

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0645
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Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 100 DP 1250521, 37 - 43 Federal Parade BROOKVALE NSW 2100
Proposed Development:	Alterations and additions to a school to provide Solar Panels
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	The Trustees of the Order of Hermits of St Augustine in Australasia
Applicant:	Solahart Industries Pty Ltd

Application Lodged:	16/06/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	29/06/2020 to 13/07/2020
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	4.3 Height of buildings: 16.8%
Recommendation:	Approval

Estimated Cost of Works:	\$ 380,491.97
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EXECUTIVE SUMMARY

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that the proposal is suitable and appropriate development for the subject site.

The Development Application (DA) seeks consent for the installation of solar panels on the roof of two buildings within the grounds of St Augustine's College, namely the Gould Building and Brimson Hall. Both buildings exceed the 8.5m maximum building height development standard. The proposed solar panels will sit between 120mm and 135mm above the roof line of the subject buildings. As such, the application is being referred to the NBLPP as the installation of the panels on the roof of the buildings will breach the 8.5m by more than 10% (16.8% breach).

Principle development issues with the development relate to visual impacts and amenity impacts of the panels on the surrounding residential area. Due to the shallow pitch of the roof of the Gould Building and the existing parapet the proposed panels will not be visible from the public domain or result in unreasonable adverse impacts on neighbouring residential amenity.

The panels on the roof of Brimson Hall have already been installed and a condition requires the submission and approval of a Building Information Certificate (BIC) for the retrospective work. The subject development application therefore only makes an assessment of whether the continued use of the panels is acceptable. Due to the slope of the roof to the hall and the topography of the land which rises steeply to the north the panels are visible from surrounding residential properties. The applicants argument that the location of the panels is the most logical and practical position to capture solar energy is supported. In order to reduce impacts on residential amenity the panels have been treated with an anti- reflective coating which will minimise glare from the panels to neighbouring properties.

The solar panels will allow for electricity generation to minimise energy consumption with an estimated reduction of the schools annual power consumption by 39%, a saving of \$43,000 on their electricity bill each year and will offset 254,000kgs of carbon each year. The reduction of carbon has significant environmental benefits which meet the objectives of clause D22 of the Warringah DCP. Given the significant environmental benefits and the measures to reduce environmental impacts associated with the visual impact and glare the continued use of the panels on Brimson Hall is supported.

Two (2) submissions were received following notification. The submissions raised issues with respect to the works having been complete, the scale of the proposal and visual impacts on the character of the residential area and health concern relating to solar panels. There is no evidence to suggest that solar panels pose a health risk. The visual impact of the proposal has been assessed as acceptable given the environmental benefits and the measures to reduce glare and a condition requires the submission and approval of a BIC.

On balance, the proposal is recommended for approval. having considered relevant issues and the the assessment of the plans and supporting information submitted.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the installation of a 588 x 395w solar photovoltaic (PV) cell system on the roof of two separate buildings, Brimson Hall (the gymnasium) and the recently renovated Gould building.

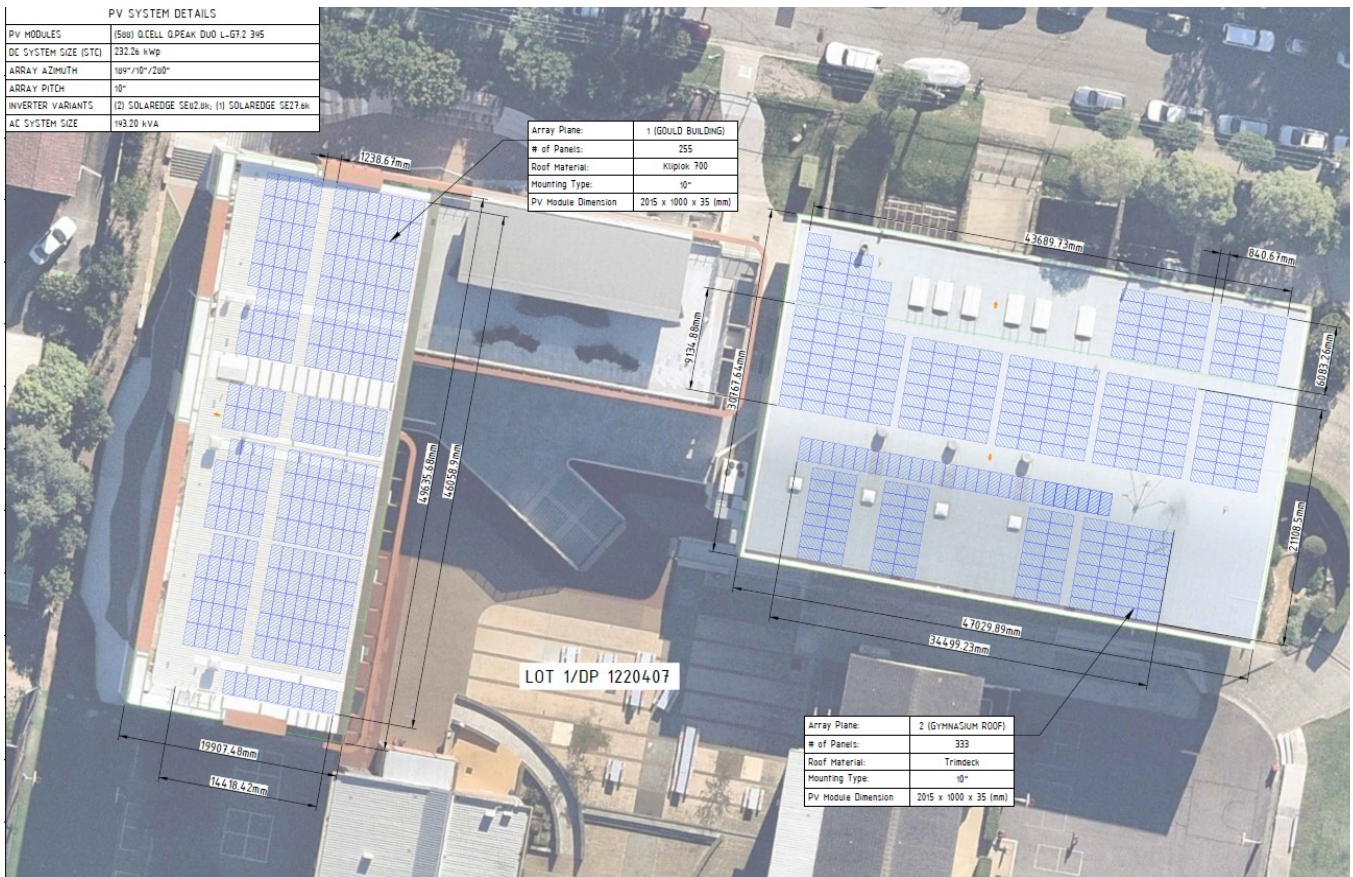
The panels on the roof of the Brimson hall (gymnasium) comprises:

333 panels with a dimension of 2015 x 1000 x 35 mm mounted at a 10 degree slope.

The panels on the roof of the Gould Building comprises:

255 panels with a dimension of 2015 x 1000 x 35 mm mounted at a 10 degree slope.

A site inspection confirmed that the panels have already been installed on the roof of the gymnasium and the applicant was advised that a Building Information Certificate (BIC) will be required to be lodged and approved for the retrospective work. The subject DA can only assess the use of the panels to the gymnasium.



Proposed roof plan

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 Development Control Plan - D3 Noise
 Warringah Development Control Plan - D11 Roofs
 Warringah Development Control Plan - D12 Glare and Reflection
 Warringah Development Control Plan - D22 Conservation of Energy and Water

SITE DESCRIPTION

Property Description:	Lot 100 DP 1250521 , 37 - 43 Federal Parade BROOKVALE NSW 2100
Detailed Site Description:	<p>The St Augustine's College campus ("the school") is described as 37- 43 Federal Parade, Brookvale, comprising Lots 100 DP 1173782, Lot 17 DP 11209 and Lot B DP 295193 which provides for a total area of 24,830m² for the school. The St Augustine's College campus (Primary and Secondary school) has frontages to Federal Parade to the north, Alfred Road to the east, Gulliver Street to the south and Consul Road to the west. The application relates to two existing buildings, namely Brimson Hall located along the western boundary and the Gould Building located along the southern boundary.</p> <p>Vehicular access to the site is currently available from Alfred Street, Gulliver Street and Federal Parade. The school bus zones and student drop off/pick up zone is within Alfred Street. The formal car parking for the school is within the school grounds and the open car park facing Gulliver Street</p> <p>The site is on Council's Landslip Risk Mapping as 'Area A' with no significant landslip risk.</p> <p>The dominant land use to the west and to the north are primarily low density residential dwelling houses, with two storey medium density development on the southern side of Gulliver Street. Other major land uses to the east and south of the site include Brookvale Park and Sports Stadium, Brookvale Primary School and mixed business uses along Pittwater Road.</p>

Map:



SITE HISTORY

On 2 February 1995, Development Application No. DA6000/4368 for the primary school classrooms fronting Gulliver Street were approved by Council (Consent 95/57). This consent limits school enrolments to a maximum of 820 students, but the school has since exceeded this limit (as identified in EPA2013/0102).

On 19 June 2014, Development Application No. DA2013/1336 for alterations and additions to the school was granted deferred commencement approval. The deferred commencement conditions related to Council's drainage system. On 13 November 2014 the deferred commencement conditions were satisfied.

History relating to subject DA

On 31 August 2020, the applicant lodged plans and elevation of the proposed solar panels.

On 2 September 2020, the applicant lodged a clause 4.6 variation to the height of buildings development standard.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning	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

Section 4.15 Matters for Consideration'	Comments
instrument	2018. The subject site has been used for educational purposes for an extended period of time. The proposed development retains the educational use and the relates solely to the installation of solar panels. The proposal 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 Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&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&A Regulation 2000 allow Council to request additional information. Detailed plans showing the dimensions of the solar panels was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&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&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&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&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	<p>(i) Environmental Impact</p> <p>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>

Section 4.15 Matters for Consideration'	Comments
economic impacts in the locality	<p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 29/06/2020 to 13/07/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Paul Karl Stephens	47 A Federal Parade BROOKVALE NSW 2100
Carolyn Joyce Ali	47 Federal Parade BROOKVALE NSW 2100

The following issues were raised in the submissions and each have been addressed below:

- The works are almost complete prior to approval.
- The amount of panels / scale of development is out of character with the residential area.
- Health concerns relating to the solar panels.

The matters raised within the submissions are addressed as follows:

- The works are almost complete prior to approval.

Comment:

A site inspection confirmed that the panels have been installed on the roof of Grimson Hall, the gymnasium building which fronts Federal Parade. The applicant has been informed that a Building Information Certificate will be required to be approved for retrospective consent for these panels. A condition is included in the recommendation to this effect.

- The amount of panels / scale of development is out of character with the residential area.

Comment:

It is appreciated that given the slope in the roof of the gymnasium building and the typography of the land to the north that the panels are visible from the neighbouring residential properties, especially those along Federal Parade. It is also agreed that the number of panels is considerable, however, the location of the panels on the north facing roof is the most practical location to make the proposal financially feasible in terms of energy cost saving. It is noted that due to the design of the roof of the Gould Building it is unlikely that the panels will be visible, refer to discussion under clause 4.6.

- Health concerns relating to the solar panels.

Comment:

There is no evidence to suggest that solar panels pose a health risk to the public.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	No objections to the proposed installation of solar panels onto the existing school building roofs subject to conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid a response was received on 17 August 2020 advising that the proposal is acceptable subject to conditions. The Ausgrid conditions are included in the recommendation.

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 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. The proposal relates to the installation of solar panels, in this regard it is considered that the development 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 continued educational land use.

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 a response was received on 17 August 2020 advising that the proposal is acceptable subject to conditions. The Ausgrid conditions are included in the recommendation.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Clause 4.3 (Height of Buildings)

There is no allocated height limit. The solar panels are proposed to sit between 30mm - 40mm above the existing north facing sloping panels. The panels will not sit above the highest part of the existing roof. Refer to discussion under the Build Form Control section of the Manly DCP.

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
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9.9m
Percentage variation to requirement:	16.8%

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 (attached to this report as an Appendix) 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).

In this regard, the Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

- The panels will sit 120mm above the existing roof line on the Brimson Hall building and 135mm above the roof line of the Gould building. The panels will not result in unreasonable visual impacts from public views. The panels sit below other objects on the roof, such as ventilation units, skylights and parapet walls.
- Although the panels on the Brimson Hall building are visible from residential properties to the north, including those along Federal Parade, they do not given rise to impact on views or solar access due to the low profile of the panels. In addition, the panels will have an anti-reflective coating to minimise glare.
- The Panels on the roof of the Gould Building and will not be visible from the public domain due to the 10 degree slope of the roof and the existing parapet wall which runs along the perimeter of the roof.
- The panels are compatible with the height of the existing school buildings and will not protrude pas the highest point of each building.
- The proposed location of the panels are the best suited for the school to get the best return on investment and the most amount of energy production. It is calculated that the school will reduce their annual power consumption by 39%, they will save \$43,000 on their electricity bill each year and will offset 254,000kgs of carbon each year. This amount of reduction of carbon is not only good for the environment, but is also a great way to educate the students about sustainable living. Instilling into them at an early age the positive effects of solar energy. This will in turn be passed onto the parents of the students and result in more solar power installed for homes in the area.

The buildings which will be used for the solar installation are existing building, namely Brimson Hall gymnasium building and the Gould Building.

Brimson Hall

Brimson Hall is located within the western boundary of the site setback 8.3m from the frontage to Federal Parade and has a maximum height of 9.8m.

A site visit confirmed that the panels have already been installed on the roof of the Brimson Hall,

therefore, the subject DA can only assess the use of the panels on the roof of this building. The applicant has been requested to lodge a separate BIC for the retrospective work.

The panels have been installed 120mm above the roof line of the building, the panels sit below the ridge height. Due to the slopping roof design and the typography of the land which rises steeply to the north the panels are visible from neighboring properties, including those along Federal Parade. The applicants justification for the location of the panels on the north facing roof slope as the most practical location for the panels is supported. The applicant also noted that an anti-reflective coating has been applied to the panels to minimise glare from the panel to help protect residential amenity

Gould Building

The Gould Building is located within the southern boundary of the site and has a maximum height of 9.8m. It is proposed that solar panels will be installed 135mm above the roof line of the building. Due to the design of the roof of the Gould Building with a shallow roof pitch and a parapet it is unlikely that the proposed panels will be visible from the public domain or result in unacceptable environmental or amenity impacts on surrounding uses.

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 R2 Low Density Residential 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 subject site has been used as a educational establishment associated with St Augustines College for some time. The existing buildings on the site are of a greater height, scale and density than the surrounding low density one and two storey dwellings. The subject application relates to the installation of solar panels on the roof of the two existing school buildings. The panels will project 135mm above the roof plane of the Gould Building and are consistent with the height of the buildings within the school complex. The height of the panels has therefore been assessed as meeting objective (a) of the height control.

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

Comment:

Due to the design of the roof of the Gould Building with the 10 degree pitch and parapet it is unlikely that the panels will be visible from the public domain. As such, the proposal meets objectives b and will not give rise to visual impact, disruption of views, loss of privacy or solar access.

As discussed above, the panels have already been installed on the roof of Brimson Hall. It is acknowledged that the panels are visible from surrounding residential properties to the north, however, the panels have been coated with an anti-reflective coating to minimise adverse amenity impacts associated with glare. Given that the north facing roof is the most practical location for the panels the continued use of the panels has been assessed as meeting objective (b) of the height control.

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

Comment:

The site is an established educational use and the addition of the solar panels of the roof of two existing buildings will not have an unreasonable adverse impact on the scenic quality of Warringah's coastal and bush environments. The development has been assessed as meeting objective (c) of the height control.

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, it is unlikely that the panels will be visible on the roof of the Gould building. In order to minimise the potential amenity impacts by way of glare the panels an anti-reflective coating is applied to the panels. The development has been assessed as meeting objective (d) of the height control.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment*

Comment

The subject site relates to an existing educational establishment, St Augustines College. The

- *To enable other land uses that provide facilities or services to meet the day to day needs of r*

Comment

The site will continue to provide an educational facility to provide for the day to day needs of re

- *To ensure that low density residential environments are characterised by landscaped settings*

Comment

The site will not alter the existing landscape characteristics of the site.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

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

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

Planning Circular PS 18-003 dated 21 February 2018, 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 the Local Planning Panel.

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes

Detailed Assessment

D3 Noise

The plant associated with the solar panels is housed next to the internal plant room in the gym building which is sited away from the boundaries. As such, it is not anticipated that the plant associated with the solar panels will give rise to any acoustic impacts to neighbouring residential properties.

D11 Roofs

Clause D11 requires:

- 1. Lift overruns, plant and other mechanical equipment are not to detract from the appearance of roofs.*
- 2. Roofs should complement the roof pitch and forms of the existing buildings in the streetscape.*
- 3. Articulate the roof with elements such as dormers, gables, balconies, verandahs and pergolas.*
- 4. Roofs shall incorporate eaves for shading.*
- 5. Roofing materials should not cause excessive glare and reflection.*
- 6. Service equipment, lift overruns, plant and other mechanical equipment on the roof shall be minimised by integrating as many services, etc as possible into the building.*

Comment

The proposed solar panels are to be installed on the roof of the Gould Building. The panels are 35mm thick and will be constructed 135mm above the height of the roof line. Due to the pitch of the roof and the parapet the equipment will be integrated into the existing structure with minimal impacts on surrounding properties.

As discussed above the continued use of the panels that have been installed on the roof of Brimson Hall has been assessed as acceptable given that the northern roof slope is the most practical location for the panels and an anti-reflective coating has been applied to the panels to minimise impacts associated with glare.

D12 Glare and Reflection

Clause D12 requires

Sunlight reflectivity that may impact on surrounding properties is to be minimised by utilising one or more of the following:

- Selecting materials for roofing, wall claddings and glazing that have less reflection eg medium to*

dark roof tones;

- Orienting reflective materials away from properties that may be impacted;
- Recessing glass into the façade;

Comment

The applicant has confirmed that the panel uses an anti-reflective coating on the glass which will ensure that the light reflections will be directed away from the neighbouring residential properties and not bounce back towards them.

D22 Conservation of Energy and Water

Clause D22 requires

The orientation, layout and landscaping of sites is to make the best use of natural ventilation, daylight and solar energy.

Site layout and structures are to allow for reasonable solar access for the purposes of water heating and electricity generation and maintain reasonable solar access to adjoining properties.

Buildings are to be designed to minimize energy and water consumption.

Landscape design is to assist in the conservation of energy and water.

Reuse of stormwater for on-site irrigation and domestic use is to be encouraged, subject to consideration of public health risks.

All development must comply with Council's Water Management Policy.

Comment

The location of the panels on the roofs of the existing buildings is the most logical and practical position to capture solar energy. The solar panels will allow for electricity generation to minimise energy consumption. The applicant has calculated a reduction of the schools annual power consumption by 39%, a saving of \$43,000 on their electricity bill each year and will offset 254,000kgs of carbon each year. The reduction of carbon has significant environmental benefits which meet the objectives of clause D22.

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 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$3,805 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$380,492.

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

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.

In summary, a detailed assessment has been required for the following specific issues:

Amenity impacts to residential properties located to the south in respect of visual impacts, reflectivity, view loss and acoustic impacts; and
Sustainability and environmental benefits.

The proposed PV panels on the roof two buildings within the St Augustines school campus will offset the electricity consumed by the school. The panels extended between 120mm and 135mm above the roof of two buildings. Given that the existing buildings breach the height limit the proposal will represent a 16.8% variation to the standard.

The panels on the roof of the Gould Building will not be visible from the public domain and the continued use of the existing panels on the roof of Brimson Hall is supported given that this is the most practical location for the panels and anti-reflectivity coating has been applied to the panels to minimise glare.

The application was notified and two submissions have been received which raised issues with respect of the work having been completed and visual and health impacts. These issues are address in the report and by way of conditions.

In summary, the proposal is recommended for approval subject to conditions, provided in accordance with the Environmental Planning and Assessment Act 1979 and Regulations.
It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

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.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/0645 for Alterations and additions to a school to provide Solar Panels on land at Lot 100 DP 1250521, 37 - 43 Federal Parade, BROOKVALE, subject to the conditions printed below:

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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
PV-1 Solar Roof Layuot	31 August 2020	Solahart
PV-2 Site elevation Gymnasium Building	31 August 2020	Solahart
PV-3 Site Elevation Goold/Lecceto Building	31 August 2020	Solahart

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

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
Ausgrid	Response Ausgrid Referral	17 August 2020

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website 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. 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.

4. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of 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 2008
- (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

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,804.92 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 2019. The monetary contribution is based on a development cost of \$380,491.97.

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 2019 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

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.

6. Security Bond

A bond (determined from cost of works) of \$1,500 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).

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

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

7. 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.

8. Building Information Certificate

A Building Information Certificate is required to be submitted for the panels that have been installed on the roof of the Brimson Building within one month of the date of consent.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: The panels have been installed and retrospective development consent can not be issued for the work.

9. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. 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.

11. 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)] and
- 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.
- 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.

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

12. 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) Structural Assessment Report prepared by Geoff Ninnes Fong, Ref R23019, dated 29 May 2019 and prepared by Partners.

(b) Construction Methodology and Traffic Management Plan dated August 2019 and prepared by Monique Nichols, Northern Beaches Council.

In addition, certification is required to demonstrate compliance with condition (8) noise from electrical inverter equipment:

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.

13. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management. (DACPLF01)