, associated car parking areas and site landscaping works”.

## **5.2 State Environmental Planning Policies**

### **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

SEPP Building Sustainability Index (BASIX) 2004 is not applicable to the proposal.

### **State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No.55)**

SEPP No. 55 is applicable to all land within NSW and aims to promote the remediation of contaminated land and to reduce risk of harm to human health and environment. Clause 7 of the SEPP provisions prescribe that the consent authority must have consideration as to whether the land is contaminated; if the land is contaminated, it is satisfied that the land is suitable in its contaminated state and/or if suitable remediation processes are required before the land is used for any proposed uses. The subject proposal is for alterations and additions to an existing approved development and any assessment of SEPP No.55 would have been undertaken with the original development application. It is therefore considered there is no reason to review the provisions of SEPP No. 55.

### 5.3 Warringah Local Environmental Plan 2011 (WLEP2011)

The following are the applicable clauses of the WLEP2011 that are relevant to the proposed development.

#### 5.3.1 Zoning provisions:

◆ Warringah LEP2011 - Land Zoned RU4 Primary Production Small Lots



In accordance with the Land Zoning Map of the WLEP2011, the subject site is shown as being within a RU4 Primary Production Small Lots zone.

#### **Zone RU4 Primary Production Small Lots**

##### **1 Objectives of zone**

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To minimise the impact of development on long distance views of the area and on views to and from adjacent national parks and bushland.
- To maintain and enhance the natural landscape including landform and vegetation.
- To ensure low intensity of land use other than land uses that are primary industry enterprises.
- To maintain the rural and scenic character of the land.

##### **2 Permitted without consent**

Home-based child care; Home occupations

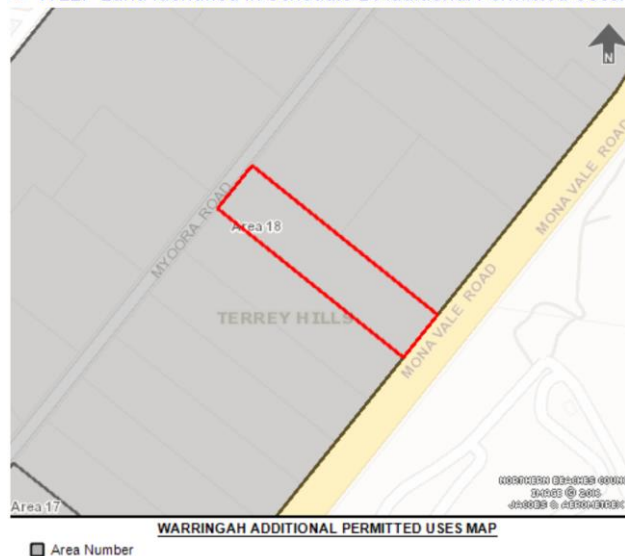
### 3 Permitted with consent

*Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Environmental protection works; Extensive agriculture; Farm buildings; Home businesses; Home industries; Intensive plant agriculture; Landscaping material supplies; Plant nurseries; Recreation areas; Respite day care centres; Roads; Roadside stalls; Rural supplies; Veterinary hospitals*

### 4 Prohibited

*Any development not specified in item 2 or 3*

✦ WLEP Land identified in Schedule 1 Additional Permitted Uses.



### 18 Use of certain land in the vicinity of Mona Vale and Myoora Roads, Terrey Hills

(1) This clause applies to land in the vicinity of Mona Vale and Myoora Roads, Terrey Hills, shown as “Area 18” on the [Additional Permitted Uses Map](#).

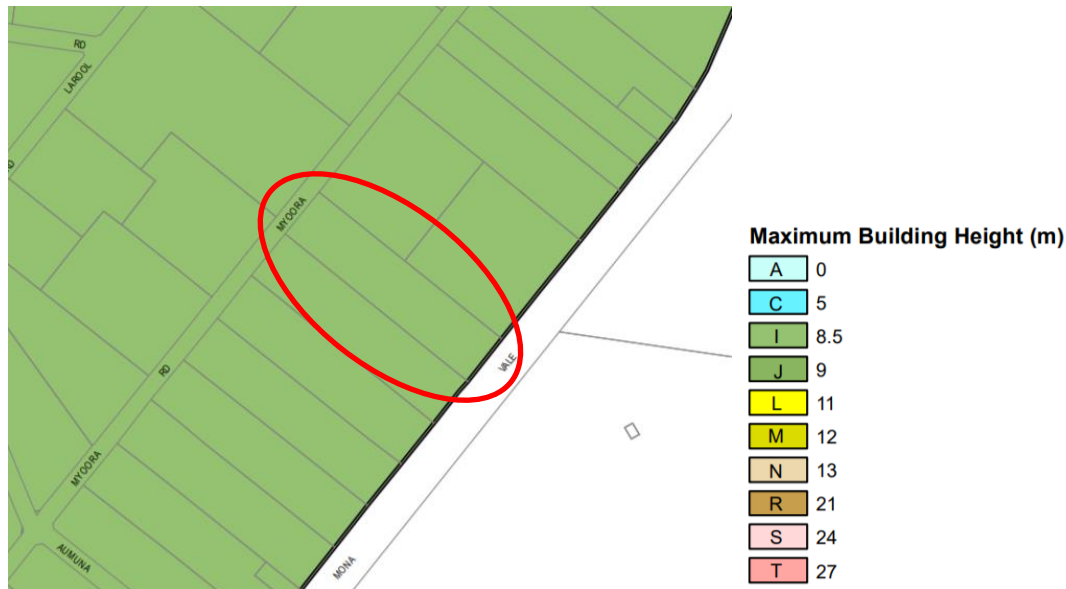
(2) Development for the purposes of educational establishments, garden centres, hospitals, hotel or motel accommodation, places of public worship, recreation areas, recreation facilities (indoor), recreation facilities (outdoor), registered clubs and restaurants or cafes is permitted with consent.

**Comment:** The proposal relates to alterations and additions to the existing Miramare Gardens Event Centre at 48 Myoora Road, Terrey Hills, within an RU4 Primary Production Small Lots Zone. Function Centres are a prohibited form of development within the RU4 zoning; however, in accordance with Clause 4.66 of the *Environmental Planning and Assessment Act, 1979*, nothing in this Act or an environmental planning instrument prevents the continuance of this use. It is further noted that the relevant controls of the EPA Act 1979 and EPA Regulation 2000 also permit alterations and additions to existing use developments.

It is important to note there is no increase to the existing GFA on the site with the proposed works relating to maintenance and the refurbishment of the existing

building. The proposal also includes external works relating to an existing approved pergola structure. The proposal includes the addition of roman blinds and new outdoor structures where the existing approved pergola structures are located.

### 5.3.2 Height of Buildings



In accordance with the Height of Buildings Map of the WLEP2011, the subject site is identified as containing a maximum permissible building height of 8.5m.

**Comment:** The proposal does not change the existing building height approved under consent D/2003/0670. It is also important to note any proposed works the subject of this application are under the required 8.5m building height limit.

### 5.3.3 Principal Development Standards WLEP 2011

Standard	Permitted	Proposed	Comment
4.1 Minimum subdivision lot size	20,000sqm	N/A	N/A
4.2 Rural subdivision	N/A	N/A	N/A
4.2A Strata - Community Title Subdivision	N/A	N/A	N/A
4.3 Height of Buildings	8.5m	As per D/2003/0670	No works proposed above the 8.5m height limit.
4.4 Floor Space Ratio	N/A	N/A	N/A
<b>Part 5: Miscellaneous Provisions</b>			
<b>Provision</b>		<b>Comment</b>	
5.1 Relevant acquisition authority		Not applicable	
5.1A Development on land intended to be acquired for a public purpose		Not applicable	

5.2 Classification and reclassification of public land	Not applicable
5.3 Development near zone boundaries	Not applicable
5.4 Controls relating to miscellaneous permissible uses	Not applicable
5.5 Repealed	Not applicable
5.6 Architectural roof features	Not applicable
5.7 Development below mean high water mark	Not applicable
5.8 Conversion of fire alarms	Not applicable
5.9 Repealed	Not applicable
5.9AA Repealed	Not applicable
5.10 Heritage conservation	Not applicable
5.11 Bush fire hazard reduction	Not applicable
5.12 Infrastructure development and use of existing buildings of the Crown	Not applicable
5.13 Eco-tourist facilities	Not applicable
5.14 Siding spring observatory – maintaining dark sky	Not applicable
5.15 Defence communications facility	Not applicable

Part 6: Relevant Additional Local Provisions	
Provision	Comment
6.1 Acid Sulfate Soils	Not applicable
6.2 Earthworks	Not applicable
6.3 Flood planning	Not applicable
6.4 Development on sloping land	Not applicable
6.5 Coastal hazards	Not applicable
6.6 Erection of dwelling houses in zone E3 Environmental Management	Not applicable
6.7 Residential Flat Buildings in Zone B4 Mixed Use	Not applicable
6.8 Subdivision of Certain Land	Not applicable
6.9 Location of Sex Service Premises	Not applicable
6.10 Development for the purposes of secondary dwellings in Zones R2 and R3	Not applicable

Relevant Schedules	
Schedule	Comment
Schedule 1 Additional Permitted Uses	The site falls within Area 18 on the “Additional Permitted Use” Map accompanying WLEP 2011 and Schedule 1 provides for hotel or motel accommodation as a permitted use.
Schedule 2 Exempt Development	Not applicable
Schedule 3 Complying Development	Not applicable
Schedule 4 Classification and reclassification of public land	Not applicable
Schedule 5 Environmental Heritage	Not applicable

Schedule 6 Amendment of other environmental planning instruments	Not applicable
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Other Relevant WLEP 2011 Clauses
N/A

#### 5.4 Warringah Development Control Plan (WDCP)

The WDCP provisions are structured into two components: Objectives and Controls. The Objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The Controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the DCP are addressed in the table below. (Note: a number of control provisions that are not related to the proposal have been deliberately omitted.)

Compliance Table Warringah Development Control Plan 2011			
Control	Requirement	Proposal	Compliance
<b>Part B Built Form Controls</b>			
B1 Wall Heights	Walls are not to exceed 7.2m from ground level (existing) to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space).	The proposal is for the maintenance of the existing building and does not alter the approved wall heights granted under D/2003/0670.	Complies.
B4 Site Coverage	<p>Development on land shown coloured on the DCP Map Site Coverage shall not exceed the maximum site coverage shown on the map. Where shown on the map as:</p> <ul style="list-style-type: none"> <li>33.3% - the total building footprint(s) must not cover more than 33.3% of the site area, and</li> <li>20% = 3,500m<sup>2</sup> or 30% &lt;3,500m<sup>2</sup> - the total building footprint(s) must not</li> </ul>	<p>No change to approved site coverage under D/2003/0670 and D/2008/1356.</p> <p>It is important to note that the definition of Building area under WDCP is <i>"is the footprint of the building on the site measured from the external faces of the external walls including garages/parking areas but excluding driveways."</i></p>	Not Applicable.



	cover more than 20% of the site area except on allotments having an area of less than 3,500m <sup>2</sup> where the total building footprint/s must not cover more than 30% of the site area.	Therefore external structures such as pergolas and roman blinds are not included in the calculations.	
B5 Side Boundary Setbacks	Development on land shown coloured on the DCP Map Side Boundary Setbacks is to maintain a minimum setback from side boundaries as shown on the map. The site has a side boundary setback requirement of 7.5m.	The proposal does not change the existing footprint which complies with the side setback requirements. Any external structures proposed are ancillary and relate to landscaping and aesthetics of the site.	Complies.
B7 Front Boundary Setbacks	Development is to maintain a minimum setback to road frontages. The DCP Map Front Setbacks prescribes a minimum of 30m from Mona Vale Road and 20m from Myoora Road.	The proposal does not alter the existing approved front setbacks under D/2003/0670 and D/2008/1356. Refer also to control B14.	Complies.
B9 Rear Boundary Setbacks	Development is to maintain a minimum setback to rear boundaries.	Not applicable.	Not applicable.
B14 Main Roads Setback	Development is to be set back the minimum indicated on the DCP Map Main Road Setbacks. The measurement is to be made perpendicular to the property boundary to the main road.	The proposal does not alter the existing approved front setbacks under D/2003/0670 and D/2008/1356.	Complies.
<b>Part C Siting Factors</b>			
C2 Traffic, Access and Safety	Applicants shall demonstrate that the location of vehicular and pedestrian access meets the objectives.	The proposal does not alter the traffic access and parking requirements of the site as approved under D/2003/0670 and D/2008/1356.	Complies.

C4 Stormwater	Stormwater runoff must not cause downstream flooding and must have minimal environmental impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake and waterway or the like.	Refer to Stormwater Management Plan prepared by ACOR Consultants Pty Ltd.	Complies.
	The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management Policy.		
C5 Erosion and Sedimentation	All developments which involve the disturbance of land must install and maintain erosion and sediment controls until the site is fully stabilised.	Refer to Erosion and Sedimentation Plan prepared by ACOR Consultants Pty Ltd.	Complies.
C8 Demolition and Construction	All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.	Refer to Waste Management Plan prepared by Squillace Architects.	Complies.
C9 Waste Management	All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.	Refer to Waste Management Plan prepared by Squillace Architects.	Complies.
<b>Part D Design</b>			
D1 Landscaped Open Space and Bushland Setting	The required minimum area of landscaped open space is shown on DCP Map Landscaped Open Space and Bushland Setting. To measure the area of landscaped open space:	Under D/2003/0670 and D/2008/1356 the site has an approved landscaped open space area of 57.4% (9145sqm). The subject proposal includes new external works which	Minor Non-compliance

	<p>a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;</p> <p>b) The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;</p> <p>c) Landscaped open space must be at ground level (finished); and</p> <p>d) The minimum soil depth of land that can be included as landscaped open space is 1 metre.</p>	technically reduces the landscape open space on the site to 53.54% (8529sqm). Refer to non-compliance assessment after this table.	
D3 Noise	<p>Noise from combined operation of all mechanical plant and equipment must not generate noise levels that exceed the ambient background noise by more than 5dB(A) when measured in accordance with the <a href="#">NSW Industrial Noise Policy</a> at the receiving boundary of residential and other noise sensitive land uses.</p> <p><a href="#">Waste</a> collection and delivery vehicles are not to operate in the vicinity of residential uses between 10pm and 6am.</p>	Not applicable – the proposal is for minor alterations and refurbishment of the existing building. The proposal does not change the existing mechanical plant approved under D/2003/0670 and D/2008/1356.	Complies.
D6 Access to Sunlight	Development should avoid unreasonable overshadowing any public open space.	Not applicable – the proposed works do not alter the existing building footprint and will not impact access to sunlight.	Complies.
D7 Views	Development shall provide for the reasonable sharing of views.	Not applicable – the proposed works do not alter the existing building footprint and will not impact any	Complies.

		existing view corridors.	
D8 Privacy	Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties	The proposal does not alter the existing building footprint and any alterations will not adversely impact the privacy of neighbouring properties.	Complies.
D9 Building Bulk	To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.	The proposal does not change the existing building footprint or building height therefore no adverse impacts from a building bulk aspect to the neighbouring properties and existing Terrey Hills precinct.	Complies.
D10 Building Colours and Materials	In highly visible areas, the visual impact of new development (including any structures required to retain land) is to be minimized through the use of appropriate colours and materials and landscaping.	Refer to architectural plans prepared by Squillace Architects.	Complies.
D11 Roofs	Lift overruns, plant and other mechanical equipment are not to detract from the appearance of roofs.	The proposal includes the replacement/addition of several roof structures which do not detract from the existing approvals granted on the site. The proposal also includes new roman blinds over the pergola structures within the garden area.	Complies.
D12 Glare and Reflection	The overspill from artificial illumination or sun reflection is to be minimised by utilising one or more of the following: Selecting an appropriate lighting height that is practical and responds to the building and its neighbours; • Minimising the lit area	The proposal will not adversely contribute to glare and reflection.	Complies.

	<p>of signage;</p> <ul style="list-style-type: none"> <li>• Locating the light source away from adjoining properties or boundaries;</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• Directing light spill within the site.</li> </ul>		
D14 Site Facilities	<p>Site facilities including <a href="#">garbage</a> and recycling enclosures, mail boxes and clothes drying facilities are to be adequate and convenient for users and services and are to have minimal visual impact from public places.</p>	<p>The proposal is for alterations and the refurbishment of the existing function centre. The proposal does not change the existing site facilities pertaining to the land.</p>	Complies.
D15 Side and Rear Fences	<p>Generally, side and rear boundary fences are to be no higher than 1.8 metres on level sites, or 1.8 metres measured from the low side where there is a difference in either side of the boundary.</p>	<p>No change to existing side fences.</p>	Not applicable.
D18 Accessibility	<p>The design is to achieve a barrier free environment with consideration given to the design of door handles and switches, entrances and corridors. Steep, rough and slippery surfaces, steps and stairs and narrow paths should be avoided.</p> <p>Development is to comply with Australian Standard AS1428.2.</p>	<p>The proposal does not change the existing accessibility provisions to the premises. Further details to be provided at CC stage to ensure compliance with AS1428.2.</p>	Complies.
D20 Safety and Security	<p>Buildings are to overlook streets as well as public and communal places to allow casual surveillance.</p>	<p>The proposal increases line of sights from the north-western elevation of the function centre. The safety and security of the building is adequate and doesn't decrease from the merit assessment of both approvals under D/2003/0670 and D/2008/1356.</p>	Complies.
D21 Provision	<p>If a proposed development will involve a need for</p>	<p>No change to existing utility services on site.</p>	Complies.

and Location of Utility Services	them, <a href="#">utility services</a> must be provided, including provision of the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage.		
D22 Conservation of Energy and Water	Buildings are to be designed to minimize energy and water consumption.	The proposed refurbishment and alterations will be designed to maximise the conservation of energy and water. Refer to Section J Energy Efficiency Review prepared by Peter O'Donnell & Associates Pty Ltd.	Complies.
<b>Part E The Natural Environment</b>			
E10 Landslip Risk	The site is located within landslip area 'a'.	Not applicable	Not applicable.

#### **Assessment of Non-Compliance:**

##### **D1 Landscaped Open Space and Bushland Setting**

The subject site is located within the Landscaped Open Space and Bushland Setting requirement control of 70% (11,151sqm). The site has two approvals granted under D/2003/0670 and D/2008/1356 where the site has an approved landscaped open space area of 57.4% (9145sqm). The subject proposal includes new external works which technically reduces the landscape open space on the site to 53.54% (8529sqm). It is important for Council to note that the subject proposal does not increase the building footprint or GFA of the site and simply is the addition of a hardstand area within the existing approved pergola structures.

The proposal is an appropriate response to the opportunities and constraints of the site and is well positioned in respect of the principal use of the land being the motel and events/conference/education centre. The character, siting, design and external appearance of the works will have minimal, if any, unreasonable impact on the existing and likely future amenity of the adjoining developments or streetscape.

The proposed development is of a landscaped scale and architectural form which will have a positive impact on the character of the locality generally, and provides for a development that is in harmony with the existing and adjoining developments such as the German School, Hills Flower Nursery, Korean Temple and Catholic Church.

The proposal has been skillfully designed by the Project Architect for the refurbishment of the existing building and the introduction of additional features such as an external hardstand area which links and integrates the outside area with the main function room to create a more sustainable and pragmatic use of the site. The owners have reviewed the facility together with the project architects to provide a refurbished building and new external structures which best suit the needs of the users and clients. It is submitted



that the proposal to reduce the landscaping control is minor and has no direct impact to the neighbouring properties or the Terrey Hills precinct. The proposal integrates the event centre with the landscaped grounds. From a planning perspective, the proposal as submitted warrants merit approval and the non-compliance should be approved as submitted.

It is important for Council to review the existing provisions on the site along with the surrounding context of landscaping on neighbouring properties such as the German International School and the Hills Flower Market. Refer to the Locality Map below which identifies many sites with less landscaped open space than proposed for our clients site:



## Bushfire Provisions

A portion of the site is located within Bushfire Prone Land. A report has been completed by Bushfire Code & Bushfire Hazard Solutions. Relevant sections of the report are outlined below:

### **10.0 Conclusion**

*Given that the property is deemed bushfire prone under Northern Beaches Council's Bushfire Prone Land Map any development would need to meet the requirements of Planning for Bush Fire Protection – 2006 and of the construction requirements of Australian Standard 3959 – 2009. The determination of any bushfire hazard must be made on a site-specific basis that includes an assessment of the local bushland area and its possible impact to the subject property.*

*The development proposal relates to the alterations and additions to an existing education establishment known as Miramare Gardens. The proposed alterations and additions will include:*

- ☐ *Installation of new aluminium cladding to the external façades of the building*
- ☐ *Replacement of existing windows and doors*
- ☐ *New terrace and vergola*
- ☐ *Renovate porte-cochere and entry bridge*
- ☐ *New covered indoor / outdoor area*

*The vegetation identified as being the hazard is to the northwest within a vegetated allotment and to the southeast within J. J. Melbourne Hills Memorial Reserve.*

*The minimum required Asset Protection Zone for new SFPP development to the northwest and southeast was determined from Table A2.6 of Appendix 2 of PBP to be 45 metres to the northwest and 60 metres to the southeast. The existing Asset Protection Zones to both aspects exceed the minimum required APZs for new SFPP development.*

*The highest Bushfire Attack Level for the proposed building alterations and additions was determined to be BAL Low and the highest Bushfire Attack Level to the porte-cochere works was determined to be 'BAL 12.5'.*

*The existing access provisions and water supply is considered adequate.*

*In accordance with the bushfire safety measures contained in this report, and consideration of the site specific bushfire risk assessment it is our opinion that when combined, they will provide a reasonable and satisfactory level of bushfire protection to the subject development.*

*We are therefore in support of the development.*

## **6. Section 4.15 Considerations**

In considering the Development Application, Council must consider the relevant planning criteria in Section 4.15 of the Environmental Planning and Assessment Act, 1979. Section 4.15 is addressed as follows:

### **6.1 Statutory Policy and Compliance – S 4.15(1)(a)**

The relevant statutory planning policies have been assessed with respect to all relevant SEPP's, LEP's and DCP's addressed in this Statement of Environmental Effects.

The planning provisions relevant to the proposed development include the following:

- *Environmental Planning and Assessment Act, 1979 (as amended);*
- *Environmental Planning and Assessment Regulation 2000;*
- State Environmental Planning Policies;
- Warringah Local Environmental Plan 2011;
- Warringah Development Control Plan.

### **6.2 Natural Environmental Impacts – S 4.15(1)(b)**

The proposed development will not result in any adverse impact to the existing natural environment.

### **6.3 Built Environment Impacts – S 4.15(1)(b)**

The proposal is an appropriate response to the opportunities and constraints of the site and is well positioned in respect of the principal use of the land, being a motel and events/conference/education centre. The character, siting, design and external appearance of the alterations and additions will have minimal, if any, unreasonable impact on the existing and likely future amenity of the adjoining developments or streetscape.

The proposed development does not change the approved height or scale of the existing building and has been skilfully designed from an architectural form and design which will have a positive impact on the character of the streetscape and locality generally, and provides for a development that is in harmony with the existing and adjoining developments such as the German School, Hills Flower Nursery, Korean Temple and Catholic Church.

### **6.4 Social and Economic Impacts – S 4.15(1)(b)**

The proposal will not be detrimental to the social and economic environment in the locality.

### **6.5 Suitability of the Site for Development – S 4.15(1)(c)**

The existing approvals for the site are maintained with the application for alterations and additions to maintain, repair and enhance the existing building; therefore, the proposal is suitable for the site.

## **6.6 The Public Interest – S 4.15(1)(e)**

The proposed development will not result in any unreasonable adverse environmental impacts to the immediately adjoining properties or the existing streetscape setting and subsequently the development is considered to be within the public interest.

## **7. Conclusion**

The merits of the proposal have been assessed in accordance with the provisions of the relevant clauses of Warringah LEP 2011 and the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The proposal relates to alterations and additions to the existing Miramare Gardens Event Centre at 48 Myoora Road, Terrey Hills. The proposal is permissible under the provisions of Existing Use Rights under the EPA Act 1979 and EPA Regulations 2000 and is considered to be consistent with the relevant objectives of Warringah LEP 2011 and Warringah Development Control Plan.

The proposal will have no adverse environmental impact, and there will be no adverse impact on the surrounding area in terms of amenity. The landscape open space variation is well support and consistent with the objectives of the precinct, neighbouring properties and integrates well with the existing structures on the site.

Accordingly, the application for alterations and additions to the existing Miramare Gardens Event Centre at 48 Myoora Road, Terrey Hills, is acceptable from environmental, social and planning perspectives and approval should be granted by Northern Beaches Council.