

30 September 2019

The Chief Executive Officer
Northern Beaches Council

Dear Sir / Madam,

60 Binalong Avenue, Allambie Heights
Request for modification under Section 4.56 to Development Consent
DA2018/0149 for addition of a water storage tank for fire safety purposes

1 Introduction

Development Application no. 2018/0149 approved demolition works and construction of a 2 storey boarding house for 32 boarding rooms, associated basement car parking and landscaping works. It was approved by Consent Orders from the NSW Land and Environment Court on 13 June 2019.

Modification to the Development Consent is sought to add a water storage tank, below ground level at the northern frontage of the property between the approved building and the front boundary at the north eastern section of the site.

The need for the tank arises from building fire safety compliance in order to satisfy the appropriate water capacity and pressure.

The need for the tanks was unable to be foreseen at the Development Application stage. The need arises from the detailed technical investigation of fire safety, the prevailing capacity of the water supply and this prerequisite to satisfy National Construction Code standards. The project fire engineer states: *'to address the lack of flow and pressure an onsite tank and pressure boosting pumps are required to meet compliance with AS2419. There is no alternative compliance option'*.

The proposed tanks will not result in any significant material change to the appearance of the approved development, including its landscape presentation to the adjoining roads. The proposed storage tank will be entirely below existing and finished ground levels and therefore will not be visible. The modification will maintain the approved function of this part of the site as a landscaped garden.

The proposed modification is supported by a revised landscape plan which indicates that the space above the tanks will be landscaped, as per planting 'Zone C' on the landscape plan (figure 6). The proposed modification is accompanied and supported by a statement from a Fire Engineering expert. The modification maintains a compliant landscaped provision for the development at 41.4% of the site area.

The proposed modification will not result in any significant detrimental impact upon the streetscape or the amenity of adjoining land.

2 Proposed Modifications

The proposed modifications are depicted in the accompanying architectural plans by Walsh² Architects dated September 2019. Key aspects are summarised as follows:

- Construction / installation of 2, 90 cubic metre water storage tanks.
- Excavation within the area marked on the accompanying architectural plans to accommodate the water storage tanks.
- Landscaping modifications to accommodate the water storage tanks marked on the accompanying architectural plans.
- Installation of pumping mechanics associated with the water tanks on the eastern side of the approved development as marked on the accompanying architectural plans.

No change to any other aspect of the approved development is proposed by this modification application.

2.1 Need for the modification

As noted above, need for the modification arises for a technical water pressure and building fire safety requirement. In this regard the modification is accompanied and supported by a statement from Carl Munoz, Master of Fire Engineering from AED Fire. Key aspects are repeated below:

The original building design was based on the Sydney Water Pressure and Flow application. The water application is attachment 1 and showed that the available flow of 10/s was achievable at 412kPa. The maximum flow was 15L/s. These pressures and flows allowed the building design to be based on supplying the hydrant system directly from the town's main.

A flow test of the main was undertaken as due diligence to confirm the Sydney Water Pressure and Flow application. The results of the flow test are attachment 2.

They show that at:

- 5L/s the available pressure is 750kPa.
- 9L/s the available pressure is 100kPa

9L/s is the maximum flow available from the main.

Based on the supplied pressure and flow results of the test these are not sufficient to supply an onsite hydrant system directly from the town's main.

The minimum supply detailed by AS2419.1-2005 for a single hydrant is 10L/s at 150kPa (for a feed hydrant) and 250kPa (for an attack hydrant).

Essentially to address the lack of flow and pressure an onsite tank and pressure boosting pumps are required to meet compliance with AS2419. There is no alternative compliance option.

We also confirm that a Fire Engineering Performance Solution is not viable in this instance to address the low flow and pressure.

The Fire Engineering statement provides the basis for the proposed modification and is a prerequisite for the development's fire safety compliance.

3 Statement of Environmental Effects

3.1 Section 4.56 and environmental assessment considerations

The following is a Statement of Environmental Effects made under the provisions of Section 4.56 being modifications involving substantially the same development for which the consent was originally granted. In this regard, it is noted that:

- The nature of the proposed modifications are minor and within the scope of Section 4.56 being modifications involving substantially the same development for which consent was originally approved on the land and being modifications that are ancillary to the approved development for a 2 storey boarding house for 32 boarding rooms and associated basement car parking and landscaping works.
- The application has taken into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. These are summarised within section 7 of this report.
- The following Statement of Environmental Effects considers the nature of the proposed modification and the potential impact of the changes on environmental planning grounds.

4 Environmental Assessment

4.1 Details of the property

The site is located 60 Binalong Avenue, Allambie Heights. The site comprises 2 land parcels which are legally described as Lot 2211 and Lot 2223 in Deposited Plan 752038. The site has a total area of 1,708 m². The site is irregularly shaped with dimensions as follows:

- Front boundary to Binalong Ave 32.3m
- Secondary front boundary to Jennifer Ave 20.08m (angular)
- Secondary front boundary to Nargong Ave 22.8m (angular)
- South side boundary 43.2m
- East side boundary 43.5m

4.2 Zoning and key environmental affectations

The property is zoned R2 Low Density under the Warringah Local Environmental Plan 2011 (LEP) as is most of the surrounding land.

The site is not affected by key environmental considerations like, for example heritage, biodiversity and acid sulfate soils. The property is affected by bush fire, geotechnical risk, flood/ waterways and riparian lands. These issues are addressed within Section 5 of this report.

There are no zoning or environmental characteristics that present impediments to the improvements proposed to the land.

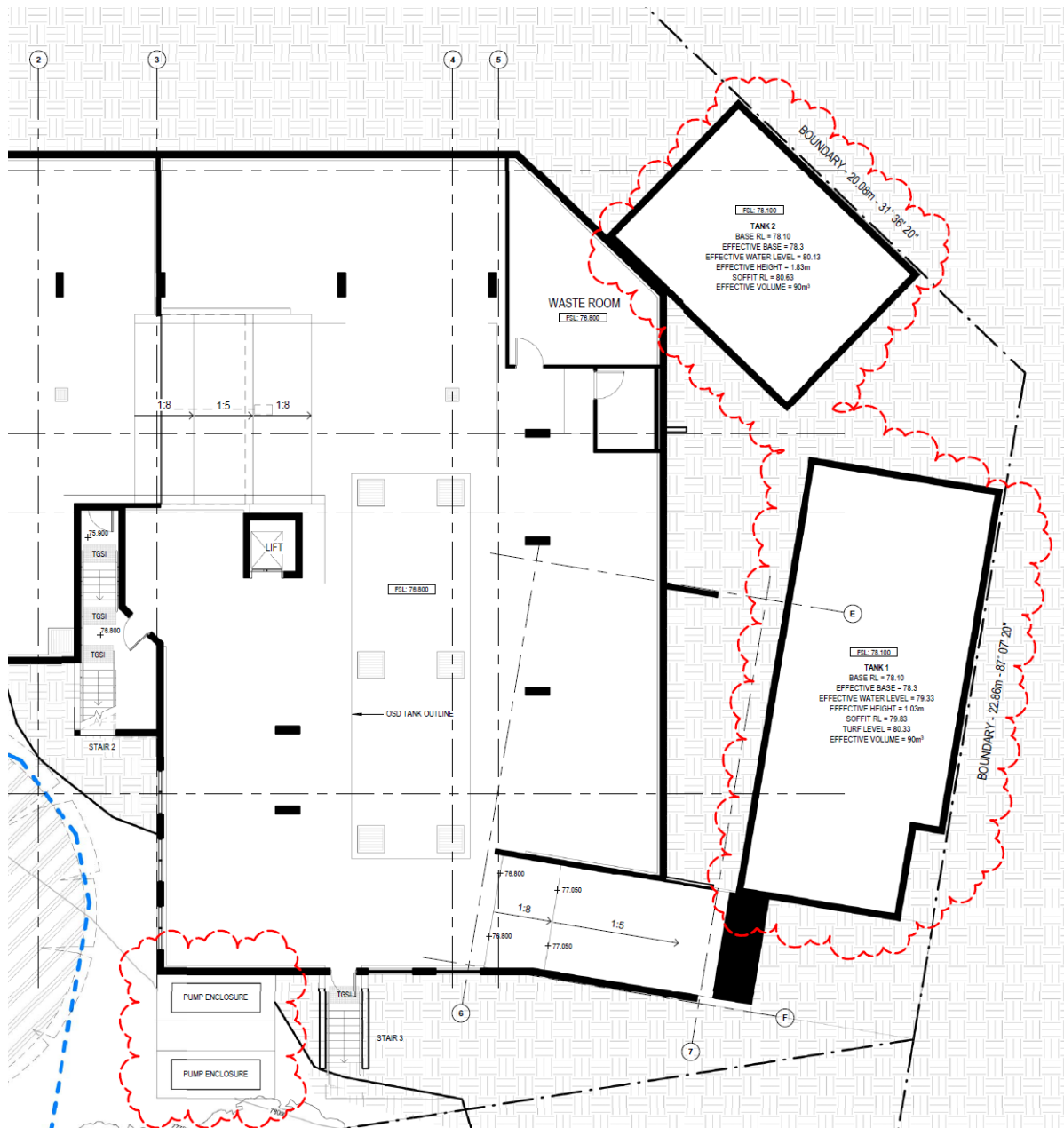


Figure 1 – excerpt of the site plan indicating the location and extent of the proposed modifications

5 Warringah LEP

Planning considerations from the Warringah LEP 2011 that are relevant to the proposed modifications are noted and addressed as follows.

5.1 LEP Clause 4.3 Height of buildings

Clause 4.3 of the LEP It establishes an 8.5m height limit applicable to the site. The proposed modifications maintain the height of the approved DA and no change in building height is proposed.

5.2 LEP Clause 6.1 Acid sulfate soils

The land is within an area designated as being Class 5 on Council's Acid Sulfate Soils Map. The proposed modification does not involve excavation below (approximately) RL 78.1, whereas the approved extent of excavation is to RL 76.8. No further assessment of this consideration is triggered by the proposed modification. Clause 6.1 is satisfied by the proposal.

5.3 LEP Clause 6.2 Earthworks

The proposed modification does not involve excavation below (approximately) RL 78.1, whereas the approved extent of excavation is to RL 76.8 for the basement car parking level (1.3m below the proposed finished internal level of the proposed tanks). Notwithstanding, the proposed modification involves a change to the extent of earthworks approved in DA2018/0149, therefore consideration of LEP clause 6.2 is made. In response the proposed modification:

- is unlikely to have any detrimental effect on, existing drainage patterns and soil stability;
- is unlikely to have any detrimental effect on the future use or redevelopment of the land;
- the quality of the soil to be excavated is likely to be sandy soils and weathered rock based on penetrometer tests undertaken by Ascent Geotechnical engineers and is unlikely to trigger specific requirements for the disposal of excavated material;
- is unlikely to have any detrimental effect on the existing and likely amenity of adjoining properties noting that the proposed tanks will not result in any significant material change to the appearance of the approved development, including its landscape presentation to the adjoining roads. The proposed modification is supported by a revised landscape plan which indicates that the space above the tanks will be landscaped;
- does not trigger the need for fill material; the need to dispose of any excavated material will be undertaken in accordance with statutory requirements;
- the source of any fill material and the destination of any excavated material;
- is unlikely to disturb any relics;
- has considered the proximity of the adjacent watercourse to the east and will not adversely impact upon it (as described in response to LEP clause 6.3 below;
- is not located within a drinking water catchment or environmentally sensitive area.

Based on the above no further assessment of this consideration is triggered by the proposed modification and LEP Clause 6.2 is satisfied by the proposal.

5.6 Bushfire prone land

The site is within a bushfire prone area and subject to the provisions of the Rural Fires Act 1997. As a result, the proposal is accompanied and supported by a bushfire protection assessment report by Bushfire Consultancy Australia.

The proposed works that are the subject of this modification are not within the identified bushfire prone area (Asset Protection Zone) of the property, will be constructed from concrete (a non-combustible material) and be located entirely below natural ground level.

Subject to compliance with the report's recommendations, the proposed modification does not pose any additional bushfire risk and satisfies planning for bushfire protection requirements and it is assessed that bushfire considerations are satisfied by the design.

6 Warringah DCP

6.1 DCP E4 Wildlife Corridor

Pursuant to the DCP, the site is identified on the Wildlife Corridor map as being part of a corridor. The original DA was accompanied and supported by a Flora and Fauna Assessment report prepared by GIS Environment Consultants Pty Ltd. The report found that *'The proposal meets the requirements and objectives of parts E2, E4, E6 and E7 of the Warringah DCP 2011'*.

The proposed works that are the subject of this modification are not within the identified flora and fauna area of the property, nor are they within any sensitive areas that contain sensitive vegetation, habitat or fauna. Based on the above considerations it is assessed that these considerations are satisfied by the design.

6.2 DCP E8 Riparian land

Pursuant to Clause E8 of the DCP, the subject property is adjacent to a drainage corridor and riparian land. DA2018/0149 was accompanied and supported by a Waterway Impact Statement prepared by GIS Environment Consultants Pty Ltd. Considerations regarding waterway impact, arboriculture, overland flow and flora and fauna have been comprehensively assessed as part of the nature and extent of development approved in DA2018/0149.

The proposed excavation works that are the subject of this modification are not within the identified riparian area or the overland path associated with the eastern, adjacent, public drainage path. It is assessed that the proposed modification is satisfactory in relation to the DCP's Riparian land considerations.

6.3 DCP Principal Built Form Controls

The built form planning controls from the Warringah DCP that are relevant to the proposed modification is the D1 Landscaped Open Space and B7 Front Setback which are addressed as follows.

6.3.1 D1 Landscaped Open Space

Landscaping will be provided over the tanks but to a depth less than 1m and therefore the area of the tanks has been excluded from the calculation of the proposed modification's landscaped area. The approved and proposed landscaped areas are compliant as stated below:

- The approved landscaped area is 723m² and 50%
- The proposed landscaping area is 854.9m² and 41.4%

6.3.2 B7 Front Boundary Setbacks

It is identified within that the proposed modification results in a variation with the DCP control - B7 Front setback. This variation is acknowledged, and justification is provided below having regard to the circumstances of the case, merits of the design, and in response to the objectives of the planning control. The objectives of the control are noted to be:

To create a sense of openness.

To maintain the visual continuity and pattern of buildings and landscape elements.

To protect and enhance the visual quality of streetscapes and public spaces.

To achieve reasonable view sharing.

The proposal is considered against each of these objectives within the table below.

Objective	Response
<i>To create a sense of openness.</i>	<ul style="list-style-type: none"> ▪ The proposed storage tank will be entirely below existing and finished ground levels and therefore will not be visible. The modification will maintain the approved function of this part of the site as a landscaped garden. In these ways the proposal will maintain a <i>sense of openness</i> to the development's streetscape presentation. ▪ Based on the above it is concluded that the proposal satisfies the first objective of the control.
<i>To maintain the visual continuity and pattern of buildings and landscape elements.</i>	<ul style="list-style-type: none"> ▪ The proposed storage tank will be entirely below existing and finished ground levels and therefore will not be visible. Therefore, the visual continuity and pattern of buildings along the southern side of the street will be maintained. Furthermore, the landscape plan makes provision landscaping in this part of the site in accordance with 'zone c' of the landscape plan. ▪ The modification will maintain the approved function of this part of the site as a landscaped garden. ▪ Based on the above it is concluded that the proposal satisfies the third objective of the control.
<i>To protect and enhance the visual quality of streetscapes and public</i>	<ul style="list-style-type: none"> ▪ The approved development will ▪ Based on the above it is concluded that the proposal satisfies

Objective	Response
<i>spaces.</i>	the second objective of the control.
<i>To achieve reasonable view sharing.</i>	<ul style="list-style-type: none"> No view loss will result from the proposed modification and therefore it is concluded that the proposal satisfies the fourth objective of the control.

Conclusion

Based on the above, it is concluded that:

- the proposal is reasonable;
- the proposal meets the objectives of B7 front boundary setback control;
- there are sufficient circumstances to justify this variation in this instance

Under clause (3A)(b) of Section 4.15 of the Act, it is appropriate for the consent authority to be flexible in applying the controls where the objectives of those controls have been satisfied. Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of DCP. Accordingly, our assessment finds that the proposed front setback is worthy of support, in the particular circumstances.

7 Section 4.15 - Matters for Consideration and 4.56 Modifications

The proposal has been assessed having regard to the matters for consideration pursuant to Section 4.15 and 4.56 of the Act, and to that extent, Council can be satisfied that:

- The site is suitable and capable of accommodating the proposed modifications based on its area, proportions, topography and the environmental affectations which have been appropriately identified, investigated and assessed.
- The proposed modification will not result in any unacceptable impacts that limit the use or enjoyment of nearby or adjoining land.
- Appropriate location - The proposed tanks will not result in any significant material change to the appearance of the approved development, including its landscape presentation to the adjoining roads. The proposed location of the tanks is appropriate; noting the slope of the site, the tanks are able to be fully concealed below ground level when positioned on the northern (upslope) side of the approved building. This would be more difficult to achieve if the tanks were positioned to the south, on the downslope side of the approved building. The proposed modification is supported by a revised landscape plan which indicates that the space above the tanks will be landscaped.
- The tanks will be completely obscured from view below the existing and proposed site levels.
- The proposed modifications to Development Consent no. 2018/0149 will not result in any unacceptable adverse impacts on the amenity of neighbouring properties.
- The proposed modifications to Development Consent no. 2018/0149 are appropriate changes to the development consent. The development as modified is substantially the same development for which consent was originally granted.

- The likely impacts of the proposed modification have been appropriately identified and considered. The addition of a water storage tank for fire safety purposes are minor modifications with negligible environmental impacts.
- The proposed modification will not result in any significant detrimental impact upon the streetscape or the amenity of adjoining land.
- Given that the proposed modification will enhance the fire safety measures of the approved development, the public interest will be appropriately served by the approval of the proposed modification.

8 Conclusion

The proposed modification to Development Consent no. 2018/0149, at 60 Binalong Avenue, Allambie Heights, represent appropriate modifications.

The proposed development as modified is substantially the same development for which consent was originally granted. The proposed modification is appropriate when considering the relevant matters to the property and the proposal pursuant to Section 4.56.

The water storage tank is a minor modification with negligible environmental impacts.

It is our considered opinion that the proposed development, as modified, is satisfactory and the modification should be approved by Council.

Yours sincerely,



Michael Haynes
Director - BBF Town Planners

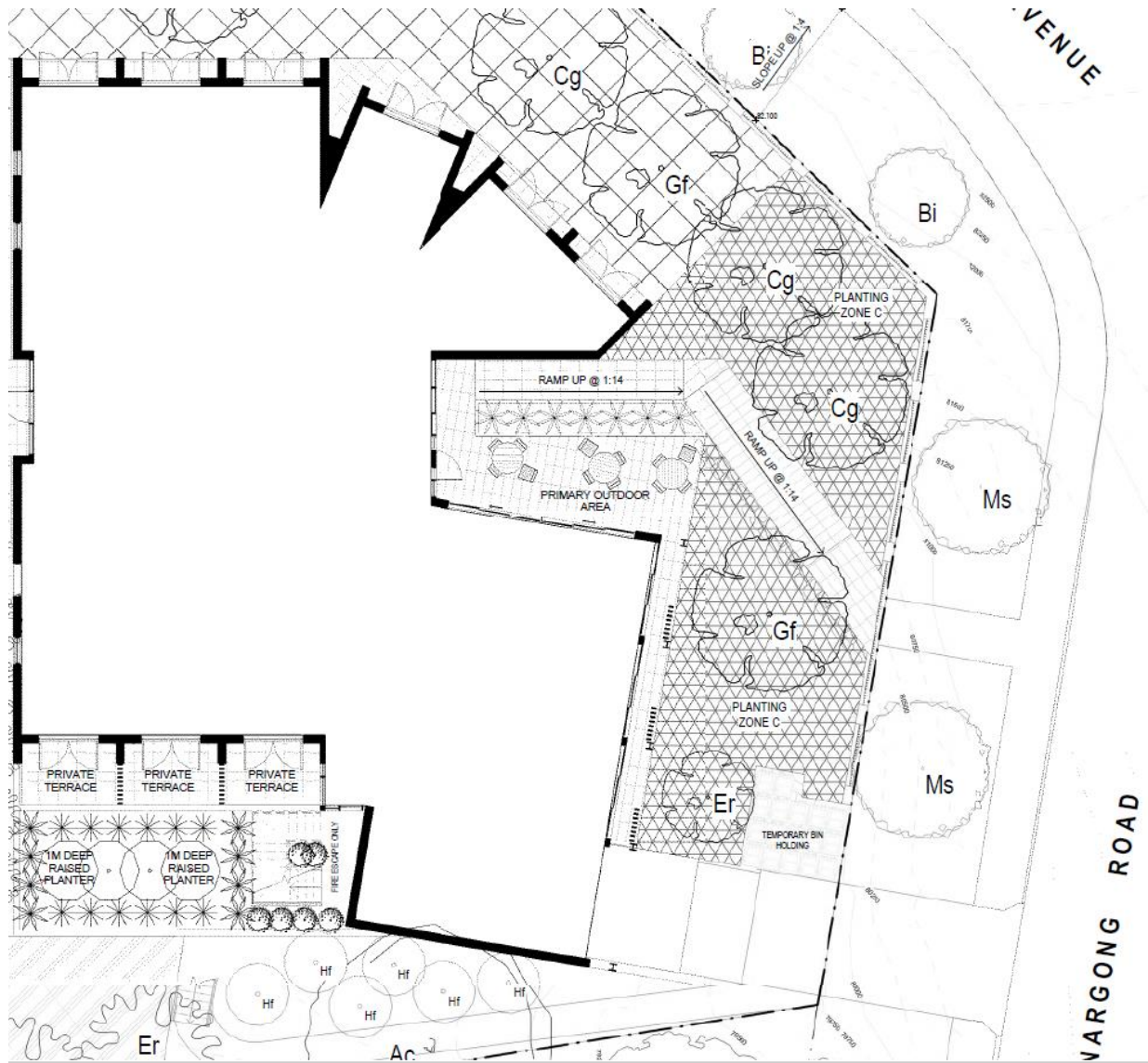


Figure 4 – excerpt of the approved landscape plan indicating the location of the proposed modifications



Figure 5 – excerpt of the proposed landscape plan

Underplanting Zone C for location see checkered area on the plan

Shrubs

Latin Name	Common Name	Pot Size	Mature Size	Mature Spread	Quantity
Baeckea virgata	Heath Myrtle	140mm	1m	1m	10
Crinum pendunculatum	Swamp Lilly	300mm	1.5-3m	0.9-1.2m	10
Dodonaea triquetra	Common Hop Bush	200mm	3-5m	2-3.5m	5
Doryanthes excelsa	Gynea Lily	25L	1.5-3m	1.2-2m	3
Grevillea x 'Superb'	Superb Grevillea	200mm	1.5-3m	1.2-2m	10
Lomandra longifolia	Spiny-headed Mat-rush	150mm	1.5m	1.3m	10
Myoporum acuminatum	Boobilla	150mm	3-5m	2-3.5m	15
Philotheca myoporoides	White Wax Flower	300mm	1.5-2m	1-1.5m	15

Ground Cover

Latin Name	Common Name	Pot Size	Mature Size	Mature Spread	Quantity
Blechnum cartilagineum	Swamp Water Fern	200mm	0.9m	0.9m	20
Cyathea australis	Rough Tree-fern	Trunk 0.7m	2m	1.5m	5
Dianella carulea	Blue-flax Lilly	Tube-stock	0.4-0.6m	0.3-0.6m	20
Dichondra 'Silver falls'	Silver Falls	150mm	0-0.3m	0.9-1.2m	30
Ficinia nodosa	Knobby Club Rush	150mm	0.5m	0.4m	15
Hardenbergia violacea	Happy Wanderer	100mm	2m	1m	10
Hibbertia scandens	Snake Vine	140mm	2-5m	Climber	10
Panicum simile	Panicum simile	140mm	0.7m	0.7m	5
Poa poliformis	Coastal Poa	Viro Cell	0.75-0.9m	0.3-0.6m	5
Themeda australis/triandra	Kangaroo Grass	Tube-stock	1m	0.6m	10
Viola hederacea	Native Violet	100mm	0.1m	Spreader	20

Figure 6 – planting schedule for 'zone C' - excerpt from the landscape plan