

## SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSNH-300
<b>DA Number</b>	DA2021/2457
<b>LGA</b>	Northern Beaches
<b>Proposed Development</b>	Alterations and additions to a school
<b>Street Address</b>	Lot 1 DP 1145029, 33 Myoora Road TERREY HILLS NSW 2084
<b>Applicant/Owner</b>	Knut Menden German International School Sydney
<b>Date of DA lodgement</b>	30/12/2021
<b>Number of Submissions</b>	0
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	Regionally significant development where the CIV exceeds \$5,000,000
<b>List of all relevant s4.15(1) (a) matters</b>	
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Survey Plan (prepared by Bee &amp; Lethbridge)</li> <li>• Architectural Plans (prepared by Betti&amp;knut architecture)</li> <li>• Statement of Environmental Effects (SEE) (prepared by DFP Planning Consultants)</li> <li>• Landscape Plan (prepared by Christina Silk Landscape Architects)</li> <li>• Design Statement Report (prepared by Betti&amp;knut architecture)</li> <li>• Passive House Report; (prepared by Smart Plus Academy)</li> <li>• Civil Stormwater Report (prepared by TTW)</li> <li>• Geotechnical Investigation Report (prepared by JK Geotechnics)</li> <li>• Arborist Report (prepared by Hugh the Arborist)</li> <li>• Traffic Impact Statement (prepared by PTC)</li> <li>• Bushfire Assessment (prepared by Peterson Bushfire)</li> <li>• Access Statement of Compliance (Accessible Building Solutions)</li> <li>• BCA Assessment Report (prepared by BCA Logic)</li> <li>• Fire Safety Engineering Design Review (prepared by Scientific Fire Services)</li> <li>• Waste Management Plan (prepared by German International School, Sydney)</li> </ul>
<b>Clause 4.6 requests</b>	Warringah Local Environmental Plan 2011 - 4.6 Exceptions to development standards
<b>Summary of key submissions</b>	<p><u>Height</u></p> <p>The proposal will result in a 1.7m (20%) breach of the 8.5m height development standard.</p> <p><u>Landscape Open Space</u></p>

	The proposal will reduce the amount of deep soil area from 8,280sqm (51.1%) to 7,7918.7sqm (48.9%) as a direct result of the footprint of the science centre (361.3sqm).
<b>Report prepared by</b>	Louise Kerr Director, Planning and Place
<b>Responsible Officer</b>	Anne-Marie Young, Planner
<b>Report date</b>	

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **YES**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **YES**

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **YES**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions **NO**

### Conditions

Have draft conditions been provided to the applicant for comment? Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report **YES**

## Executive Summary

The application seeks consent for additions to the German International School Sydney (GISS), including the construction of a two-storey science centre, additions to an existing two-storey administration building, tree removal and associated landscaping and earthworks.

The development is Integrated Development under s100B of the Rural Fires Act 1997 and General Terms of Approval (GTAs) have been issued by Rural Fire Service.

The application is referred to SNPP as the CIV exceeds \$5 Million.

The proposal complies with the design quality principles set out in SEPP (Education) 2017, involves a variation to the Warringah LEP 2022 building height development standard and the Warringah DCP 2011 Landscaped Open Space and Bushland Setting provision and complies with all other built form controls.

The proposal involves a 1.7m (20%) breach of the 8.5m height development standard and a clause 4.6 variation has been submitted. The breaching element is limited to a small section of the roof to the

south-west corner of the science centre and is a direct result of the topography of the land and the saw tooth roof form.

The presentation of a sustainably designed timber clad building with the extensive 20.0m front setback and dense landscape planting (40 new native trees) to the street provides a desirable presentation in the streetscape and the bushland character. Despite the minor height non-compliance, the proposal will not result in any unreasonable natural environment, visual or amenity impacts to neighbouring sites or visual impacts on the streetscape or the locality. There is no increase in the student population (413 students) and a condition is recommended to ensure this.

The proposal will reduce the amount of deep soil area from 8,280sqm (51.1%) to 7,7918.7sqm (48.9%) as a direct result of the footprint of the science centre (361.3sqm). On merit, the proposal meets the objectives of the 70% Landscaped Open Space and Bushland Setting control under the Warringah DCP, including the provision of appropriate outdoor usable spaces that meet the recreational, learning and access needs of the school. A total area of 2,927sqm (18.1%) hard landscape open space will be provided on the school campus including a 550sqm synthetic turf playing field with shade sail cover and outdoor paved play areas with sun covers.

The application was publicly exhibited in accordance with Council's Community Participation Plan (CPP) and no submissions were received.

This report concludes with a recommendation that the SNPP should grant **APPROVAL** to the application, subject to conditions.

## **PROPOSED DEVELOPMENT IN DETAIL**

The application seeks development consent for alterations and additions to the existing school.

The DA is Integrated development under the s100B of the Rural Fires Act 1997.

In detail, the proposed development comprises of:

### **Science Centre**

Construction of a new two-storey science centre located between the existing synthetic turf playing field and a concrete footpath which leads to the school entrance.

#### ***Ground RL+180,500 and Upper Level RL+183,900***

- six (6) labs, per floor, each linked to an internal northern corridor that can also be used as a lab extension area
- two (2) toilets at ground level and one toilet and a store on the upper floor
- internal stair and lift access and external fire stair to the east
- green roof (RL+189,415) which allows for rainwater harvesting with photovoltaic cells (a saw-tooth roof form is proposed)
- wall mounted signage on the western and southern (street) elevation of the science centre displayed the text "SCIENCE CENTRE GERMAN INTERNATIONAL SCHOOL SCYDNEY". Each letter measure 400mm in height. The signage is not illuminated.
- materials - cross-laminated timber, clad with natural weathered timber, triple glazed windows and sliding doors to the north in aluminium frames and with hardwood window surrounds.

### **Extension to Administration Building**

**Ground RL179,010 and Upper Level182,400**

- ground - new reception area and stair access
- first Floor - extension of the existing open plan work space and stair access
- wall mounted metal signage on the southern elevation displayed the text "GERMAN INTERNATIONAL SCHOOL SCYDNEY". Each letter measure 200mm in height. The signage is not illuminated.
- materials - the building will be clad in metal with aluminium doors and windows.

**Landscaping**

Removal of seventeen (17) trees, including (7) seven high value trees. Replacement planting with forty (40) new trees and associated landscaping and earthworks.

**ASSESSMENT INTRODUCTION**

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

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

**SUMMARY OF ASSESSMENT ISSUES**

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings  
 Warringah Local Environmental Plan 2011 - Zone RU4 Primary Production Small Lots  
 Warringah Development Control Plan - B4 Site Coverage  
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

**SITE DESCRIPTION**

<b>Property Description:</b>	Lot 1 DP 1145029 , 33 Myoora Road TERREY HILLS NSW 2084
<b>Detailed Site Description:</b>	The subject site consists of one (1) allotment ( Lot 1 in Deposited Plan 1145029) located on the northern side of

Myoora Road, Terry Hills.

The site is irregular in shape with a frontage of 115.45m along Myoora Road and a depth of 151.85m. The site has a surveyed area of 1.62 hectares.

The site is located within the RU4 Primary Production Small Lots zone from the Warringah LEP 2011 and accommodates a school known as the German International School Sydney (GISS).

The GISS campus currently contains buildings and structures that are predominantly confined to the southern and western portions of the site. The south-eastern corner of the site contains a covered sport's court, with some scattered buildings and structures located within the central portion of the site.

Vehicular access to the GISS is provided via Myoora Road at the site's south-eastern frontage. The driveway on the southern corner provides access to a basement garage for on-site parking, as well as a kiss and drop area located within the front setback of the site. A bus drop off bay is also located along the frontage of the site, parallel to Myoora Road

The site has a maximum fall of approximately 10m from the north to the south of the site and has a number of trees scattered throughout the site, including a significant dense portion of landscaping within the northern corner.

The site is mapped as bush fire prone (vegetation buffer).

#### **Detailed Description of Adjoining/Surrounding Development**

Surrounding the site and within the same RU4 zone is an array of land-uses including a church and café to the south-east and a Buddhist temple to the north-east. The Terrey Hills Swim School adjoins the site to the southwest, and other light-industrial and primary production land with large-lot residential dwellings are interspersed throughout the wider vicinity.

Map:



## SITE HISTORY

### DA2004/1059

The German International School Sydney (GISS) has been subject to various development and building approvals since establishment, including Development Application 2004/1059 for the construction of a school to cater for preschool to YR 12 students, comprising of 6 buildings and basement car parking, following demolition of existing structures. Approved by the Land and Environment Court of NSW (Appeal No: 10763 of 2005) on 18 November 2005. Condition 96 of the consent restricted the number of students to 365.

### Infrastructure Project 09/0113EI (NSW Nation Building and Jobs Plan Taskforce)

On 18 November 2009, 09/0113EI approved and extension to the school, construction of sports fields, changes to the access and associated earthworks, excavation and landscaping. Condition 22 approved a maximum number of students of 413.

### DA2016/0177

On 11 April 2016, DA2016/0177 was approved for alterations and additions for the purpose of school identification signage.

### DA2016/0957

On 16 February 2017, DA2016/0957 approved the installation of 6 x 20-foot shipping containers and 6 x 40-foot shipping containers to form 4 x modules which are situated into 2 x groups of 'flexible learning spaces'. The assessment report notes that there is no increase in the existing maximum school population.

### PLM2021/0127

On 22 June 2021, a PLM meeting (PLM2021/0127) was held between Council Officers and the applicant to discuss the proposal for alterations and additions to the school including the construction of a new science building. The PLM notes concluded that:

*The primary issue is the proposed front setback which has been proposed at 10.0m and then 15.0m. The required front setback is 20.0m which has been consistently applied to development along Myoora*

Road (including the recent hospital to the north) to maintain generous landscaped setbacks. Therefore, the proposal is to be setback 20.0m from the front property boundary to maintain the streetscape.

\*Note: The subject application incorporates a 20m front setback of the science centre and therefore is compliant with Part B7 of the DCP.

### Other Relevant History

#### **DA2017/0385**

On 2 July 2018, the Sydney North Planning Panel granted development consent to DA2017/0385 for the “*construction of a private hospital with associated car parking, signage and landscaping*” on the land adjoining the GISS site at 4a Larool Road, Terrey Hills. The approved works will remove a significant portion of the vegetation on the site in the delivery of the new private hospital. Works associated with this DA have not yet commenced.

### Subject Application

On 13 December 2021, Council received the subject application.

On 11 May 2022, Council briefed the Sydney North Planning Panel on the application, issues discussed included: height and landscape open space breach. The Panel was generally supported of the scheme, however, they requested additional information on the soft and hard landscape open space areas.

On 19 May 2022, the applicant submitted additional information on site coverage and hard and soft landscaping.

### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

<b>Section 4.15 Matters for Consideration</b>	<b>Comments</b>
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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for educational purposes for an extended period of time. The proposed development retains the educational use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development

Section 4.15 Matters for Consideration	Comments
Assessment Regulation 2000 (EP&A Regulation 2000)	<p>consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to the areas of hard and soft landscaping.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 Matters for Consideration	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is classified as bush fire prone land and the proposed development is Integrated Development under Section 100B of the Rural Fires Act 1997.

The application was referred to the NSW RFS as integrated development. The NSW RFS issued General Terms of Approval (GTA's) which are included as part of the recommended conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 12/01/2022 to 09/02/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><b>Supported, subject to conditions</b></p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</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>
Landscape Officer	<p><b>Supported, subject to conditions</b></p> <p>The development application is for the construction of a Science Centre and extension to the existing Administration Building. The proposed development includes: removal of 17 trees located on site;</p>

Internal Referral Body	Comments
	<p>site excavation; and associated landscape works. A Landscape Plan and a Arboricultural Impact Assessment accompany the application and are assessed as part of this Landscape Referral.</p> <p>The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2011 RU4 land use zone, and the following Warringah Development Control Plan 2011 controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• D1 Landscaped Open Space and Bushland Setting</li> <li>• E1 Preservation of Trees or Bushland Vegetation and E2 Prescribed Vegetation</li> <li>• E6 Retaining unique environmental features</li> </ul> <p>The landscape outcome objectives of Zone RU4 Primary Production Small Lots, include (but not limited to): minimise the impact of development on long distance views of the area and on views to and from adjacent national parks and bushland; maintain and enhance the natural landscape including landform and vegetation; and maintain the rural and scenic character of the land.</p> <p>The Arboricultural Impact Assessment identifies that should the proposal as documented be granted approval, seventeen (17) trees are impacted and shall be removed within the works area, and four (4) trees shall be retained. Seven (7) of the trees required for removal are high retention value trees and approval for such removal is subject to tree replacement should the application be approved. All remaining trees on site not in the vicinity of the proposed work will be retained and protected.</p> <p>The Landscape proposal incorporates a variety of landscape treatments to the area of the development works, including tree and mass planting to the front 20 metre setback zone of the property to soften the built form. The Landscape Plans provide landscape outcomes for the benefit of the school community including: outdoor useable spaces and terraces for learning, comfort and recreation, access connections and comfort provisions, and provide a landscape planting scheme incorporating 40 replacement indigenous trees and other understorey mass planting, and a roof garden.</p> <p>Landscape Referral raise no concerns, subject to the protection of existing trees and vegetation not impacted by the development works, and the completion of the landscape works.</p>
NECC (Bushland and Biodiversity)	<p><b>Supported, subject to conditions</b></p> <p>The proposed development has been assessed against the relevant environmental planning controls. The commentary within the SEE in relation to the Koala SEPP 2021, and the applicability of the Warringah DCP controls to the proposal are noted. I also note the requirement for detailed Landscape Plans to be submitted, and these are to identify the plant numbers and plant species as shown on the Plans and associated documentation submitted as part of the</p>

Internal Referral Body	Comments
	<p>development application. The implementation of the landscape plan, including the planting of 40 trees will mitigate the tree removals proposed.</p> <p>The native vegetation within the north-west corner of the site has previously been identified as an area of higher biodiversity value and should be retained and protected. While direct biodiversity impacts are limited to tree removals outside of this native vegetation zone, the project should ensure that this area is not subject to indirect impacts. The area in the north-west corner of the site should not be used as a parking area or materials storage during the construction works.</p>
NECC (Development Engineering)	<p><b>Supported, subject to conditions</b></p> <p>No objections to the proposed German School alterations and additions subject to conditions.</p>
Strategic and Place Planning (Urban Design)	<p><b>Supported, without conditions</b></p> <p>The proposed development have satisfactorily responded to the site conditions, context and the relevant development controls. It will result in a minor variation to the 8.5m building height control due to the design feature of the roof on the southern corner of the building exceeding the height limit by about 1.2m. This is unlikely to result in adverse impacts to the adjacent developments. As such, there is no objection to the proposal.</p>
Traffic Engineer	<p><b>Supported, subject to conditions</b></p> <p>DA lodged to develop a new Science Centre at the German International School Sydney (GISS) and extension to the existing administrative building.</p> <p>No changes in the number of students or staff. Also, no changes or impacts in the existing parking or vehicular access.</p> <p>Existing development has the following parking and transport facilities:</p> <ul style="list-style-type: none"> <li>• Pick-up and Drop-off facility</li> <li>• Staff parking</li> <li>• Shuttle bus service &amp; parking</li> <li>• School Crossing</li> <li>• Public Bus Service</li> </ul> <p><u>Traffic</u> Construction and Demolition Traffic Management Plans are required and will be implemented.</p> <p><u>Ongoing</u> All parking and transport facilities should be maintained throughout the lifetime of the project.</p> <p><u>Conclusion</u> Given the above, the development proposal can be approved with conditions.</p>

Internal Referral Body	Comments
Waste Officer	<b>Supported, without conditions</b>  DA for alts and adds to a school. No residential component No need for Waste Referral.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<b>No decision required</b>  The proposal was referred to Ausgrid who provided a response stating that no decision is required.
Aboriginal Heritage Office	<b>Supported, subject to conditions</b>  No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.  Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.  Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.
Integrated Development – NSW Rural Fire Service - Rural Fires Act (s100B Subdivisions and Special Fire Protection Purposes under)	<b>Supported, subject to conditions</b>  The development is Integrated Development under Section 100b of the Rural Fires Act 1997.  The New South Wales Rural Fire Service (NSW RFS) have issued General Terms of Approval (GTAs), under Division 4.8 of the Environmental Planning and Assessment Act 1979, and a Bush Fire Safety Authority, under section 100B of the Rural Fires Act 1997. A condition requires compliance with the GTA's.

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

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

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

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

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

### **SEPP Educational Establishments and Child Care Facilities 2017**

#### **PART 4 - SCHOOLS**

Clause 35(1) of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 provides that development for the purpose of a school may be carried out with development consent on land in a *prescribed zone*. A *prescribed zone* includes Zone RU4 Primary Production Small Lots.

#### Comment:

The site is zoned RU4 Primary Production Small Lots from the Warringah LEP 2011, development for the purpose of an educational establishment is prohibited within the RU4 zone. Pursuant to Clause 35 of the Education SEPP a *prescribed zone* includes Zone RU4 Primary Production Small Lots.

Part 4, Clause 35 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 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 4, and*
  - (b) *whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.*

The design quality principles are set out in Schedule 4 of the SEPP and addressed as follows:

#### **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 development is generally compliant with the built form controls with the exception of a minor breach of the 8.5m WLEP height development standard to the western corner of the science centre and

the WDCP Landscaped Open Space and Bushland Setting provisions. The height, bulk scale and massing is consistent with the existing school and the character of the area.

The science centre is setback 20.0m from the street frontage with mass planting (landscape buffer) proposed along the road frontage to help soften the built form as perceived from the street. In addition new planting is proposed complementing the trees retained to the north-east of the proposed science centre building. The distinct profile of the roof also serves to break down the built form (should it otherwise be designed with a flat profile), assisting to decrease the impacts to the street.

The extension of the administration building is consistent with the height and scale of the parent building which is setback within the centre of the campus and is generally not visible from the public domain.

No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.

In summary, the spatial organisation of the proposal has considered the site's setting, landscape, topography and climate in determining its siting, orientation and design. The proposal ensures that the landscape setting is retained where possible and enhanced where necessary. The design of the new science centre has incorporated design elements that are resistant to variation in climate.

#### **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 new science centre has been designed of cross laminated timber and will be built to the highest energy efficiency standard (Passive house standard). The building includes a green roof, triple glazed windows, external louvres for shading and extensive solar panels on the roof.

In summary, the proposal demonstrates a clear sustainability strategy in both embodied energy mass and delivery of the built form, materials selections and a clear planning regime to address the core functions of the school's education philosophy.

#### **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:

The new science centre is located near the main street frontage of Myoora Road and acts as a gateway onto the school campus. The works also set a definitive path to the new reception area. Wall mounted signage is proposed along the street frontage of the science centre and the administration building to help direct visitors.

The works improve proximity to stairs, disabled access lifts and ramps and forms the daily access way for parents and carers with prams and students.

#### **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 applicant notes that Biophilic Design principles have been incorporated into the science centre's indoor and outdoor design. The applicant refers to the "*proven psychological benefits to students and staff through landscaping, nontoxic materials, natural patterns and processes, light and space, sensory variability and a community connection to nature are fundamental*".

The Biophilic Design Principles are considered to be an excellent means of ensuring the health, safety of students and staff on the campus in accordance with principle 4 of the SEPP.

Security along the boundaries of the school is also maintained while ensuring a welcoming environment for visitors.

#### **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 proposed works will enhance the teaching and learning facilities on the GISS site. The new science centre provides excellent access to natural light, ventilation and outlook. Indoor and outdoor learning space is incorporated into the design of the development.

There will be no adverse impacts from the development on neighbouring sites in terms of overshadowing or visual or acoustic privacy given the siting of the new science lab away from the site boundaries and the modest extension of the administration building in the centre of the campus.

#### **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 proposal will provide for a new science centre facility that incorporates a range of operations that can be undertaken within the building and around its perimeter. The building has been designed to take a whole-of-life-cycle approach through the design, materials and flexibility incorporated into the development.

**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 proposal has been designed to respond to the existing built form of the school and surrounds. The use of rough sawn timber as the exterior cladding on the science centre will be natural, sustainable material which relates well to the material nature of the bushland setting and character of the area.

Clause 35(9) specifies:

*A provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subclause (1), (2), (3) or (5) is of no effect, regardless of when the development control plan was made.*

Comment:

The Clause confirms that the provisions of the Warringah DCP are of no effect in the assessment of the proposed development and cannot be used as grounds against which the development can be refused (or approved). Notwithstanding, this a full and complete assessment of the application against the relevant provisions of the DCPs are addressed below.

**\*Note:** SEPP (Education) 2017 is now repealed and is replaced with SEPP (Transport and Infrastructure) 2021. Schedule 9(3) of the superseding SEPP (Transport and Infrastructure) 2021 contains a general savings provision for development applications made, but not yet determined, prior to the Policy's commencement (1 March 2022). As the subject application was lodged on 13 December 2021 SEPP (Education) 2017 still applies.

**SEPP 44 - Koala Habitat Protection**

Pursuant to Schedule 1 of State Environmental Planning Policy (Koala Habitat Protection) 2021 (the Koala SEPP), the site is located within the Central Coast Koala Management Area (KMA).

The aim of Koala SEPP is to *'encourage the conservation and management of areas of natural*



*vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline’.*

Clause 11 of the SEPP sets out provisions for the development assessment as follows:

Clause 11 Development assessment process—no approved koala plan of management for land

*(1) This clause applies to land to which this Policy applies if the land—*

- (a) has an area of at least 1 hectare (including adjoining land within the same ownership), and*
- (b) does not have an approved koala plan of management applying to the land.*

*(2) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.*

*(3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.*

*(4) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.*

Comment:

The proposed development involves the removal of 17 trees, including 7 high value trees, towards the front of the GISS site to facilitate the construction of the proposed science building and replacement planting of 40 trees. The area to which the tree removal is proposed is surrounded by hard surface area and buildings that are used to facilitate the operations of the school.

The applicant, in the SEE, notes *"that the trees that are subject to removal as part of this application are not appropriate trees for supporting a permanent free-living population for koalas. It is noted that the densely vegetated area towards the northern portion of the site will be retained as part of this application"*.

The application has been reviewed by Council's Bushland and Biodiversity Officer who offer note the commentary and offer no objections to the proposal subject to conditions, including no clearing of vegetation.

**\*Note:** SEPP (Koala Habitat Protection) 2021 is now repealed and is replaced with SEPP (Biodiversity and Conservation) 2021. The provisions contained in SEPP (Koala) were transferred into the superseding SEPP (Biodiversity and Conservation) 2021, which does not contain a savings provision.

i. Pursuant to s 30A(2) of the *Interpretation Act 1987*, where provisions are transferred, the *"transfer does not affect the operation (if any) or meaning of the provision, and accordingly the provision is to be construed as if it had not been so transferred.*

ii. Section 30A(2) of the *Interpretation Act 1987* confirms that where a provision has been transferred, it is to be interpreted in the same way as it was under the old instrument

As the subject application was lodged on 13 December 2021, the Koala SEPP still applies.

## **SEPP 55 - Remediation of Land**

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

**\*Note:** SEPP 55 (Remediation of Land) is now repealed and is replaced with SEPP (Resilience and Hazards) 2021 which commenced on 1 March 2022. The provisions contained in SEPP 55 were transferred into the superseding SEPP (Biodiversity and Conservation) 2021, which does not contain a savings provision. The now repealed SEPP 55 provisions still apply as the application before the superseding SEPP commenced.

### SEPP 64 - Advertising and Signage

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

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

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

Matters for Consideration	Comment	Complies
<p><b>1. Character of the area</b> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p>	<p>The character of the area is typically bushland and rural although it is noted that the land uses in the area are mixed and include educational, places of worship, residential, light industrial, agricultural and parks (recreational).</p> <p>The proposed signs consist of laser cut metal single letters which are wall mounted to the front (south) and side (west) elevation of the science and the south elevation of the administration building. The letters measure 400mm in height to the front (south) elevation of the science centre. All other signs are 200mm in height.</p> <p>The design, materials and location of the signs are considered to be of appropriate given the height and length of the proposed science centre building.</p> <p>In addition, the science centre is setback 20m from the street and the administration centre is located in the centre of the campus as such the visual impact of the signs on the character of the Locality is minimal</p>	<p>YES</p>
<p>Is the proposal consistent with a</p>	<p>There is no particular theme for outdoor</p>	<p>NA</p>

particular theme for outdoor advertising in the area or locality?	advertising in the area.	
<b>2. Special areas</b> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal does not detract from the visual quality of the bushland / rural character of the area or adversely impact on any environmental sensitive areas or residential uses.	YES
<b>3. Views and vistas</b> Does the proposal obscure or compromise important views?	The signage will not obscure or compromise important views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The signage will not dominate the skyline.	YES
Does the proposal respect the viewing rights of other advertisers?	N/A	N/A
<b>4. Streetscape, setting or landscape</b> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The signage has been designed to be of a scale that is appropriate to the host building and is setback from the public domain so as not to dominate the streetscape.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage to the front of the science centre contributes to the visual interest of the streetscape.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal will not result in advertising clutter.	YES
Does the proposal screen unsightliness?	N/A	N/A
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage is wall mounted and will not protrude above the buildings	YES
<b>5. Site and building</b> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The scale, proportion and materials are compatible with the buildings to which the signs apply.	YES
Does the proposal respect important features of the site or building, or both?	The signs respect the features of the proposed buildings	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The design of the signs show innovation in relationship to the site.	YES
<b>6. Associated devices and logos with advertisements and advertising structures</b> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or	N/A	N/A

structure on which it is to be displayed?		
<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The signs are not illuminated.	YES
Can the intensity of the illumination be adjusted, if necessary?	N/A see above	N/A
Is the illumination subject to a curfew?	N/A see above	NA
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signs will not compromise road safety.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signs will not compromise pedestrian safety.	YES

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

**\*Note:** SEPP 64 (Advertising and Signage) is now repealed and is replaced with SEPP (Industry and Employment) 2021 which commenced on 1 March 2022. The provisions contained in SEPP 64 were transferred into the superseding SEPP (Industry and Employment) 2021, which does not contain a savings provision. The now repealed SEPP 64 provisions still apply as the application before the superseding SEPP commenced.

## SEPP (Infrastructure) 2007

### Ausgrid

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

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

### Comment:

The proposal was referred to Ausgrid who offered no objections.

Clause 104 and Schedule 1 of the SEPP require that traffic generating development for an Educational

Establishment is for an increase of more than 50 students.

Comment:

The proposal does not seek any additional student enrolments and no change is proposed to the existing access to any public road for the school frontage. Therefore, no further consideration or referral advice is required from Transport for NSW.

**Warringah Local Environmental Plan 2011**

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

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

**Zone RU4 Primary Production Small Lots**

The site is zoned RU4 Primary Production Small Lots under the Warringah LEP 2011 and development for the purpose if an "Educational Establishment" is prohibited within the RU4 zone.

RU4 Primary Production Small zones are listed as a **prescribed zone** in SEPP Education. Pursuant to Clause 35 of the SEPP, educational uses are permitted within a prescribed zone.

**4.6 Exceptions to development standards**

Description of Non-compliance:

Development Standard:	Height of Buildings
Requirement:	8.5m
Proposed:	10.2m
Percentage variation to Requirement:	20%

**Assessment of Request to Vary a Development Standard**

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the judgements 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 4.3 – Height of Buildings 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.*

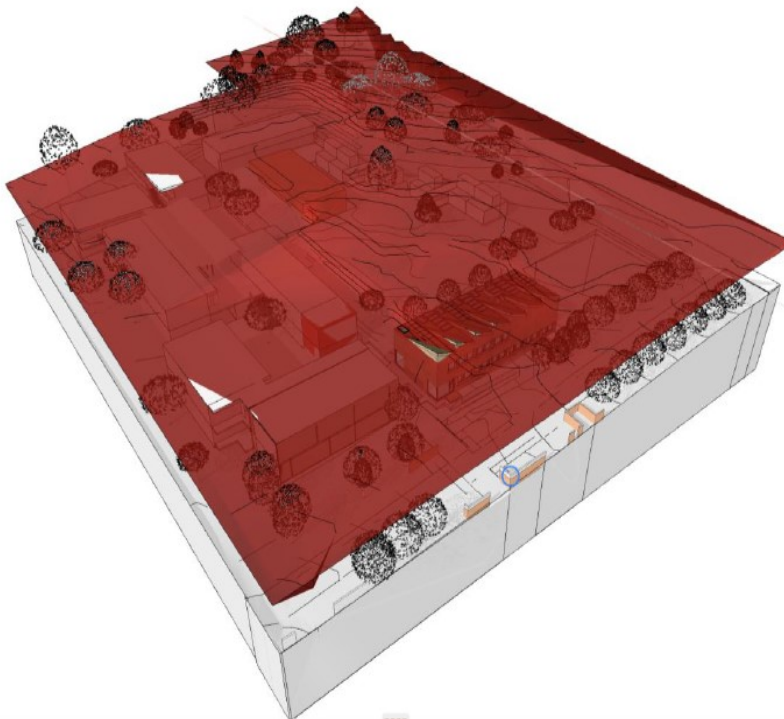
**Applicants Written Request**

The applicants written request argues that the site specific environmental planning grounds that support the height variation include:

- **Topography:** *The topography of the land is sloping and falls from north to south across the proposed science building footprint. To alleviate the need to undertake an extensive amount of cut, the natural topography has been retained where possible, with the exception of some fill that has been proposed beneath the north eastern side of the building.*

- **Floor level:** In order to maximise accessibility through and around the proposed building and to provide a flexible learning space, the floor level has been designed to be continuous, without a need for stairs, ramps or lifts.
- **Roof Form and Design:** The roof has been designed to sit harmoniously amongst the existing school landscape and bushland, natural rough sawn timber cladding with a sawtooth green roof is proposed to minimise the visual impact of the building from a distance and respond to its natural setting. Internal light will be captured from the southwest utilising highlight windows on the sawtooth roof design, reducing electrical reliability. In addition to the reduction in artificial lighting, the roof is designed to accommodate a large solar PV array, with surplus power distributed to the remaining campus. The roof design also contributes to local biodiversity through rainwater harvesting to irrigate the landscape, reduce temperatures and assist with stormwater retention.
- **Siting and Impacts on Adjoining Properties:** The proposal is located in the central front portion of the site to establish a connection to the existing school facilities and maximise internal privacy and amenity for students. Due to the orientation and positioning, the proposed science building will not be visible to adjoining properties to the north and west. The building is scaled and located too far from any boundary to cause a loss of privacy, solar access or view loss to any adjoining property or the public domain.
- The extent of the roof form which breaches the building height development standard is limited in regard to the portion of the structure that breaches the maximum height and will not be reasonably discernible when viewed from the public domain or from within the site.

The applicants justification is **supported**. The height breach is limited to a small section of the roof to the the south-western corner of the science centre and is a direct result of the topography of the land which falls from north to south and the saw tooth roof form, refer to images of the images below which illustrate the height breach.



**3D Height Plane** (source Betti & Knutt Arcitecture)





**South Elevation showing the 8.5m Height Breach (source Betti & Knutt Architecture)**

The building is set back 20.0m from Myoora Road and the saw tooth roof profile, which contributes to the height breach, helps articulate the building to reduce the perceived bulk and scale. In addition, the proposed mass planting along the street frontage will also assist in softening the built form. The minor height breach will not give rise to an unreasonable visual impacts on the streetscape and the proposed timber cladding is consistent with the bushland character of the area. Given the extensive set back of the building from the site boundaries the proposal will not result in unreasonable impacts on neighbouring amenity by virtue of overshadowing or visual and acoustic privacy.

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 Height of Buildings development standard and the objectives of the RU4 Primary Production Small Lots zone. An assessment against these objectives is provided below.

### **Objectives of Development Standard**

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the WLEP 2011 are:

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

*a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Comment:

The extent of the variation the subject of this assessment is limited to a small portion of the peaks of the roof form in the southern corner of the building. The variation results from the architectural design feature of the roof of the building and the fall of land to the southern side of the building.

The building remains of a size and nature that is compatible with adjoining development, is two (2) storeys in height consistent with the established scale and character of the locality, and integrates with the site and landscape setting of the surrounds.

*b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*

Comment:

The building is setback 20.0m from the street frontage and generally screened by existing and proposed planting. The proposal will not give rise to any disruption of views and given the location of the building away from all site boundaries there will be no unreasonable impacts on neighbouring properties by virtue of a loss of acoustic and visual privacy or solar access.

*c) to minimise adverse impact of development on the scenic quality of Warringah’s coastal and bush environments,*

Comment:

The design of the building with the saw-tooth roof profile and natural timber materials is consistent with the bushland environment. The design ensures that there is no adverse visual impact on the bushland environment.

*d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,*

Comment:

As discussed above, the siting and design of the building, including the roof profile will help reduce the bulk and scale of the building to reduce the visual impact. The mass screen planting will also ensure that there is no adverse visual impact of the development when viewed from the street.

## Zone Objectives

The underlying objectives of the RU4 Primary Production Small Lots zone are:

- *To enable sustainable primary industry and other compatible land uses.*

Comment:

The proposed development of additional learning spaces (science centre) and administration function area is a related use to the operation of the site for an existing educational establishment which is permitted in the zone by virtue of SEPP Education and is compatible with surrounding land uses.

- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*

Comment:

Refer above, the proposed development relates to an extension of an approved educational use which is permissible by virtue of SEPP Education.

- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

Comment:

The proposed science building is located away from site boundaries and does not detract from the ability of surrounding sites to operate primary industries.

- *To minimise the impact of development on long distance views of the area and on views to and from adjacent national parks and bushland.*

Comment:

The building remains of a size and nature that is compatible with adjoining development, is two (2) storeys in height consistent with the established scale and character of the locality, and integrates with the site and landscape setting of the surrounds.

The proposed building will be screened by existing structures to the north, east and west. The proposed will not reduce long distance views of the area to bushland or to Garigal or Ku-Ring-Gai National Parks.

- *To maintain and enhance the natural landscape including landform and vegetation.*

Comment:

While the proposal include the removal of seven (7) high values trees to accommodate the development forty (40) new trees are proposed to be planted which will help will soften the existing and proposed built form on the site when viewed from the street frontage.

- *To ensure low intensity of land use other than land uses that are primary industry enterprises.*

Comment:

The proposal does not seek to increase the number of staff or students attending the school so does not increase the intensity of the use of the site.

- *To maintain the rural and scenic character of the land.*

Comment:

The building has been designed to sit harmoniously amongst the existing school landscape and bushland. The natural rough sawn timber cladding with a sawtooth green roof is proposed to minimise the visual impact of the building from a distance and respond to its natural setting.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the RU4 Primary Production Small Lot 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 & Infrastructure, 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 Height of buildings Development Standard is assumed by a Sydney district and regional planning panel, in this case Sydney North Planning Panel.

**Warringah Development Control Plan**

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.8m science centre 7.0m admin extension	N/A	Yes
B4 Site Coverage	20%	21.6%	1.6%	No
B5 Side Boundary Setbacks	7.5m	West 31.9m	N/A	Yes
	7.5m	East 43.68m	N/A	Yes
B7 Front Boundary Setbacks	20.0m	20.0m	N/A	Yes
B9 Rear Boundary Setbacks	7.5m	83.2m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	70%	48.8%	21.2%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B4 Site Coverage	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

### Detailed Assessment

#### **B4 Site Coverage**

##### Description of Non-compliance

Cause B4 allows a maximum footprint of 20% for sites greater than 3,500sqm.

The site measures 16,200sqm and the applicant has submitted additional details which confirm that the buildings currently occupy a footprint of 3,100sqm (19.1%), deep soil area 8,280sqm (51.1%), driveway / parking 2,033sqm (12.5%) and open space hard area 2,787sqm (17.2%).

The proposal will increase the building footprint to 411.3sqm (361.3sqm science centre plus 50sqm administration building). The proposed total building area is 3,511.3sqm (21.6%) which represents a 271.3sqm breach of the control. Given the 16,200sqm size of the site this equates to a minor 1.6% breach of 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:

- *To provide opportunities for the provision of landscaping and the enhancement of existing native vegetation.*

#### Comment:

The minor 1.6% variation will not adversely impact opportunities for the provision of landscaping. While seven (7) high values trees are required to be removed to accommodate the development, forty (40) new trees are propose to be replanted which will enhance the existing native vegetation on the site.

- *To minimise the bulk and scale of development.*

#### Comment:

The design of the science centre with the saw-tooth roof profile roof helps reduce the bulk and scale of the building which will be softened with mass planting along the street frontage. The extension to the administration building maintains the two storey built form and will given its position within the centre of the campus the new building will not be readily discernible from the public domain.

- *To reduce the stormwater runoff, preventing soil erosion and siltation of the natural drainage network.*

#### Comment:

Council's Development Engineer has confirmed that there are no issues with stormwater or the drainage network subject to conditions.

- *To limit impervious areas and encourage natural drainage into the sub-surface.*

#### Comment:

The extension of the administration building is located on a paved area of the site. While the science centre is located on an impervious area there will be no unreasonable impacts on natural drainage.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## D1 Landscaped Open Space and Bushland Setting

### Description of Non-compliance

Clause D1 requires a Landscaped Open Space component of 70% of the site area.

To measure the area of the Bushland Setting, the control provides the following advice:

- a) *Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;*
- b) *The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;*
- c) *Landscaped open space must be at ground level (finished); and*
- d) *The minimum soil depth of land that can be included as landscaped open space is 1 metre.*

As discussed above the applicant has submitted additional details which confirm that the buildings currently occupy a footprint of 3,100sqm (19.1%), deep soil area 8,280sqm (51.1%), driveway / parking 2,033sqm (12.5%) and open space hard area 2,787sqm (17.2%).

The proposal will increase the building footprint to 411.3sqm (361.3sqm science centre plus 50sqm extension to the administration building). The proposed total building area is 3,511.3sqm (21.6%), the deep soil area will be reduced to 7,7918.7sqm (48.8%), Open Space hard area will be increased to 2,927sqm (18.1%) and it is noted that there is no change in the driveway parking area equates to 2,033sqm (12.5%). The combined deep soil and hard landscape area equates to 10,845.7sqm (66.9%).

### Merit consideration

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

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

#### Comment:

Despite the breach of deep soil landscape open space requirements sufficient planting is retained and enhanced to enhance the streetscape.

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

#### Comment:

The proposal will have no adverse impact on the topographical features and habitat for wildlife. The native vegetation within the north-west corner of the site has previously been identified as an area of higher biodiversity value is retained and conditions are recommended to ensure that it is protected. Direct biodiversity impacts are limited to tree removals outside of this native vegetation zone the planting of 40 tree will mitigate the tree removal.

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

*to mitigate the height, bulk and scale of the building.*

Comment:

The landscape proposal incorporates a variety of landscape treatments to the area of the development works, including tree and mass planting to the front 20 metre setback zone of the property to soften the built form.

- *To enhance privacy between buildings.*

Comment:

The siting of the development will ensure there are no adverse visual and acoustic privacy impacts on neighbouring sites.

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

Comment:

The Landscape Plans provide landscape outcomes for the benefit of the school community including: outdoor useable spaces and terraces for learning, comfort and recreation, access connections and comfort provisions, and provide a landscape planting scheme incorporating 40 replacement indigenous trees and other understorey mass planting, and a roof garden.

A total of 2,927sqm of open hard space will be provided on the school campus, including a 550sqm synthetic turf playing field with shade sail cover and outdoor paved play areas with sun covers located in between the school buildings.

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

Comment:

The proposal allows for sufficient space for the service function of the school including equitable and safe access for students, staff and visitors.

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

Comment:

Council's Development Engineer has confirmed that there are no objections to the proposed water management subject to conditions.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **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 2021**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$57,442 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$5,744,200.

## **CONCLUSION**

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

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

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings 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.

## **Overall Planning Conclusions**

### **Height, Bulk and Scale**

The minor height breach is limited to the south-western corner of the science centre and is a direct result of the topography and roof profile. The roof profile will reduce the bulk and scale of the building and the sustainably designed timber clad building is setback 20.0m from the frontage with landscape planting (40 new trees) to ensure that the development is consistent with the bushland setting. Accordingly, the Clause 4.6 variation is assessed as being well founded and is supported.

### **Amenity**

The design of the development is consistent with the design principles contained within SEPP (Education) 2017 and the proposal will not result in any unreasonable amenity impacts to neighbouring properties. There is no increase in the student population of 413 students and a condition is recommended to ensure this.

### **Landscaping/Bushland Setting**

The proposal includes the removal of seven (7) high values trees and replanting with forty (40) new trees and associated landscape works. Due to the location of the science centre the proposal will reduce the area of deep soil planting from 8,280sqm (51%) of the site to 7,7918sqm (48.9%). A total area of 2,927sqm hard landscape is retained on the school campus which provides outdoor useable space for students and staff including a 550sqm synthetic turf paying fields and paved play areas. On balance, despite the breach with the 70% WDCP Landscaped Open Space and Bushland Setting provision, the objectives of the control are satisfied and a sufficient quantity and quality of hard and soft landscaping is provided.

Accordingly, based on the detailed assessment in this report, the application is recommended for **APPROVAL**.

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 vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 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 Sydney North Planning Panel as the consent authority grant Development Consent to DA2021/2457 for Alterations and additions to a school on land at Lot 1 DP 1145029, 33 Myoora Road, TERREY HILLS, subject to the conditions outlined in Attachment 1.

## ATTACHMENT 1

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
00 Rev 05 Cover and Legend	05.11.2021	Betti & Knut Architecture
03 Rev 05 Campus Plan Proposed	05.11.2021	Betti & Knut Architecture
10 Rev 05 Ground Floor Science	05.11.2021	Betti & Knut Architecture
11 Rev 05 Upper Level Science	05.11.2021	Betti & Knut Architecture
12 Rev 05 Roof Plan Science	05.11.2021	Betti & Knut Architecture
13 Rev 05 Floor Plan Administration	05.11.2021	Betti & Knut Architecture
30 Rev 05 Section Science	05.11.2021	Betti & Knut Architecture
31 Rev 05 Elevations South and West	05.11.2021	Betti & Knut Architecture
32 Rev 05 Elevations North and East	05.11.2021	Betti & Knut Architecture
40 Rev 05 Elevations Administration	05.11.2021	Betti & Knut Architecture
50 Materials and Finishes	05.11.2021	Betti & Knut Architecture

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
C01 Rev P1 Cover Sheet	24.11.2021	TTW Engineers
C02 Rev P1 General Notes and Legend	24.11.2021	TTW Engineers
C03 Rev P1 Overall General Arrangement Plan	24.11.2021	TTW Engineers
C04 Rev 1 Sediment and Erosion Control Plan and Details	24.11.2021	TTW Engineers
C10 Rev P1 Siteworks Plan	24.11.2021	TTW Engineers
C11 Rev P2 Pavement Plan	24.11.2021	TTW Engineers
C12 Rev P1 Signage and Linemarking Plan	24.11.2021	TTW Engineers
C13 Rev P1 Typical Section	24.11.2021	TTW Engineers
C15 Rev P1 Longitudinal Section	24.11.2021	TTW Engineers
C16 Rev P1 Cross Section Sheet 1 and 2	24.11.2021	TTW Engineers
C20 Rev P1 Typical Details Sheet 1	24.11.2021	TTW Engineers
C21 Rev P1 Typical Details Sheet 2	24.11.2021	TTW Engineers
C22 Rev P1 Typical Details Sheet 3	24.11.2021	TTW Engineers

C23 Rev P1 Typical Details Sheet 4	24.11.2021	TTW Engineers
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<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Design Statement Report	-	Betti&knut architecture
Preliminary Passive House Report Ref 2021-KM-02	03.11.2021	Smart Plus Academy
Arborist Report	23.10.2021	Hugh the Arborist
Civil Stormwater Report Ref 211476	24.11.2021	TTW
Geotechnical Investigation Report Ref 34428BMrpt	11.11.2021	JK Geotechnics
Traffic Impact Statement	02.12.2021	PTC
Bushfire Assessment Ref 20082	22.11.2021	Peterson Bushfire
Access Statement of Compliance Ref 221179	06.12.2021	Accessible Building Solutions
BCA Assessment Report Ref 114242-BCA-r1	10.11.2021	BCA Logic
Fire Safety Engineering Design Review Ref 283621	17.11.2021	Scientific Fire Services

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:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
L04 Tree Removal Plan	November 2021	Christina Silk Landscape Architects
L05 Landscape Plan	November 2021	Christina Silk Landscape Architects
L06 Sections	November 2021	Christina Silk Landscape Architects
L07 Planting and Materials	November 2021	Christina Silk Landscape Architects

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	30.11.2021	German International School, Sydney

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

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

2. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
NSW Rural Fire Services	Response NSW Rural Fire Services (General Terms of Approval (GTA's))	6 April 2022

A summary of the conditions of the GTA's are provided below.

*1. Asset Protection Zones*

From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. The requirements include but are not limited to tree canopy cover of less than 15% at maturity. Refer to the detailed Referral Response from NSW Rural Fire Service for the complete details of this requirement.

*2. Construction Standards*

Proposed construction of the Science Centre and the additions to the Administration Buildings elevations and roofing, must comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas – 2014 as appropriate and Section 7.5 of Planning for Bush Fire Protection 2019. Refer to the detailed Referral Response from NSW Rural Fire Service for the complete details of this requirement.

*3. Water and Utility Services*

The provision of water, electricity and gas must comply with specific requirements set out in Table 6.8c of Planning for Bush Fire Protection 2019. Refer to the detailed Referral Response from NSW Rural Fire Service for the complete details of this requirement.

*4. Landscaping Assessment*

Landscaping within the required asset protection zone must comply with Appendix 4 of Planning for Bush Fire Protection 2019. Refer to the detailed Referral Response from NSW Rural Fire Service for the complete details of this requirement.

*5. Emergency and Evacuation Planning Assessment*

Bush Fire Emergency Management and Evacuation Plan is prepared consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan; and, NSW RFS Schools Program Guide and/or Australian Standard AS 3745:2010 Planning for emergencies in facilities. Refer to the detailed Referral Response from NSW Rural Fire Service for the complete details of this requirement.

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

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **Maximum Enrollment**

The school/college campus site is limited to a maximum student enrolment of 413 students.

Reason: To manage impacts on the locality and ensure the proposal is consistent with the facilities on site.

#### 4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

## 5. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No 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.

## FEES / CHARGES / CONTRIBUTIONS

### 6. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$57,442.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$5,744,200.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

### 7. **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 Certifying

Authority prior to the issue of the Construction Certificate.

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

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

8. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$10000 as security against any damage or failure to complete the construction of stormwater drainage works in Myoora Road as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

9. **Construction, Excavation and Associated Works (Security Bond)**

A bond of \$10000 as security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site .

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

10. **Detailed Landscape Plans**

Detailed Landscape Plan suitable for construction shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to include the following details:

- i) proposed tree planting shall comply with the NSW Rural Fire Services recommendation of 15% canopy coverage,
- ii) roof garden construction type and design including the proposed method of waterproofing and drainage to the green roof over slab, the control measures for soil and mulch movement over a sloping roof, proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule,

Note: Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the roof slab is designed structurally to support the 'wet' weight of the green roof (soil, materials and established planting),

- iii) detailed landscape layout and design for hard and soft landscape elements including walling, surface finishes, furniture, and planting design, including a schedule of quantities,
- iv) the Detailed Landscape Plans shall be appropriately based upon the submitted Landscape Plans prepared by Christina Silk Landscape Architects, including selected landscape design layout, materials and schedules.

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: Landscape amenity.

11. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

12. **Temporary Protection Fencing – Exclusion Zones**

Prior to the commencement of any works onsite, temporary mesh construction fencing is to be erected at the end of the gravel driveway to prevent access to areas of retained native vegetation located within the north-west corner of the site. The fencing is to prevent construction vehicles and materials storage occurring within the native vegetation area. Details demonstrating compliance must be prepared by the Project Manager and submitted to the Principal Certifying Authority prior to any commencement.

Reason: To preserve native vegetation and wildlife corridors.

13. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

14. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site

- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- No heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays)
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

15. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

**16. Building Code of Australia Fire Safety Requirements**

The works and fire safety measures as detailed and recommended in the Building Code of Australia Assessment Report prepared by BCA Logic, dated 10/11/2021, Report Ref No.11424-BCA- r1 and the Fire Safety Engineering Design Review prepared by Scientific Fire Services dated 17/11/2021, Ref 283621, are to be considered as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

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

**17. Building Code of Australia Access**

Access and facilities to and within the buildings are to be provided for Persons with a Disability and are to comply with the Building Code of Australia and AS 1428.1. In this regard the recommendations contained In the Statement of Compliance prepared by Accessible Building Solutions dated 6/12/2021, Ref 221179 are 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 buildings.

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

**18. On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's WATER MANAGEMENT POLICY FOR DEVELOPMENT, and generally in accordance with the concept drainage plans prepared by TTW, drawing number C10 P2 ,C20 P1, C22 P1, C23 P1, dated 24/11/21. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

**19. Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the stormwater connection to Council's stormwater drainage line within Myoora Road, which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au) > Council Forms > Stormwater Drainage Application Form.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

20. **Pre-commencement Dilapidation Report**

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

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

21. **Compliance with Standards**

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

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

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

\*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction

for access". This information is available on the Australian Human Rights Commission website [www.hreoc.gov.au/disability rights /buildings/good.htm](http://www.hreoc.gov.au/disability%20rights%20/buildings/good.htm). <[www.hreoc.gov.au/disability%20rights%20/buildings/good.htm](http://www.hreoc.gov.au/disability%20rights%20/buildings/good.htm).>

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

**22. External Finishes to Roof**

The external finish to the roof to the administration building shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

**23. Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, including:

- i) section 9 Recommendations
- ii) section 10 Arboricultural Work Method Statement and Tree Protection Requirements
- iii) section 11 Hold Points

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any

approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

24. **Tree Removal Within the Property**

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- i) tree 2 - *Banksia integrifolia*, tree 3 - *Casuarina glauca*, tree 4 - *Alnus jorullensis*, trees 5, 6, 8, 16, 17, 18, 19, 20 and 21 - *Waterhousia floribunda*, trees 7 and 9 - *Eucalyptus racemosa*, tree 10 - *Acacia* sp., tree 11 - *Syzgium smithii*, and tree 15 - *Ulmus parvifolia*.
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal.

Reason: To enable authorised development works.

25. **Dead or Injured Wildlife**

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

Reason: To protect native wildlife.

26. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

27. **Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity



of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.

- No heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS' Manual – "Traffic Control at Work Sites".

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

## 28. **Public Liability Insurance - Works on Public Land**

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

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

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

## 29. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected, including:
  - i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,

- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation,
- iv) any exempt species tree(s) to be removed as referred above in item i) shall be replaced at a ratio of 1:1 with a locally native tree species,

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) or vi) 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 Certifying Authority,
- 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.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.
- e) 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.

30. **Road Reserve**

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

Reason: Public safety.

31. **Implementation of Demolition Traffic Management Plan**

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

32. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

33. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

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

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

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- 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.

#### 35. **Geotechnical Requirements**

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

#### 36. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

#### 37. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 68 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

#### 38. **Notification of Inspections (infrastructure works to be handed over to Council)**

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

(a) Installation of Silt and Sediment control devices

(b) Prior to pouring of the stormwater pit in Myoora Road

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

#### 39. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

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

### 40. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Detailed Landscape Plans and the landscape conditions recommended by NSW Rural Fire Service as required under condition 2 of this consent.

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

Reason: Environmental amenity.

### 41. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with Councils water management policy, the approved construction certificate plans and Australian Standards and Codes by the design engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

### 42. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

### 43. **Positive Covenant and Restriction as to User for On-site Stormwater Detention Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater detention tank and filter cartridge water quality system within this development consent. The terms of the positive

covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

44. **Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

(a) Preliminary Passive House Report Ref 2021-KM-02, dated 03.11.2021, prepared by Smart Plus Academy

(b) Arborist Report, dated 23.10.2021, prepared by Hugh the Arborist

(c) Civil Stormwater Report Ref 211476, dated 24.11.2021, prepared by TTW

(d) Geotechnical Investigation Report Ref 34428BMrpt, dated 11.11.2021, prepared by JK Geotechnics

(e) Traffic Impact Statement, dated 02.12.2021, prepared by PTC

(f) Bushfire Assessment Ref 20082, dated 22.11.2021, prepared by Peterson Bushfire

(g) Access Statement of Compliance Ref 221179, dated 06.12.2021, prepared by Accessible Building Solutions

(h) BCA Assessment Report Ref 114242-BCA-r1, dated 10.11.2021, prepared by BCA Logic

(i) Fire Safety Engineering Design Review Ref 283621, dated 17.11.2021, prepared by Scientific Fire Services

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To ensure compliance with standards.

45. **Reinstating the damaged road reserve during construction**

Any damages to road reserve shall be reinstated to Council standard. Suitably prepared plans shall be submitted for approval under and approved by Council. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant before the release of the approval.

Reason: To maintain road reserve to the standards. (DACTRFPOC1)

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

46. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be

replaced with similar materials/components. 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.

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.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

47. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

48. **Parking & transport facilities and vehicular access**

The parking & transport facilities and vehicular access should be maintained to the Standards and accessible throughout the lifetime of the development.

Reason: To ensure parking and transport facilities are maintained and minimise the on-street parking impacts. (DACTRGOG1)