

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0020
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Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot CP SP 12627, 50 Eurobin Avenue MANLY NSW 2095 Lot 1 SP 12627, 1 / 50 Eurobin Avenue MANLY NSW 2095 Lot 2 SP 12627, 2 / 50 Eurobin Avenue MANLY NSW 2095 Lot 42 DP 14521, 48 Eurobin Avenue MANLY NSW 2095
Proposed Development:	Demolition work and change of use of site to an educational establishment (Stella Maris College) and installation of temporary demountable buildings.
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes, under SEPP (Transport and Infrastructure) 2021
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Good Samaritan Education
Applicant:	Robinson Urban Planning Pty Ltd

Application Lodged:	16/01/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	20/01/2023 to 03/02/2023
Advertised:	Not Advertised
Submissions Received:	29
Clause 4.6 Variation:	4.4 Floor space ratio: 15%
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,828,205.00
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EXECUTIVE SUMMARY

This development application seeks consent for 'demolition work and change of use of site to an educational establishment (Stella Maris College) and installation of temporary demountable buildings for a period of 2 years.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the application receiving 29 submissions and the proposed demountable building having a floor space ratio that exceeds the 0.6:1 FSR development standard by 15%.

A key issue that has been raised in the submissions by the community is the concern about what will happen to the site following removal of the demountable building noting that the use of the land is proposed to remain as a school. The community have raised concern that the change of use will open up the possibility of the school undertaking further development via a development application or via the Complying Development provisions within the *SEPP (T&I) 2021*, noting that Complying Development can allow for a buildings in excess of the Manly LEP height standard of 8.5m. The submissions raise concern that further expansion of the school will erode the residential streetscape and will be incompatible with the heritage buildings on the northern side of Eurobin Avenue. At this stage, the school has not confirmed any particular plans for a permanent building on the site.

The concerns in relation to heritage have been addressed within this report. Of importance, the dwellings on 48 and 50 Eurobin are not heritage listed and are not within an identified heritage conservation area under the Manly LEP 2013.

Other assessment issues include the temporary demountable having a non-compliance with the Floor Space Ratio (15% exceedance), front setback, rear setback and open space. The non-compliances have been supported on merit given the low scale nature of the building (between 4m and 5m in height), the absence of any unreasonable amenity impacts and the fact that the demountable will be removed after 2 years and therefore any perceived impacts are only temporary, with the demountable allowing the operation of the school to continue whilst construction is carried out on the main campus. This report concludes with a recommendation that the NBLPP grant approval to the development application, subject to conditions outlined at the end of this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the 'Extension of Stella Maris College' which consists of a 'Change of use (to educational establishment), demolition and installation of a demountable building. Specifically, the proposal consists of:

- Demolition of the existing dwellings and associated structures on 48 and 50 Eurobin Avenue;
- Removal of 13 trees (none of the trees to be removed are 'prescribed trees' and are all exempt under the DCP);
- Installation of a single storey pre-fabricated temporary demountable building containing eight (8) General Learning Spaces (GLA's);
- Associated site works including turf and landscape planting and front boundary fencing;
- Change of use of 48 and 50 Eurobin Avenue to a 'educational establishment (school)' to be used in association with the existing school at the adjoining site known as Stella Maris College;
- The temporary demountable building is to be in place for 24 Months from the date of Occupation. At the conclusion of 24 months, the building is to be removed;
- Following removal of the building, the sites 48 and 50 Eurobin Avenue are to be made good with turf. The area is proposed to be used as open space in association with the school.

The application does not seek to amend the existing staff or student population numbers, car parking arrangement or hours of school use.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Local Environmental Plan 2013 - 5.21 Flood planning

Manly Local Environmental Plan 2013 - 6.2 Earthworks

Manly Local Environmental Plan 2013 - 6.4 Stormwater management

Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

Manly Development Control Plan - 4.1.10 Fencing

SITE DESCRIPTION

Property Description:	<p>Lot CP SP 12627 , 50 Eurobin Avenue MANLY NSW 2095</p> <p>Lot 1 SP 12627 , 1 / 50 Eurobin Avenue MANLY NSW 2095</p> <p>Lot 2 SP 12627 , 2 / 50 Eurobin Avenue MANLY NSW 2095</p> <p>Lot 42 DP 14521 , 48 Eurobin Avenue MANLY NSW 2095</p>
Detailed Site Description:	<p>The subject site consists of two (2) allotment located on the southern side of Eurobin Avenue.</p> <p>The site is a regular shape with a frontage of 30.5m along Eurobin Avenue and a depth of 30.5m. The site has a surveyed area of 931.3m².</p> <p>The site is located within the R1 General Residential zone and accommodates a detached dwelling house (single storey) and a two storey duplex. The site is not heritage listed or is not located within a heritage conservation area. There are surrounding buildings which are heritage listed including the school to the east and dwellings across the road to the north.</p> <p>The site has a relatively flat topography throughout.</p> <p>The site has a number of trees that vary between 4m and 12m in height. Of these trees, the majority are 'exempt' species under the Manly DCP and do not require consent for</p>

removal. Tree 78 has been approved for removal under a separate application and T79 is poor health and is identified for removal.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a mixture of dwelling types and the school. Immediately adjoining the site to the east is the recently construct three storey school building (containing parking beneath) which forms part of the Stella Maris School. The school site is heritage listed. To the north across the road are two storey residential dwellings, some of which are duplexes or residential flats. The buildings to the north are heritage listed under the Manly LEP. To the south are detached residential dwellings (not heritage listed). To the west is a two storey residential dwelling (not heritage listed).

The predominant character to the north, west and south are residential detached dwellings and duplexes, while the character to the east comprises of the Stella Maris school buildings which are up to 3 stories.

Map:



SITE HISTORY

The two sites 48 and 50 Eurobin Avenue have been used for residential purposes for an extended period of time. A search of Council's records has revealed there are no recent applications on 48 or 50 Eurobin Avenue except for a recently approved Tree Application (TA2022/0796) to remove one (1) Agonis Flexuosa at the rear of 48 Eurobin Avenue.

On the adjoining site is a school known as 'Stella Maris College'. There was a development application

approved by the Sydney East Regional Panel under 232/2014 for "Re-development of an existing Educational Establishment including Development partial demolition, construction of three (3) storey buildings with basement car park, refurbishment of buildings, an increase in student numbers by 200, landscaping and a covered play area - Stella Maris College". The first stage of this the redevelopment has been completed and consists of the new building constructed on the common boundary of 50 Eurobin Avenue.

The application 232/2014 approved an increase of the student numbers by 200 (1,150 student population by 2025) and increase the number of staff from 125 to 136 by 2025.

The approved second stage of the development is yet to be undertaken, however is scheduled to commence in the coming years. The second stage comprises of an Arts Building and comprises of:

- Demolition of the existing two and three storey building within the north-east portion of the site.
- Construction of a new three storey building to replace the abovementioned demolished structures, which will contain art, design and technology classrooms as well as food technology, a multimedia room and GLAs. A new open space terrace is to be located on the roof of the new art building above the multimedia and design rooms.
- Refurbishment of the existing C Block along the eastern boundary of the site adjacent Collingwood Street.
- Upgrading and reconfiguration of landscape treatments to the centre courtyard and provision of a new open deck space above the canteen.
- New weather-resistant enclosure positioned over the basketball court to create an all-weather play area.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p>

Section 4.15 Matters for Consideration	Comments
	<p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Acoustic Report, flooding, heritage, clause 4.6, clarification of tree removal and further details as to the alternatives for student relocation.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 20/01/2023 to 03/02/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 29 submission/s from:

Name:	Address:
Ms Ashley Jane McDonald	51 Eurobin Avenue MANLY NSW 2095
Jennifer Margaret McMurtry	47 Eurobin Avenue MANLY NSW 2095
Hugh McDonald	51 Eurobin Avenue MANLY NSW 2095
Ms Tanya Lea Reid	25 Eurobin Avenue MANLY NSW 2095
Withheld Mr Michael Anthony Breen	MANLY NSW 2095
Withheld Mr Michael Anthony Breen	2 / 23 Eurobin Avenue MANLY NSW 2095
Ms Deborah Mary Brooks	10 Eurobin Avenue MANLY NSW 2095
Michael Joseph Kenneally	21 A Iluka Avenue MANLY NSW 2095
Ms Suzannah Louise Esdaile	65 Eurobin Avenue MANLY NSW 2095
Mr Graham Jeffrey Woods	18 Iluka Avenue MANLY NSW 2095
Withheld Graham Breakwell	MANLY NSW 2095
Withheld Graham Breakwell	10 Eurobin Avenue MANLY NSW 2095
Withheld Ms Denise Fay Luey	MANLY NSW 2095
Withheld Ms Denise Fay Luey	10 A Eurobin Avenue MANLY NSW 2095
Withheld Mrs Helen Hargreaves Duffy	MANLY NSW 2095
Withheld Mrs Helen Hargreaves Duffy	6 Iluka Avenue MANLY NSW 2095
Ms Maeve Caitriona Beary	13 Iluka Avenue MANLY NSW 2095
Mr Michael John Cohen	10 Eurobin Avenue MANLY NSW 2095
Mr Mark Bruce Willson	167 Seaforth Crescent SEAFORTH NSW 2092
Mr Jonathan Stephen Lord	9 Eurobin Avenue MANLY NSW 2095
Mr Adrian James Breakspear	1 / 49 Eurobin Avenue MANLY NSW 2095
Mr Andrew Charles Harrison	55 Eurobin Avenue MANLY NSW 2095

Name:	Address:
Ms Lisa Jane Russel	1 / 41 Eurobin Avenue MANLY NSW 2095
Mr Darren Troy Moore Mrs Lisa Jane Moore	17 Eurobin Avenue MANLY NSW 2095
Boston Blyth Fleming Pty Ltd Mrs Felicity Jane Gibbins Weaver	1 / 9 Narabang Way BELROSE NSW 2085
Mr Phillip Vincent Silipo	4 Iluka Avenue MANLY NSW 2095
Mr Stephen John Bowhill	21 Eurobin Avenue MANLY NSW 2095
Withheld	MANLY NSW 2095
Mrs Jill Pleban	28 Collingwood Street MANLY NSW 2095
Ms Debra Charlotte Austin	3 Iluka Avenue MANLY NSW 2095
Mr Christopher Paul Lake	1 Iluka Avenue MANLY NSW 2095
Mrs Leonie Anne Lake	1 Iluka Avenue MANLY NSW 2095
Mr Matthew Bryce Cumberworth	2 / 9 Iluka Avenue MANLY NSW 2095

The applicant has provided a response to each of the submissions in a separate document submitted to Council, following conclusion of the notification period titled "Report - Response to submissions".

Council has received 24 unique submissions objecting to the proposal, with one (1) submission in support.

The following issues were raised in the submissions and are addressed by Council below:

- The proposal will have a negative impact of the streetscape and the surrounding heritage items which include the heritage listed buildings along the northern side of Eurobin Avenue. The existing buildings on 48 and 50 Eurobin Avenue should not be demolished as they contribute to the heritage setting and residential street character.
- Consent should not be granted without a known future masterplan for the school. The proposal to change the use of the land to a 'school' may enable further development under Complying Development via the *SEPP (T&I) 2021* that allows building heights in excess of local planning controls (the SEPP allowing up to 22m height for schools).
- The use of the site for the purpose of the school should cease after 2 years (to coincide with the removal of the demountable building) and a condition should be imposed in any consent issued.
- The demountable buildings do not meet the built form controls under the Manly DCP/LEP including front and rear setback, open space and floor space ratio.
- The proposal is not consistent with the objectives of the R1 General Residential Zone under the Manly LEP 2013.
- Objection to the removal of trees and insufficient landscaping for the new site.
- The approved landscape plan with DA232/2014 provided a landscaped strip along the boundary with 50 Eurobin Avenue and 4 Iluka Avenue. The proposal impacts this landscape strip. A modification application should be required to amend the approved landscape plan.
- Increased noise impacts.
- Increase to traffic and existing parking issues at the school.
- Solar access and privacy impacts.

The above issues are addressed as follows:

- **The proposal will have a negative impact of the streetscape and the surrounding heritage items which include the heritage listed buildings along the northern side of Eurobin Avenue. The existing buildings on 48 and 50 Eurobin Avenue should not be demolished as they contribute to the heritage setting and residential street character.**

Comment: The dwellings on 48 and 50 Eurobin are not heritage listed and are not within an identified heritage conservation area under the Manly LEP 2013 and therefore, their demolition would not be a reason to refuse the application (noting these building could be demolished under a Complying Development Certificate).

The demountable building has a low height and any impact upon the streetscape is considered to be temporary only given it will be removed after 2 years. As part of the proposal advanced landscape screening along the front boundary will be required to help soften the street presentation. The existing school buildings along the southern side of Eurobin avenue form part of the street character and therefore the street is not exclusively residential in character.

See Council's heritage officer's comments later in this assessment report for further comments on heritage impacts.

- **Consent should not be granted without a known future masterplan for the school. The proposal to change the use of the land to a 'school' may enable further development under Complying Development via the *SEPP (T&I) 2021* that allows building heights in excess of local planning controls (the SEPP allowing up to 22m height for schools).**

Comment: The current application proposes the sites as 'open space' for the school following removal of the demountable buildings.

In considering this application, it is recognised that in granting consent to change the land use to a school may allow the provisions of the *SEPP (T&I) 2021* to be utilised by the school to construct a new building. However, it is important to note that Complying Development is a legitimate approval pathway that allows infrastructure to be delivered when the development standards are met which include setbacks (based on building height), landscaping, privacy and overshadowing. If development was sought to occur outside of these standards a development application would need to be submitted to Council. It is noted that a complying development cannot alter any existing operational conditions of the school relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management, landscaping or student or staff numbers.

Unlike the numerically prescribed side and rear setback provisions contained within the *SEPP T & I 2021*, the front setback requirement within the *SEPP T&I 2021* requires a front setback *"that is not less than the average distance of the front setbacks of all existing development that is located within 70m of the building"*. The existing residential dwellings in the R1 Zone (46, 48 and 50 Eurobin Avenue) have an average setback of approximately 5m (taking into account their varied facades). The temporary demountable building will have a setback less than this average (3.268m). To ensure that the setback of the temporary demountable building does not contribute to reducing predominant front setback character of the R1 Zone and enable a CDC to be utilise the proposed setback, it is recommended by condition that the first 5m of the front setback zone be reinstated as deep soil landscaping and be maintained as such as part of the operation of the school, following the removal of the temporary building. As mentioned above, the *SEPP T&I 2021* provisions state that a CDC cannot contravene a consent condition in relation to

landscaping and therefore, this condition is considered to prevent a CDC being issued with a setback of less than 5m, inconsistent with the established R1 Zone character street setback.

The applicant has advised Council that *"At the time of preparing this DA, the College has not determined the proposed longer-term use for the site, given the significant capital cost involved in purchasing these new sites and also the cost of undertaking the construction of the new Creative Arts Building"*. Any future development of the site can be dealt with through the legitimate planning pathways DA or CDC, with both sets of controls requiring consideration to building setbacks, privacy, noise and overshadowing. Given a school is permitted within the R1 Zone and any future buildings will be subject to an approval, refusal of the application due to there being no current masterplan is unwarranted.

The applicant has outlined the immediate need for the expansion of the school onto the subject site and temporary demountable. The school has expressed the need to relocate eight (8) classrooms outside of the existing school boundary to facilitate the second stage of the construction under the 2014 approval for the redevelopment of the school. The school has explained there would be no physical space within the existing campus during construction. The applicant has outlined the various options considered by the school to accommodate the student population during construction, including temporarily requiring students relocate during school hours by walking via public roads to an alternate site at 270 Pittwater Road. However, the school has indicated that the current proposal is the superior outcome with regards to student safety and the functionality of the school during construction, noting that 48 and 50 Eurobin is under the schools ownership and the 'schools' are permitted in the R1 Zone via the SEPP.

- **The use of the site for the purpose of the school should cease after 2 years (to coincide with the removal of the demountable building) and a condition should be imposed in any consent issued.**

Comment: The community submissions have suggested that any consent granted should include a condition for the 'school' land use to cease once the temporary demountable have been removed, therefore removing opportunity for any building to be constructed the *SEPP (T&I) 2021* as complying development. In considering the public submissions Council has had regard to this suggestion, however ultimately do not consider such a condition to be warranted (or legitimate) given schools are a permitted use on the R1 Zone via the SEPP (T&I) 2021 and such a condition would be contrary to the purpose of the SEPP (T&I) 2021.

- **The demountable buildings do not meet the built form controls under the Manly DCP/LEP including front and rear setback, open space and floor space ratio.**

Comment: Each of the built form non-compliances are separately addressed within this report. The non-compliances are supported on merit given the low scale nature of the building (between 4m and 5m height), the absence of any unreasonable amenity impacts and the fact that the demountable will be removed after 2 years and therefore any perceived impacts are only temporary, with the demountable allowing the operation of the school to continue whilst construction is carried out on the main campus. As part of the proposal and Council's conditions, a landscape screen (consisting of advanced species) is to be established along the street frontage and common boundary of the site to soften presentation of the single storey building to the street.

- **The proposal is not consistent with the objectives of the R1 General Residential Zone under the Manly LEP 2013.**

Comment: Consideration of the R1 General Residential Zone objectives have been addressed later within this report under the Clause 4.6 Assessment. It is considered that the proposal is consistent with the zone objectives.

- **Objection to the removal of trees and insufficient landscaping for the new site.**

Comment: The majority of trees to be removed are exempt species under the DCP (either non-native or less than 5m). One tree has been approved for removal under a separate application and one tree is in poor health. Council's landscape team have raised no concern with the proposed tree removal for those reasons. The proposal will provide for landscape screening around the perimeter of site which is to consist of advanced species (as a condition) to expediate the effectiveness of the landscape screen to soften the building as viewed from the street and adjoining sites. The deep soil zones around the site perimeter is sufficient to accommodate the landscape screening around the temporary building.

- **The approved landscape plan with DA232/2014 provided a landscaped strip along the boundary with 50 Eurobin Avenue and 4 Iluka Avenue. The proposal impacts this landscape strip. A modification application should be required to amend the approved landscape plan.**

Comment: It is noted that the building known as the 'Scholastica building' has been completed and an occupation certificate issued. As such, modification of this consent to amend any landscaping plan is not warranted. The purpose of this landscape strip along the western side of the 'Scholastica building' was to create a landscape buffer between between the school and the residential dwelling, which is now under the ownership of the school.. As the proposal now includes 48 and 50 Eurobin as part of the school, removal of the landscape buffer to accommodate the temporary demountable building does not directly impact the visual outcome for an adjoining residential property. A new landscape buffer will be provided on the western side of the temporary demountable building.

For completeness, a condition of consent is recommended that following the removal of the temporary demountable building the landscaping required along the western side of the Scholastica Building is to be reinstated as per the requirements of the landscape plan under DA 2014/232.

- **Increased noise impacts.**

Comment: An acoustic report has been provided that addresses the use of the demountable building and the use of the site as 'open space' following removal of the demountable building. Subject to adherence to the recommendations of the acoustic report (which will be referred in the consent) there will be no unreasonable acoustic impacts on adjoining residential dwellings.

- **Increase to traffic and existing parking issues at the school.**

Comment: This application does not seek to increase the staff or student numbers, with the existing status quo of the school maintained. Any subsequent development applications for permanent building will be assessed with regard to traffic impacts. A complying development certificate cannot increase the student capacity of the school or alter the vehicular access arrangements.

- **Solar access and privacy impacts.**

Comment: The rear setback non-compliance is not considered to result in unreasonable overshadowing, with the adjoining property maintaining at least 4 hours solar access to their

rear private open space as shown in the shadow diagrams submitted, compliant with the controls. Privacy towards the rear boundary can be mitigated through the existing landscaping, existing boundary fencing and proposed landscaping which will be required to consist of advanced species landscaping. There are no windows orientated towards the side boundaries.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported - Subject to conditions</p> <p>The application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Acid Sulfate)	<p>Supported - Subject to conditions</p> <p>General Comments</p> <p>Environmental Health has reviewed this proposal and the area is in a Class 4 Acid Sulphate Soil zone</p> <p>It does not appear that any works will be undertaken below 2 meters or will lower the water table.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Environmental Health (Contaminated Lands)	<p>Supported - Subject to conditions</p> <p>General Comments</p> <p>Environmental Health has reviewed the proposal and the Preliminary Site Investigation by Reditus Consulting Pty Ltd Project No. 22246</p> <p>It states that the site is suitable for development, with further investigations required. Conditions recommended.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Industrial)	<p>Supported - Subject to Conditions</p>

Internal Referral Body	Comments
	<p>General Comments</p> <p>Environmental Health has reviewed the proposal including the Noise Impact Assessment For Development Application by JHA Acoustic Services Project No. 210263, and conditions are recommended</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p>Supported - Subject to conditions</p> <p><u>Amended Plans Comment 26/05/2023</u> Amended plans, additional Arborist's comment, and Heritage Report are noted.</p> <p>The Heritage Report confirms that there are no linked landscape elements impacted by the works.</p> <p>The Arborist's Statement re-confirms that trees to be removed are exempt or approved for removal under previous application. (Tree 78 was approved for removal under TA2022/0796)</p> <p>If the proposal is to proceed, screen planting as indicated on the Landscape Plans will assist in providing a buffer to adjoining properties.</p> <p>It is further recommended that 2 trees selected from Manly Development Control Plan Schedule 4 - Part B - Native Tree Selection be planted in accordance with the DCP requirements.</p> <p>Previous issues raised with regard to landscape issues, however, if the proposal is to be supported on planning considerations, recommended conditions have been provided to maximise landscape outcomes.</p> <p><u>Original Comment</u> The application seeks consent for demolition work and change of use of site to an educational establishment (Stella Maris College) and installation of temporary demountable buildings.</p> <p>The Plans and Arborist's Report indicate that all trees from the site are to be removed.</p> <p>It is noted that the SEE states that no trees are to be removed to accommodate the proposed works.</p> <p>However there are at least two trees indicated on the Survey Plan to be 5m height, and a further eight trees of 5m or more height to be</p>

Internal Referral Body	Comments
	<p>removed.</p> <p>It is noted that Manly DCP Dictionary defines a tree as: tree means a palm or woody perennial plant, single or multi stem greater than 5m in height.</p> <p>It is apparent therefore that some 13 trees are to be removed to accommodate the works.</p> <p>It is noted that the majority of the trees to be removed are listed in Manly DCP as Exemption Species (Figure 7A). Whilst the species listed in Fig 7A are noted as suitable for removal without consent (subject to certain conditions), they are still defined as trees if they fit the dictionary definition.</p> <p>The Landscape Plan provided indicates replanting of 5 palm trees which could grow to a height that meet the definition of a tree under the DCP.</p> <p>Under Section 4.1.5.2 Landscaped Area each lot currently requires planting of at least 1 tree from the list of native trees in Schedule 4 Part B.</p> <p>Trees proposed to be planted do not reflect the species in Schedule 4.</p> <p>The proposed demountables also impact upon the landscaped open space area provided .</p> <p>The issue of the application for change of use from Residential to educational establishment school is left for planning consideration.</p> <p>However under the current Zoning, the proposal does not comply with landscape requirements.</p> <p>If however the proposal is to be supported on planning considerations, recommended conditions have been provided.</p>
NECC (Coast and Catchments)	<p>Supported - Subject to conditions</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Plans and reports lodged in support of the DA; • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience and Hazards) 2021; and • Manly LEP 2013 and Manly DCP 2013. <p>Coastal Management Act 2016</p> <p>The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to this</p>

Internal Referral Body	Comments
	<p>DA. The proposed development is considered to be largely consistent with the objects, as set out under Part 1 Section 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' map and in part on the 'Coastal Use Area' map under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Therefore, divisions 3, 4 and 5 of SEPP R & H applies to this DA. As the proposed development is not located on the foreshore and management plans for the impacts of stormwater disposal and erosion and sediment control adequately address these matters to reduce negative impacts on the receiving waters of Manly Lagoon, the development is not likely to cause increased risk of coastal hazards on that land or other land. Consequently, the development proposal is considered to satisfy the relevant requirements of SEPP R & H, subject to conditions.</p> <p>Manly LEP 2013 and Manly DCP 2013</p> <p>No other coastal planning or development controls relevant to the subject DA were identified.</p>
NECC (Development Engineering)	<p>Supported - Subject to conditions</p> <p>The subject site is flood affected and as such does not require OSD. Collection and connection of stormwater from the site to the kerb in Eurobin Ave is acceptable. The proposal includes the demolition of the existing dwellings and no proposed vehicular access point. As part of the works the existing driveway crossings (3) are to be reinstated to kerb, footpath and turf to provide additional on street parking. Suitable conditions for this work is included.</p> <p>Development Engineering support the proposal, subject to conditions as recommended.</p>
NECC (Flooding)	<p>Supported - Subject to conditions</p> <p>The development proposes to demolish two dwellings at 48 and 50 Eurobin Ave and consolidate the two lots with change of use and construct a single storey refabricated temporary demountable educational establishment which proposed to be removed after two years as part of this application. The property is flood affected, in Medium Flood Risk Precinct area. The property is affected by Flood Life Hazard Category H5. A flood evacuation plan has been prepared and evacuation route provided with a ramp leading from the eastern entrance of the proposed demountable building to the adjacent existing Scholastica Building at the southern side of the campus. The proposed evacuation route proposed to be entirely above the flood planning level of 3.64m AHD.</p> <p>Subject to conditions the development is compliant with Council's</p>

Internal Referral Body	Comments		
	flood related development controls.		
Strategic and Place Planning (Heritage Officer)	Supported - Subject to conditions		
	HERITAGE COMMENTS		
	Discussion of reason for referral		
	The proposal has been referred to Heritage as the subject property is in the vicinity of a heritage item:		
	Item I154 - Group of 2 storey residential flat buildings - Northern side of Eurobin Avenue		
	Details of heritage items affected		
	Details of the item as contained within the Northern Beaches inventory is as follows:		
	Item I154 - Group of 2 storey residential flat buildings		
	<u>Statement of significance</u> A fine example of flat buildings.		
	<u>Physical description</u> Two to three storey brick flats.		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
National Trust of Aust (NSW) Register	No		
RAIA Register of 20th Century Buildings of Significance	No		
Other	No		
Consideration of Application			
The proposal seeks consent for the demolition of the existing buildings on 48 and 50 Eurobin Avenue, consolidation of these sites and the construction of a temporary demountable building for up to 24 months, to be used in association with Stella Maris College, including the change of use of the subject site from a residential to educational use and signage. The subject site is not located within a heritage conservation area (HCA) pursuant to Manly LEP 2013, however it is located within the vicinity of a group listed heritage item.			
The existing dwellings at 48 and 50 Eurobin Avenue, Manly are not			

Internal Referral Body	Comments
	<p>heritage listed, however they are from the same period of the heritage listed “a group of two storey residential flat buildings”, and they both are considered to contribute positively to the existing context and the streetscape. The applicant may consider to retain and/or adaptive reuse of these buildings, however, if it is not a consideration, the proposed building form should be complementary to the context and to the heritage item across the road. This could be achieved by providing some articulation to the facade and by using complementary materials, finishes and colours. Although, the proposal is for temporary (24 months) structures on the subject site, considerations should be given to comply with the relevant controls of <i>Manly DCP 2013 - 3.2.1.1 Development in the vicinity of heritage items, or conservation areas</i> and <i>3.2.1.2 Potential Heritage Significance</i>. The impact of the proposed works upon the significance of the heritage items should be assessed in the Statement of Environmental Effects.</p> <p>Revised Comments - 05 June 2023</p> <p>The amended architectural drawings, submitted on 28 April 2023 have not resolved any concerns raised by Heritage earlier. A HIS has been provided which concludes that the existing properties would not meet any of the Heritage Manual criteria for identification as a place of local significance. However, the same report acknowledges that both of the existing properties retain the original built form and the original fabric - internal and external. Therefore the buildings are considered to be contributory to the existing context and the loss of any building that contributes to the character of the area would not be supported by Heritage unless the place is incapable of reasonable use or where it would not be technically feasible to make it useable. Therefore, Heritage retain the same opinion for a more responsive heritage design for 48 and 50 Eurobin Avenue; and a condition is required on the eventual development consent for a full and complete photographic archival recording of both properties and for it to be provided to Council.</p> <p>Revised comments - 14 June 2023</p> <p>The applicant has provided additional information regarding the need for the proposed demountable buildings to support the continue school operation during construction of Stage 2 of their 2014 approval.</p> <p>Further to a preliminary investigation - undertaken by Heritage into the history and potential significance of the existing buildings, and based on a preliminary assessment against the Heritage NSW criterion contained within <i>Assessing Heritage Significance</i> (NSW office of Environment and Heritage), they are considered to not be of significance individually. However, if they were considered as part of a potential heritage conservation area as indicated by the 2016 Review, is it agreed they would be a contributory item and worthy of protection and also</p>

Internal Referral Body	Comments		
	<p>it is understood that the existing buildings are incapable of reasonable use for the school. Heritage also had required a more responsive design to the heritage context, however, the applicant has demonstrated that alternatives have been investigated and the submitted proposal is the most viable option for the school.</p> <p>Although the proposed design is considered inappropriate within the existing heritage context and does not meet the requirements of Heritage Considerations section of Manly DCP 2013, given these demountable buildings are proposed as temporary structures, and it will be conditioned to remove the buildings after 24 months and return to landscape open space, the impact of the proposed works upon the significance of the heritage items is considered acceptable.</p> <p>Therefore, no objections are raised on heritage grounds subject to the removal of the proposed demountable buildings after 24 months and return to landscape open space and full photographic archival recording of the existing buildings.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p> <table><tr><th>Further Comments</th></tr><tr><td></td></tr></table>	Further Comments	
Further Comments			
Strategic and Place Planning (Urban Design)	<p>Supported - Subject to conditions</p> <p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p> <p>The applicant's proposal seeks to demolish the existing houses at 48 and 50 Eurobin Avenue, Manly, and erect temporary demountable classrooms for up to 24 months. After that, the site is to be made good with turf.</p> <p>The proposal does not comply with the DCP setback controls nor the LEP FSR controls, and it needs to be apparent in the design of the demountable classrooms that the School Quality Design Principles have been incorporated.</p>		

Internal Referral Body	Comments
	<p data-bbox="520 320 1430 768">The demountable classrooms are temporary in nature (24 months), and because of their temporary nature, non-compliances may be entertained, where otherwise they would not. However, Urban Design is concerned that accepting non-compliances because the demountable classrooms are temporary will form a precedent that impacts the streetscape and built form of any subsequent development. Greater certainty that any temporary non-compliance will not result in permanent non-compliances or set a precedent would make any temporary impacts on the streetscape and built form more palatable and potentially supportable. Urban Design would like any temporary non-compliances with the controls created by the acceptance of the temporary buildings shall not form a precedent for future breaches of controls.</p> <p data-bbox="520 880 1430 1261">Urban Design understands there are approval routes other than a Council-approved Development Application, for example, SEPP Transport & Infrastructure 2021, which incorporates development standards regarding height, side & rear setbacks, front setbacks, design & materials, noise, overshadowing, privacy, landscape, etc. Some of these controls differ from Northern Beaches LEP & DCP controls, and in the case of the front setback, they are based on the average existing building line. Urban Design is concerned that accepting the temporary non-compliant 3.268m front setback will form a precedent for future development, reducing the prevailing & average front setback and affecting the streetscape.</p> <p data-bbox="520 1373 1430 1686">The Urban Design Unit understand that Urban Design considerations are only one aspect of a complex planning assessment, and on balance, planning considerations may over-rule Urban Designs concerns. Urban Design request that the attached condition is incorporated into any approval so that the potential to ultimately reinstate the residential streetscape character of the part of Eurobin Ave by the subject sites is retained, and any temporary non-compliance doesn't become a precedent for a permanent change to the streetscape character.</p> <hr data-bbox="520 1877 1430 1881"/> <p data-bbox="520 1989 1430 2123">Please note: Regarding any view impacts and any impacts on solar amenity and overshadowing these matters will be dealt with under the evaluation of Councils Planning Officer. Any impacts of non-compliances regarding heritage will be dealt with under the evaluation</p>

Internal Referral Body	Comments
	<p>of Councils Heritage Officers, and any Landscape non-compliances will be dealt with under the evaluation of Councils Landscape Officers.</p>
Traffic Engineer	<p>Supported - Subject to conditions</p> <p>The application proposes demolition of existing buildings on No.s 48 & 50 Eurobin Avenue and construction of temporary demountable classrooms on the land. Although the applicant advises that there will no increase in staff or student numbers the proposed buildings will be used to provide 8 new general learning areas presumably classrooms. It is therefore assumed likely that the work will accommodate increased student numbers if not now then in the future. The Statement of Environmental Effects lodged with the development application advises " the DA does not propose any change to the existing school population. The DA is to facilitate future/separate (unspecified) works on the Main Campus only". No traffic and parking impact assessment report has been provided to support the application so a review of the most recent DA has been undertaken in order to obtain relevant background information.</p> <p>The existing school provides offstreet parking for only 31 vehicles - all for staff. The existing school has approval for 1150 students and 140 staff. At the time of the schools last DA the applicant's traffic impact assessment advised that 10 staff members also parked at the Benedict campus (corner of Pittwater Road/Balgowlah Road) but that 80% of staff drove to the school. This means that approximately 71 staff members are currently parking on the residential streets around the site. Council has this year issued 15 resident parking permits with various restrictions on their days and times of use for school staff to park within the Ocean beach permit parking zone, the remaining staff members presumably park in unrestricted parking zones in Queenscliff or park within time restricted parking zones in surrounding streets or carparks within Manly.</p> <p>The school also provides no parking off-street for students. At the time of the schools last DA the applicant's traffic impact assessment advised that 35 senior students (4% of the school's total enrolment at the time) drove to school, given the current approved population of 1150 it is reasonable to assume that 4% of students still drive to school i.e 46 students. These students would be parking on-street in surrounding unrestricted residential areas.</p> <p>Before and after school drop off and pick up zones have been introduced along the school's Iluka Road frontage and recently a similar zone was also added along the school's Eurobin Avenue frontage. The later was introduced to cater for parking issues associated with the existing school premises and NOT to support any expansion of the school. The restrictions also address on-going</p>

Internal Referral Body	Comments
	<p>resident concerns about drop off and pick up activity occurring across driveways to residences opposite the school on the northern side of Eurobin Avenue. The Eurobin Avenue drop off and pick up zone abuts an extended length of before and after school Bus Zone which extends over the remainder of the schools Eurobin Street frontage towards Collingwood Street.</p> <p>Given the above, it is evident that the school creates a significant drain on parking (approximately 117 spaces occupied throughout the day in the surrounding residential areas in addition to before and after school parking restrictions on the school's frontages). Any increase in student or staff population could not be supported without off-street parking on school premises to cater for that increase.</p> <p>For the above reasons the DA could only be supported on traffic grounds if it was conditioned that student numbers were to be capped at 1150 students and staffing numbers capped at 140 staff. As noted in a number of resident submissions it is also considered appropriate to impose a condition limiting the use of No.48 & 50 as an educational establishment (school) to 2 years. This would ensure that any longer term establishment of school premises on the land was accompanied by a DA and appropriate consideration of parking and traffic impacts which have not been adequately addressed by the current temporary approval.</p> <p><i>*Planner Note - The restriction of the school use for 2 years is discussed elsewhere within this report and it is not considered to be a condition that could be reasonably imposed, given a school is a permitted use in the zone via the SEPP . It is noted that any increase to the school numbers must be sought via a DA, where Council's traffic team would consider this request. A condition will be included to state that no change to the student or staff numbers are granted via this DA. Therefore, the inclusion of these conditions are considered to address the traffic concerns.</i></p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP (Transport and Infrastructure) 2021

Chapter 2 - Infrastructure

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections.

Chapter 3 - Educational Establishments and child care facilities

Part 3.4 - SCHOOLS

Part 3.4, Section 3.36 states that (1) *"Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone"*. The zone R1 General Residential is a 'prescribed zone' under the SEPP (T & I) 2022 and therefore development for the purpose of a school is permitted in the zone.

Part 3.4, Section 3.36 of Chapter 3 stipulates that:

(6) Before determining a development application for development of a kind referred to in subclause (1), (3) or (5), the consent authority must take into consideration—

(a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and

(b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.

The applicant has provided an analysis of the design principles within the statement of environmental effects.

In addition, the design quality principles are set out and addressed as follows by Council:

Principle 1 – context, built form and landscape

Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage, including Aboriginal cultural heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.

Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.

School buildings and their grounds on land that is identified in or under a local environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural environment of the area, and located and designed to minimise the development's visual impact on those qualities and that natural environment.

Comment: The site is directly connected to the existing school site and therefore the proposal to expand the school onto the subject sites is a logical extension due to the physical connection between the sites. Whilst it is recognised that the to the north, west and south are residential dwellings a school is not considered to be out of place in an R1 Zone and a school being adjacent to residential dwelling is not an uncommon scenario. This is reflected by the fact schools are permitted in the residential zone by virtue of the SEPP.

The built form consisting of a temporary demountable structure is low scale and provides appropriate spatial separation to the residential boundaries that will be landscaped. Of importance, the structure will be temporary (and will be conditioned as such) and therefore any visual impact is only temporary, with the area proposed to be used as open space following the removal. Any future built form will be subject to a further approval via a development application or need to meet the requirements of the SEPP (Transport and Infrastructure) 2021. The site is not identified as 'Scenic Protection' under the Manly LEP 2013.

The landscape setbacks are of a reasonable dimension to soften the building as viewed from adjoining properties considering the low height of the building. The setbacks allow for the reasonable retention of solar access.

Principle 2 – sustainable, efficient and durable

Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling.

Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.

Comment: The proposal to use a pre-fabricated temporary structure to meet the needs of the school during construction works on the main campus minimises the consumption of energy given this structure can be re-used at a later date following removal. The applicant has investigated adaptive re-use of the existing dwellings on the site however they do not have sufficient capacity to accommodate the schools needs or are suitable with regard to disabled access.

Principle 3 – accessible and inclusive

School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.

Note. Wayfinding refers to information systems that guide people through a physical environment and enhance their understanding and experience of the space.

Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.

Comment: Access pathways and ramps are used to access the demountable buildings to provide equitable access. Given the buildings are a temporary structure and there is limited ability to customise a demountable building, it would be unnecessary to require this building to be capable of catering to the wider community. The building serves a purpose of accommodating students during construction and there is ample opportunity within the existing school grounds to cater for activities for the wider community.

Principle 4 – health and safety

Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.

Comment: The proposed fencing adequately defines the school grounds from the public domain, with the entrance identified by a gate at the site frontage. The use of this site to accommodate students during construction is optimal for student safety, with the alternative of walking students down the road to a separate campus a higher risk to student safety.

Principle 5 – amenity

Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.

Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants.

Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.

Comment: The demountable building is a low scale structure that mitigates overlooking and overshadowing for the adjoining sites. An acoustic report is provided to address both the demountable buildings and the use of the site following removal. Landscaping will be established around the perimeter of the building to assist in visual outlook to/from the building and compliment the landscape setting.

Principle 6 – whole of life, flexible and adaptive

School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.

Comment: The use of these two sites and demountable buildings will support the next stage of construction for the existing approval on the school site. Whilst the demountable buildings are fairly limited with regards to adaptability and use as a multi-use building, they are temporary in nature and

serve the immediate purpose of accommodating students during construction on the main campus. Following their removal, any future permanent building would need to address these principles and approval would be needed via a development application or via the SEPP (Transport and Infrastructure) 2021 which would both consider these design principles.

Principle 7 – aesthetics

School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood.

The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.

Comment: The proposed landscape buffer is of an appropriate height to soften the low scale form of the demountable building. The 3m setbacks to the adjoining residential boundaries are appropriate given the low scale height of the building and temporary nature. The conditions of consent require advanced species to be planted around the site perimeter to assist with landscape screening.

The front setback is appropriate having regard to the alignment of the existing school building to the east and the temporary nature of the building. It is noted that the site itself is not heritage listed or located within a heritage conservation area. Whilst a temporary demountable building does not directly respond to the heritage dwellings on the northern side of Eurobin Avenue, the building is not a permanent structure and is of a low scale.

In response to item (b):

(b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.

Comment: Given the buildings are a temporary structure and there is limited ability to customise a demountable building, it would be unnecessary to require this building to be capable of catering to the wider community. The building serves a purpose of accommodating students during construction and there is ample opportunity within the existing school grounds to cater for activities for the wider community.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 1 Coastal Wetlands and littoral rainforest area

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

- 1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:
 - a) the clearing of native vegetation within the meaning of Part 5A of the Local Land

Services Act 2013,

- b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
- c) the carrying out of any of the following:
 - i) earthworks (including the depositing of material on land),
 - ii) constructing a levee,
 - iii) draining the land,
 - iv) environmental protection works,
- d) any other development

Comment: Not within land containing coastal wetlands or littoral rainforest.

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

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
 - a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment: Not on land in proximity to coastal wetlands or littoral rainforest.

Division 2 Coastal Vulnerability Area

2.9 Development on land within the coastal vulnerability area

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

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

Comment: Not within coastal vulnerability area.

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal

environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

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

Comment: The proposed development is not considered to give rise to adverse impacts on the matters listed a) to g) above, given the site is located within an existing residential context with no direct frontage to Manly Lagoon or the coastline.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment: The proposal has been designed to avoid impacts and conditions have been recommended with regard to erosion and sediment control and stormwater during and post development.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - iv) Aboriginal cultural heritage, practices and places,
 - v) cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an adverse

- ii) impact referred to in paragraph (a), or
- iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment: The proposal due to its location and distance to the foreshore area will not result in impacts to the matters listed i) to v). The site is not identified as having aboriginal heritage. Built environment heritage is discussed elsewhere within this report. Council is satisfied that the development has been sited to avoid impacts.

Division 5 General

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

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

Comment: There is no increase to coastal hazards as a result of this proposal.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment: There is no coastal management program applicable to this site.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of Chapter 4, the applicant has submitted a Preliminary Environmental Site Investigation dated 9 December 2022 and prepared by Reditus Consulting. In its conclusion, the investigation states:

- *Reditus considers that the Site is suitable for the proposed development. Additional sampling of soil beneath building footprints following the demolition of present residential dwellings of the Site is recommended. In addition to further site characterisation, further sampling will help inform the waste classification of soil material which is proposed for removal from the Site.*

Therefore, as the Investigation indicates that the site is suitable Council can be satisfied site contamination has been properly considered and investigated, with conditions recommended to address any unexpected finds beneath the existing dwelling footprints. The residential use of the

existing buildings and the conditions requiring further sampling and conditions for during demolition will ensure the use as temporary classrooms is satisfactory and the site is suitable for educational purposes.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	5m	N/A	Yes
Floor Space Ratio	FSR: 0.6:1 (558.78m ²)	FSR: 0.69:1 (644.77m ²)	15%	No

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	0.6:1 (558.78m ²)
Proposed:	0.69:1 (644.77m ²)
Percentage variation to requirement:	15%

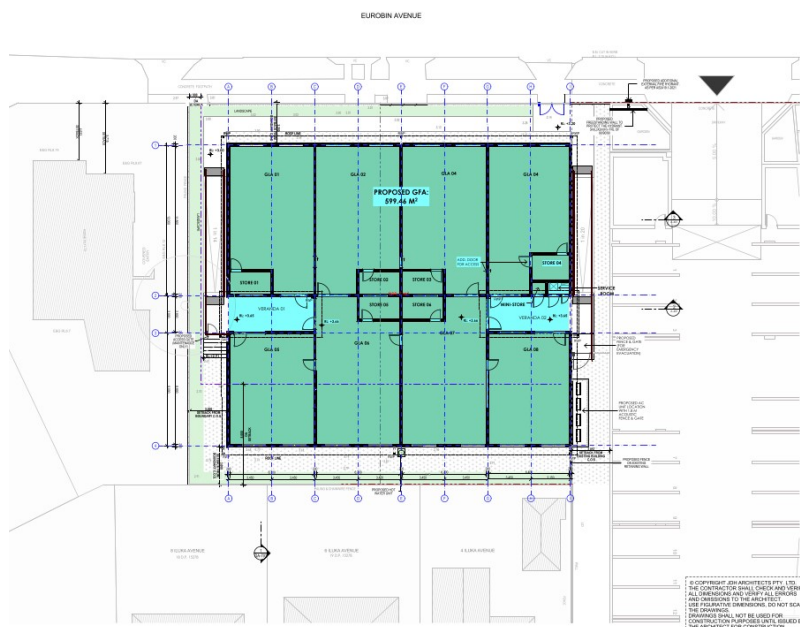


Image 1- FSR calculation

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 - Floor space ratio development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.4 - Floor space ratio development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicants written request argues, in part:

- *The proposed prefabricated single storey temporary building will house students during critical works on the Main Campus, being the demolition of the two storey Block G, and construction of the new Creative Arts Building*
- *The temporary demountable building which proposes eight (8) GLAs will temporarily replace the existing 10 + GLAs on the Main Campus located in the Block G to be demolished*
- *The proposed prefabricated temporary building on the New School Site will be in place for a period of 24 months (from date of issue of Occupation Certificate), minimising disruption to the College's current operations whilst these vital works are undertaken*
- *Following that the temporary demountable building will be removed from the New School Site and made good (open space turf). As such the contravention from the FSR standard is temporary*
- *The DA does not seek to increase the density of the combined Main Campus and New School Site, as there is no increase in student or staff population or change to the operating hours of the College*
- *There is no impact to current access, parking and traffic conditions as a result of the proposal*
- *The proposal maintains the pre-existing residential building pattern along Eurobin Avenue and presents a polite height, bulk and scale that sits comfortably within the existing and desired future character of the locality*
- *The proposed alterations and additions are compliant with the height standard, and the predominant front and side setbacks*
- *There are no unreasonable overshadowing impacts arising from the contravention*
- *There are no unreasonable privacy impacts arising from the contravention*
- *There are no public or private view impacts arising from the contravention*
- *There are no unreasonable noise impacts arising from the contravention*
- *The proposal is for a temporary building which will be removed from the site, as such any impacts arising from the proposal is transitory.*

Council Comment:

The points raised by the applicant as environmental planning grounds are generally agreed with, in particular that the exceedance of the FSR is being supported on a temporary basis, with removal of this particular structure after 24 Months (which will be conditioned). It is agreed that there are no unreasonable impacts with regards to overshadowing, views or privacy for the adjoining sites. There is a need for the relocation of the students during construction on the main campus and the relocation of students to a site directly adjoining the school is considered reasonable and the most feasible approach to dealing with construction. The applicant has outlined that other options have been explored with regards to student relocation, with the current proposal the optimal outcome for the school, whilst having a temporary exceedance of the FSR control.

In this regard, the applicant's written request has demonstrated that the proposed development is an

orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Floor Space Ratio development standard and the objectives of the R1 General Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The building provides 3m setbacks to each boundary which is capable of providing meaningful landscape planting to mitigate building bulk. The scale of the building is well below the LEP height limit of 8.5m and below that of the surrounding buildings. As such, the proposal is consistent with the street character.

b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

The proposal will not obscure any important landscape or townscape features, with the trees to be removed as part of the development exempt species under Council's DCP. Views of the surrounding heritage buildings will not be obscured due to the low scale height of the temporary demountable building.

c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The proposal maintains an appropriate visual relationship by providing a minimum 3m setback to each boundary to be landscaped to compliment the landscape setting of the R1 Zone. There is limited ability to provide a façade that responds directly to the heritage buildings across the road due to the building being pre-fabricated and temporary in nature, however, the combination of the low height building and landscaping will assist screening of the building presentation to the street. Furthermore, given the building is temporary it will not have a long standing impact on the streetscape.

d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment:

The proposal has demonstrated there are no unreasonable privacy impacts and the window have been orientated towards the front boundary and rear boundary (with the level change to the rear and landscaping assisting with mitigating privacy). Reasonable solar access is maintained for the adjoining properties.

e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

Not applicable to this development.

Zone objectives

The underlying objectives of the R1 General Residential zone are:

- *To provide for the housing needs of the community.*

Comment: The use as a school is permitted with consent by virtue of the SEPP (Transport and Infrastructure) 2021 and therefore, is permissible in the R1 Zone. Given there are land uses permitted in the R1 Zone other than housing (e.g. child care, community centres) a development in the R1 Zone that does not provide additional housing is anticipated by the planning controls and is therefore not contrary to the zone objectives given it is a permissible land use. Therefore, this particular objective is not relevant to the proposed development.

- *To provide for a variety of housing types and densities*

Comment: N/A - See above.

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

Comment: It is clear that there are a high percentage of students who attend the school who reside in the area and in Manly and therefore, the school is a facility that provides a service to meet the needs of residents.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Floor space ratio Development Standard is assumed by the Local Planning Panel.

5.21 Flood planning

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

Comment: Council's flood team have reviewed the proposal with regard to flood risk, with their response contained earlier within this assessment report. The proposal has been found to incorporate measures to minimise the risk to life and evacuation during a flood event, including a flood risk management plan with the evacuation route proposed to be above the flood planning level. Council is satisfied the proposal will not adversely impact the flood behavior of the land to result in a detrimental impact on the adjoining properties. The proposal is compatible with the flood function and behavior of the land given the floor level being above the FPL and the ability to evacuate above the FPL. The height of the flood level is above the flood planning level of 3.64 AHD and this does not result in a building height that is excessive of impacts adjoining properties.

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Comment: Council's flood team have considered the following matters and for the reasons identified above, are satisfied the proposal has addressed matters (a) to (d).

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and

(b) to allow earthworks of a minor nature without requiring separate development consent.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

6.4 Stormwater management

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

(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and

Comment: The development will provide a suitable amount of permeable surfaces given the zoning of the land and the proposed use. In this regard, Council is satisfied that the design will maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water.

(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and

Comment: OSD is not required for land within a flood zone.

(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

Comment: The proposal has been assessed by Council's Development Engineers who have raised no objections to approval, subject to conditions. In this regard, Council is satisfied that the development will minimise any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 931.3m²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	NW: 6.5m (based on flat gradient)	2.6m to 3.5m	N/A	Yes
	SE: 6.5m (based on flat gradient)	2.6m to 3.5m	N/A	Yes
4.1.2.2 Number of Storeys	2	1	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line = 4.3m	3.25m	24%	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	0.9m to 1.2m (based on wall height)	NW - 3m building	N/A	Yes

		(1.2m access ramp) SE - Nil building	100%	No
	Windows: 3m	3m to rear	N/A	Yes
4.1.4.4 Rear Setbacks	8m	3m	62.5%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (512m ²)	28% (263m ²)	49%	No
4.1.5.2 Landscaped Area	Landscaped area 30% of open space (131.5m ²)	69% (183.7m ²)	N/A	Yes
	3 native trees	3 trees	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.10 Fencing	No	Yes
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.3 Flood Prone Land	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

4.1.4 Setbacks (front, side and rear) and Building Separation

Description of non-compliance

The DCP requires the following for front setbacks:

"Street Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity."

The proposed development has a front setback of 3.25m to Eurobin Avenue. The adjoining school building has a setback of between 4m and 4.8m (to the east) and the adjoining residential dwelling a setback of between 4.6m and 5.7m (to the west). Therefore, the average street setback taking into account the adjoining buildings is 4.7m. When taking into account the dwellings in the R1 Zone (46,48 and 50 Eurobin) only, the street average is approximately 5m.

Given the building is 3.25m, it is forward of the prevailing average setback and is considered against the objectives of the control below in assessing the merits of the variation.

The DCP requires that an 8m rear setback is provided. The proposal provides a 3m rear setback, non-compliant with the control.

The building is situated with a nil setback to the north-eastern boundary adjoining the school site. However, it is noted that the applicant will seek to consolidate the proposed lots and this will be required as a condition.

Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposed temporary building, being forward of the predominant setback, does not adhere maintaining the desired spatial proportions of the street. However, the following circumstances are noted:

a) The building is a temporary structure and as such, will not be a fixture of the streetscape long term.

- b) The applicant has advised that the size of the building cannot be reduced any further given the number of students that need to be accommodated during construction on the main campus
- c) The adjoining buildings are two and three stories, with the proposed building being single storey and well below the LEP height limit. As such, the lower scale of the building assists mitigating visual impacts from the reduced street setback.

The proposal provides landscape planting within the 3.25m setback, with the exception of the access path that is required for disabled access into the building. The landscaping is proposed along the front boundary to consist of species with a mature height of between 2.5m and 4m, with Council's conditions requiring these to comprise of advanced species with a minimum 75 litre pot size.

The landscape planting along the street edge will assist complimenting the landscape character of the street and visually screen the building overtime. The requirement to plant advanced species from beginning of the project ensures that landscaping will make a difference from the outset.

Furthermore, a condition of consent is recommended to require a 5m deep soil zone to be established and maintained during operation of the school, following removal of the temporary demountable. This will ensure that the front setback of the temporary building will not be used as a precedent for any CDC issued under the SEPP T&I 2021, as a CDC cannot contravene a condition relating to landscaping.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment: The rear setback non-compliance is not considered to result in unreasonable overshadowing, with the adjoining property maintaining at least 4 hours solar access to their rear private open space. Privacy towards the rear boundary can be mitigated through the existing landscaping, existing boundary fencing and proposed landscaping which will mature in time.

Objective 3) To promote flexibility in the siting of buildings.

Comment: The application of the controls in a flexible way is reasonable given the structure is of temporary nature.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment: Deep soil zones are provided around the perimeter of the site to accommodate landscaping

to compliment the R1 Zone. No significant (prescribed) locally native trees are proposed for removal, with all species exempt under the DCP. Although the front and rear setback is less than the DCP requirement, the non-compliances are only supported on the basis of the building being a temporary structure. The 3m setbacks containing landscape screening are sufficient for the temporary nature of the building.

Objective 5) To assist in appropriate bush fire asset protection zones.

Comment: Not applicable to this site.

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

4.1.5 Open Space and Landscaping

Description of non-compliance

The DCP controls require 55% of the site to comprise of 'open space'. The proposal provides 28% of the site as open space, non-compliant with the control.

Merit consideration:

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

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Comment: The site does not contain any particular important landscape features and the site is not identified as having high biodiversity value.

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Comment: The area of soft landscaping around the perimeter of the site has been maximised to the extent possible having regard to the operational requirements of the school (noting 8 classrooms are required) and the need to provide an access pathway around the school for equitable access. Landscape screening has been provided within the remaining areas of the setbacks to maximise soft surfaces. No prescribed trees are proposed for removal (all trees removed are exempt under the DCP).

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.

Comment: The adjoining properties will maintain solar access in accordance with the DCP and maintain reasonable privacy having regard to the existing fencing, landscaping and proposed landscaping. No view impacts arise from the proposal.

Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.

Comment: Council's engineers have reviewed the stormwater management for the site and are satisfied with the method of stormwater management. The temporary nature of the building is considered a factor in supporting the variation.

Objective 5) To minimise the spread of weeds and the degradation of private and public open space.

Comment: The proposal does not promote the spreading of weeds, with replacement species non-invasive.

Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

Comment: The site is not within an identified wildlife corridor.

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

4.1.10 Fencing

A 1.8m fencing is proposed at the front boundary of the site. The fencing is an open style 'palisade fence' that will have landscaping behind to ensure the fencing is not too dominant on the streetscape. It is noted that the streetscape has a mixture of open and solid front boundary fences, with the fencing not inconsistent with what exists on the school at present. The 1.8m fence is required for security purposes given the proposed use as a school.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$28,282 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,828,205.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;

- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.4 Floor Space Ratio has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

PLANNING CONCLUSION

This proposal, for 'Demolition work and change of use of site to an educational establishment (Stella Maris College) and installation of temporary demountable buildings' has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to receiving 29 submissions and a floor space ration exceedance of 15%,

The concerns raised in the objections have been addressed within this assessment report and conditions have been recommended where necessary.

The assessment issues relating to the built form non-compliances of floor space ratio, front setback, rear setback and open space are able to be supported on merit given that the demountable building is a temporary building, has a low scale and will not result in unreasonable adverse impacts to neighbouring properties.

The concerns in relation to the future use of the site and potential for additional school buildings to be pursued via either a development application or complying development is acknowledged, however would not warrant refusal of this application given that the *SEPP (T&I) 2021* overrides the local planning controls permits schools within the R1 Zone. Furthermore, the *SEPP (T&I) 2021* is a legitimate approval

pathway for the construction of school buildings if the criteria of the *SEPP (T&I) 2021* is met. This application does not seek to alter the operational aspects of the school in relation to the number of students or staff, traffic, hours or noise. Similarly, a complying development cannot alter these operational aspects, including contravening a condition in relation to landscaping, with a condition recommended to maintain a 5m landscape zone following removal of the temporary building to maintain the predominant street setbacks of the R1 Zone.

The concerns in relation to heritage have been addressed within this report. Of importance, the dwellings on 48 and 50 Eurobin are not heritage listed and are not within an identified heritage conservation area under the Manly LEP 2013 and therefore, their demolition would not be a reason to refuse the application. The demountable building has a low height and any impact upon the streetscape is considered to be temporary only given it will be removed after 2 years. As part of the proposal advanced landscape screening along the front boundary will be required.

On balance, the proposal can be supported given a school is a permitted use within the R1 Zone via the *SEPP (T&I) 2021* and any perceived visual impacts associated with the demountable buildings will be temporary (2 years). The proposal under this application is to use the site as open space associated with the school, however, the assessment of this application acknowledges that future development of the site may be available under either a DA or CDC. The possibility of future development via a legitimate approval pathways should not be a reason to refuse this application and would be inconsistent with the *SEPP (T&I) 2021* which overrides local planning controls.

Therefore, the application is recommended for approval to the NBLPP, subject to the conditions outlined at the end of this assessment report.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority permits a contravention of clause 4.4 Floor Space Ratio development standard pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2023/0020 for Demolition work and change of use of site to an educational establishment (Stella Maris College) and installation of temporary demountable buildings. on land at Lot CP SP 12627, 50 Eurobin Avenue, MANLY, Lot 1 SP 12627, 1 / 50 Eurobin Avenue, MANLY, Lot 2 SP 12627, 2 / 50 Eurobin Avenue, MANLY, Lot 42 DP 14521, 48 Eurobin Avenue, MANLY, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-000 Rev D	19/12/2022	JDH Architects
DA-003 Rev C	19/12/2022	JDH Architecture
DA-004 Rev C	19/12/2022	JDH Architecture
DA-005 Rev C	19/12/2022	JDH Architecture
DA-101 Rev D	19/12/2022	JDH Architecture
DA-111 Rev I	26/04/2023	JDH Architecture
DA-702 Rev F	26/04/2023	JDH Architecture
DA-703 Rev F	26/04/2023	JDH Architecture
DA-704 Rev F	26/04/2023	JDH Architecture
DA-705 Rev F	26/04/2023	JDH Architecture
DA-112 - Rev C	19/12/2023	JDH Architecture
DA-401 Rev H	26/04/2023	JDH Architecture
DA-403 Rev H	26/04/2023	JDH Architecture
DA-410 Rev E	26/04/2023	JDH Architecture

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Management Plan C-001 and C-002, Project NO. S220191	Undated	SCP Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Accessibility Assessment Report 220456	14/12/2022	Balckett Maguire Goldsmith
Building Code of Australia Report 22/0680	13/12/2022	Building Certifiers Australia
Hazardous Material Survey 22246 Ver 2	9/12/2022	Reditus Consulting Pty Ltd
Preliminary Site Investigation 22246 Ver 2	9/12/2022	Reditus Consulting Pty Ltd
Noise Impact Assessment, Project 210263, Rev D	03/04/2023	JHA Services
Civil Design Report S220191-CV-RP-01	14/04/2023	SCP Engineers

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
DA-601 Rev C	19/12/2022	JDH Architecture
DA-602 Rev C	19/12/2022	JDH Architecture

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Preliminary Waste Management Classification 22246LR01-v2	9/12/2022	

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

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

2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name, address and telephone number of the Principal Certifier 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 Certifier 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 Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

Reason: Legislative requirement.

3. **Removal of Temporary Demountable Buildings after 24 Months**

The temporary demountable buildings shall be removed from the land after 24 Months from the date of first occupation.

Following the removal of the buildings, the site shall be landscaped for use as open space with turf maintained over the whole area as shown on the plan DA_005 Issue C dated 19/12/2022.

Reason: To ensure the buildings on the land are temporary (as proposed) and that the numerical non-compliances with the DCP and LEP are approved on a temporary basis only.

4. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no

hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner

that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

5. **No increased to staff and student numbers**

This development consent does not authorise any increase to the number of staff or students at the school. The number of staff and students associated with the school shall remain in accordance with application number 232/2014.

Any increase to the number of students is subject to a further development application with Council.

Reason: To ensure traffic impacts are maintained and maintain consistency with previous consent granted.

6. **Landscape zone following removal of the temporary building**

Following the removal of the temporary demountable building after 24 months, a 5m front setback landscape zone adjoining Eurobin Avenue shall be created, which shall consist of deep soil landscaping and shall be maintained as an ongoing operational deep soil landscape zone.

Reason: So that any temporary non-compliances regarding the landscape & streetscape character accepted due to the temporary nature of the proposal do not become permanent, and the landscaped residential character of the streetscape is reinstated after the temporary building has been removed.

FEES / CHARGES / CONTRIBUTIONS

7. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$28,282.05 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$2,828,205.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or

on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

8. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

9. **Flooding**

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

Building Components and Structural Soundness – B1

All new development below the Flood Planning Level of 3.64m AHD shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the Probable Maximum Flood of 5.62m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 3.64m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Floor Levels – C1

New floor levels within the development shall be set at or above the Flood Planning Level of 3.64m AHD.

Floor Levels – C3

The underfloor area of the dwelling below the 1% AEP flood level is to be designed to allow clear passage of floodwaters. At least 50% of the perimeter of the underfloor area must be of an open design from the natural ground level up to the 1% AEP flood level.

Flood Emergency Response – E2

The proposed shelter-in-place refuge must contain emergency power and a practical means of medical evacuation. The proposed evacuation route should be entirely above the flood planning level of 3.64m AHD.

Fencing – F1

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level. Openings should be a minimum of 75mm x 75mm.

Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level of 3.64m AHD unless adequately protected from floodwaters in accordance with industry standards.

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

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

10. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the kerb in Eurobin Avenue.

Details demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

11. **Photographic Archival Record**

A photographic archival record of the site at 48 and 50 Eurobin Avenue, Manly is to be made of all existing buildings and structures (including interiors and exteriors and their setting), generally in accordance with the guidelines issued by the NSW Heritage Division of the Department of Planning and Environment.

This record must be submitted and approved by the Council's Heritage Advisor prior to the issue of a Construction Certificate and commencement of any demolition or works on-site.

The photographic record should be made using digital technology, submitted on archival quality CD-R disc, and should include:

- Location of property, date of survey and author of survey;

- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100;
- Photographs which document the site, cross-referenced in accordance with recognised archival recording practice to catalogue sheets. The extent of documentation will depend on the nature of the item.

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

12. **Access for People with Disabilities**

Access to and within the building is to be provided for Persons with a Disability. In this regard the Accessibility Assessment Report prepared by Blackett Maguire + Goldsmith dated 14/12/2022, Ref No. 220456 is to be taken into consideration as part of the assessment of the Construction Certificate.. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

13. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include Civil Engineering plans for the design of the reinstatement of the existing driveway crossings to kerb and gutter, footpath and turf which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified civil engineer. The design must include the following information:

1. The kerb and gutter is to be in accordance with Council drawing No. 3 Concrete Kerb Details and Notes.
2. The footpath and turf are to be in accordance with Council drawing No. 4 Concrete Footpath Jointing Plans and Elevations.
3. The proposed stormwater outlets from the site to the kerb.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifier prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

14. **Detailed Site Investigation**

Prior to the issue of any Construction Certificate a Detailed Site Investigation is to be undertaken.

The report is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification Policy.

The investigation is to be in accordance with relevant industry guidelines including State Environmental Planning Policy (Resilience and Hazards) 2021 compliance and NSW EPA guidelines.

Reason: Protection of the environment, State Environmental Planning Policy (Resilience and Hazards) 2021 compliance.

15. **Hazardous Building Materials Survey**

A hazardous building materials survey is to be conducted by a suitably qualified and experienced person. The survey is to include a survey of hazardous building materials including but not limited to asbestos, lead, SMF and PCBs. Following the survey a Hazardous Building Materials Register is to be prepared for the premises providing recommendations for the safe management/removal of hazardous building material.

Reasons: Public health.

16. **Noise Controls**

A suitably qualified person must be engaged to assess mechanical plant noise levels on nearby sensitive receivers once a preliminary design for the mechanical plant specifications of the development are available.

The report must also include potential noise emanating from amplified music or public address system installed on the premises and the noise from staff and students.

Reason: To reduce the noise nuisance to residents, and to assist in compliance with the Protection of the Environment Operations Act 1997 and Regulations.

17. **Stormwater Management**

Stormwater shall be disposed of in accordance with Council's Policy. The stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifier for approval prior to issue of the Construction Certificate.

Reason: To make appropriate provision for stormwater management and disposal arising from development, to ensure that the proposed works do not negatively impact receiving waters.

18. **Design Impact on Coastal Processes and Public/Private Amenity**

All development and/or activities must be designed and constructed so that they will not adversely impact on surrounding properties, coastal processes or the amenity of public foreshore lands.

Reason: To ensure the development does not negatively impact coastal processes and public/private amenity.

19. **Compliance with Standards**

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

20. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment and receiving waters from the effects of sedimentation and erosion from the site

DURING BUILDING WORK

21. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site not indicated for removal on the approved plans, excluding exempt trees and vegetation under the relevant planning instruments or legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection

measures,

- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
- viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

22. **Condition of Trees**

a) During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works.

b) In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,

- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

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

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

Reason: Protection of trees.

23. **Road Reserve**

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

Reason: Public safety.

24. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

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

25. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

26. **Compliance with the Contamination Management Plan**

The requirements, suggestions, recommendations and conclusions of the of the Detailed Site Investigations are to be fully complied with.

Any RAP or Contamination Management Plan required by these reports are to be fully

implemented from commencement of any excavation, demolition or development works until the issue of an Occupation Certificate.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

27. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste and debris is to be removed off site and disposed of as frequently as required in accordance with the Waste Management Plan and applicable regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

28. **Acoustic Design Recommendations**

Prior to the issuing of any Construction Certificate, documentation is to be submitted to the satisfaction of the Principal Certifier that design recommendations within the acoustic report have been implemented / incorporated into the design of the premises.

Reason: To prevent noise nuisance by using mitigation measures in design.

29. **Required Tree Planting**

Additional canopy trees shall be planted in accordance with the following:

- i) 2 trees selected from Manly Development Control Plan Schedule 4 - Part B - Native Tree Selection
- ii) All trees/palms as indicated on Landscape Plan dated 19/12/2022 prepared by JDH Architects
- iii) All trees are to be planted from stock a minimum 75 litre pot size

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

30. **Required Screen Planting**

Screen planting shall be planted in accordance with the following:

- a) All screen planting as indicated along the boundaries of the site as indicated on Landscape Plans dated 19/12/2022 prepared by JDH Architects;
- b) Plants are to be installed as advanced specimens at minimum 1 metre intervals and be of a minimum container size of 75 litre at planting in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

31. **Landscape Completion**

Planting is to be implemented in accordance with the approved Landscape Plan, inclusive of additional conditions of consent regarding planting.

Prior to the issue of any Occupation Certificate details (from a landscape architect or landscape designer) shall be submitted to the Principal Certifier certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

32. **Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate a report prepared by an Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier assessing the health and impact on all existing trees and vegetation required to be retained including the following information:

- i) compliance with conditions of consent for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

33. **Building Components and Structural Soundness**

B2 - A suitably qualified structural engineer is to certify the structural integrity of the shelter in place up to the Probable Maximum Flood level of 5.65m AHD, and the remainder of the new development up to the Flood Planning Level of 3.65m AHD. The depth, velocity, debris load, wave action, buoyancy and immersion must all be considered.

B3 - A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level of 3.65m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

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

34. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

35. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional

kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces.

36. **Positive Covenant for encapsulated contamination**

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

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

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Environmental Protection.

37. **Noise certification**

A report and certification prepared by an appropriately qualified or accredited person shall be submitted, assessing mechanical plant noise levels, PA systems, acoustic sound equipment, and use of the premises as a school by staff and students on nearby sensitive receivers. the report shall be provided to the Council / Accredited Certifier demonstrating compliance with all acoustic reports, requirements and the EPA Noise Policy for Industry prior to the occupation of the completed works.

Reason: To ensure that noise generated from the development does not result in offensive noise to any other party.

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

38. **Landscape Maintenance**

a) Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

b) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

Reason: To maintain local environmental amenity.

39. **Flood Management**

Storage of Goods (G1)

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards.

Flood Emergency Response (E1)

Appropriate access to the shelter in place refuge is to be maintained at all times from all areas within the development and it must contain as a minimum: sufficient clean water for all

occupants; portable radio with spare batteries; torch with spare batteries; and a first aid kit.

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

40. **Compliance with Recommendations within Hazardous Building Materials Survey**

Any recommendations within the Hazardous Building Materials Survey are to be followed during works.

Reason: To protect human health.

41. **Amenity**

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

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

42. **Noise Impact On Surrounding Area**

The use of the premises shall not cause a sound level in excess of 5 dB(A) at any time above the background noise level at any point along the site boundaries when measured in accordance with the Environment Protection Authority's Noise Policy for Industry.

Reason: To ensure compliance with acceptable levels of noise established under best practice guidelines.

43. **Replacement of landscaping adjacent to Scholastica Building**

Within three (6) months following the removal of the temporary demountable building the landscape planting along the western side of the Scholastica Building is to be reinstated in accordance with the approved landscape plan and relevant conditions as required by DA 2014/232.

Reason: To ensure the landscaping outcomes for the existing school development are maintained.