

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2023/0414 |
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| Responsible Officer: | Nick Keeler |
| Land to be developed (Address): | Lot 1 DP 304830, 1973 Pittwater Road BAYVIEW NSW 2104 Lot A DP 360274, 1973 Pittwater Road BAYVIEW NSW 2104 Lot 20 DP 635214, 1973 Pittwater Road BAYVIEW NSW 2104 |
| Proposed Development: | Alterations and additions to an educational establishment (St Luke's Grammar School) |
| Zoning: | R2 Low Density Residential SP2 Infrastructure |
| Development Permissible: | Yes, under SEPP (Transport and Infrastructure) 2021 |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Delegation Level: | NBLPP |
| Land and Environment Court Action: | No |
| Owner: | Anglican Schools Corporation |
| Applicant: | Anglican Schools Corporation |

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| Application Lodged: | 24/04/2023 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Community facility |
| Notified: | 01/05/2023 to 15/05/2023 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | 4.3 Height of buildings: 17.6% |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 1,759,740.00 |
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EXECUTIVE SUMMARY

This application seeks consent for alterations and additions to an educational establishment, known as St Luke's Grammar School..

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to a variation

to the height of buildings development standard by more than 10%. The maximum height of the proposed development has been measured at 9.98m, which represents a variation of 17.4% to the prescribed 8.5m building height limit under the PLEP 2014

The clause 4.6 request for the non-compliance with height standard arises from the site being partially excavated underneath the existing building (measured based on *Merman* caselaw), creating a 17.4% variation for a small section of the building.

Incidentally, based on extrapolated natural ground levels (caselaw of *Bettar*), the height would only be measured at a maximum of 8.2m (which would comply with the standard).

The Clause 4.6 variation is well founded and is supported.

No public submissions were received.

Overall, it is considered that the proposal has been designed appropriately and will remain compatible with the prevailing built form of the locality, and will not cause unreasonable impact to the amenity of adjacent properties, including solar access, privacy and view sharing.

The proposed additions retain the character of the locality, while being built primarily upon the existing footprint and not resulting in the removal of any significant vegetation or require significant alteration to the landform.

This report concludes with a recommendation that the NBLPP support the Clause 4.6 variation and grant **APPROVAL** to the development application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to the existing educational establishment known as St Luke's Grammar School.

The proposed development includes the following elements:

Ancillary Works

- A new tiered seating area is proposed to the north of the existing hall. This provides for outdoor seating to replace the existing timber teared seating in the same location.
- Relay existing paving to the north of the existing wall.
- New stair to replace existing stair between hall building and classroom building to the west. A new roof will be provided over the stair to provide all weather access and connection between the two buildings.

Hall Building

Lower Level

- Extend office at northwest corner, within the existing footprint.

Ground Level

- Delete existing store to the northeast corner of hall to provide for additional floor area for the hall.
- Addition to the northwest corner of hall over existing hard surface area to provide for additional floor area for the hall.
- Demolish stage.
- New bi-folding doors to northern elevation of hall.
- Addition to southwest corner to extend library.
- Internal alterations to the library including removal of canteen and store room.

Canteen

It is proposed to provide a new canteen within the existing basement level of the central classroom building. The canteen is contained within the existing footprint, retaining existing floor levels and provides for a fit out and new doors and windows as detailed on the architectural plans.

All works are located over existing hard surface areas and do not reduce the area of landscaping on site.

AMENDED PLANS

During the assessment, Council requested the applicant provide a report outlining the proposal's consistency with the provisions of the BCA. As a result, the applicant proposed to delete the canteen from the basement level of the central classroom building and instead propose a reconfiguration of the existing canteen on the western side of the sports hall.

In accordance with the provisions of the Northern Beaches Community Participation Plan, re-notification of the application was not required. The amendments are considered to be minor and will not alter the environmental impact on nearby properties and the public domain.

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

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

SITE DESCRIPTION

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| Property Description: | Lot 1 DP 304830 , 1973 Pittwater Road BAYVIEW NSW 2104 Lot A DP 360274 , 1973 Pittwater Road BAYVIEW NSW 2104 Lot 20 DP 635214 , 1973 Pittwater Road BAYVIEW NSW 2104 |
| Detailed Site Description: | <p>The subject site consists of three (3) allotments located on the western side of Pittwater Road and northern side of Loquat Valley Road.</p> <p>The site is irregular in shape with a primary frontage of 71.29m along Pittwater Road and a secondary frontage of 112.57m. The site has a surveyed area of 8,080m².</p> <p>The site is located within the SP2 Infrastructure and R2 Low Density Residential zones and accommodates the St Luke's Grammar School, Bayview campus.</p> <p>The site falls approx. 8m from the north towards the south. The site is identified as being flood prone and is located in the coastal environment and use areas.</p> <p>The site contains multiple building associated with the school, a synthetic turf area, tennis court, grassed and garden areas with several trees.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential dwellings.</p> |

Map:



SITE HISTORY

There have been numerous development consents pertaining to the educational establishment over the last 30 years. A search of Council's records has revealed the following relevant history from the last 10 years:

Application **N0080/13** for Alterations and additions to existing staff room was approved on 27/05/2013 by Council staff.

Application **DA2022/2107** for Alterations and additions to an educational establishment (St Luke's Grammar School) was approved on 07/02/2023 by Council staff.

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 |
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| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | There are no current draft environmental planning instruments. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Pittwater 21 Development Control Plan applies to this proposal. |

| Section 4.15 Matters for Consideration | Comments |
|--|--|
| Section 4.15 (1) (a)(iii) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021) | <p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to an clause 4.6 variation request and a BCA report.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |

| Section 4.15 Matters for Consideration | Comments |
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| 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 01/05/2023 to 15/05/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

| Internal Referral Body | Comments |
|--|--|
| Building Assessment - Fire and Disability upgrades | <p><i>Supported, subject to conditions</i></p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. The following Report is required prior to further consideration by Building Control;</p> <p><u>Building Code of Australia Report (Class 2-9)</u> A ‘Building Code of Australia (BCA) Assessment Report’ / ‘Fire Audit Report’ from an appropriately qualified Registered Certifier will need to be submitted to address the following :</p> <p>The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to-satisfy provisions of Sections C, D, E and F of the Building Code of Australia. The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made by the proposed development are appropriate for its intended use to:</p> <p>i) restrict the spread of fire from the building to other buildings nearby, and</p> |

| Internal Referral Body | Comments |
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| | <p>ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and iii) as required, provide access for persons with a disability, and iv) provide facilities and services appropriate for the development.</p> <p>The amended application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p> |
| <p>Environmental Health (Industrial)</p> | <p>Supported, without conditions</p> <p>General Comments This proposal seeks approval for the construction alterations/additions to the existing educational establishment. The proposal is described in detailed in the architectural plans submitted with the application and are summarised below:</p> <p>Ancillary Works</p> <ul style="list-style-type: none"> • A new tiered seating area is proposed to the north of the existing hall. This provides for outdoor seating to replace the existing timber teared seating in the same location. • Relay existing paving to the north of the existing wall. • New stair to replace existing stair between hall building and classroom building to the west. A new roof will be provided over the stair to provide all weather access and connection between the two buildings. <p>Hall Building Lower Level</p> <ul style="list-style-type: none"> • Extend office at northwest corner, within the existing footprint. <p>Ground Level</p> <ul style="list-style-type: none"> • Delete existing store to the northeast corner of hall to provide for additional floor area for the hall. • Addition to the northwest corner of hall over existing hard surface area to provide for additional floor area for the hall. • Demolish stage. |

| Internal Referral Body | Comments |
|--|---|
| | <ul style="list-style-type: none"> • New bi-folding doors to northern elevation of hall. • Addition to southwest corner to extend library. • Internal alterations to the library including removal of canteen and store room. <p>Canteen</p> <p>It is proposed to provide a new canteen within the existing basement level of the central classroom building. The canteen is contained within the existing footprint, retaining existing floor levels and provides for a fit out and new doors and windows as detailed on the architectural plans.</p> <p>All works are located over existing hard surface areas and do not reduce the area of landscaping on site.</p> <p>Environmental Health notes there is no increase in student numbers or hours of operation.</p> <p>Additionally that smoke or odour from the new canteen or noise is not likely to impact neighbouring residential receivers .</p> |
| <p>Environmental Health (Food Premises, Skin Pen.)</p> | <p><i>Supported, subject to conditions</i></p> <p>General Comments</p> <p>This proposal seeks approval for the construction alterations/additions to the existing educational establishment. The proposal is described in detailed in the architectural plans submitted with the application and are summarised below:</p> <p>Ancillary Works</p> <ul style="list-style-type: none"> • A new tiered seating area is proposed to the north of the existing hall. This provides for outdoor seating to replace the existing timber teared seating in the same location. • Relay existing paving to the north of the existing wall. • New stair to replace existing stair between hall building and classroom building to the west. A new roof will be provided over the stair to provide all weather access and connection between the two buildings. <p>Hall Building</p> <p>Lower Level</p> <ul style="list-style-type: none"> • Extend office at northwest corner, within the existing footprint. <p>Ground Level</p> <ul style="list-style-type: none"> • Delete existing store to the northeast corner of hall to provide for additional floor area for the hall. |

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| NECC (Bushland and Biodiversity) | <p><i>Supported, subject to conditions</i></p> <p>The proposal seeks approval for alterations and additions to an educational establishment. The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • SEPP (Resilience and Hazards) - Coastal wetlands and proximity area • Pittwater 2014 LEP - Part 7.6 Biodiversity Protection • Pittwater 21 DCP - Clause B4.6 Wildlife Corridors <p>The proposed works will require the removal of landscaped areas that have been heavily disturbed and as a result are not likely to impact on native flora and fauna. The proposed works will occur in land identified within the Coastal Wetlands and Littoral Rainforest Area Map, however are unlikely to interfere with the ecological processes of the wetland.</p> <p>No native vegetation or fauna habitat will be impacted, the development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p> |
| NECC (Coast and Catchments) | <p><i>Supported, without conditions</i></p> <p>The property is located within the Coastal Use and Environment</p> |

| Internal Referral Body | Comments |
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| | Area, however the development is unlikely to impact on these attributes. |
| NECC (Development Engineering) | <p>Supported, subject to conditions</p> <p>27/06/2023: Development Application is for alterations and additions to the existing educational establishment including additions to the existing hall building, alterations to create a canteen within an existing footprint, new stairs and roof alterations to the hall. The proposed works are located within the existing building footprint and do not result in additional hard surface areas. No objections to the proposal subject to conditions as recommended.</p> |
| NECC (Flooding) | <p>Supported, subject to conditions</p> <p>The development proposes to refurbishment of the existing hall building and relocation of the canteen within an existing educational establishment at the site. The proposed works are located within the existing building footprint and do not result in additional hard surface areas. There are no flood related objections.</p> |
| NECC (Riparian Lands and Creeks) | <p>Supported, subject to conditions</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience and Hazards) 2021; • Relevant LEP and DCP clauses; and • Northern Beaches Water Management for Development Policy <p>The site is near Pittwater estuary and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of the estuary, or the quantity and quality of surface and ground water flows that it receives. Under the Water Management (General) Regulation 2018 hydro line spatial data mapping, a watercourse is mapped through the site within 40 metres of the proposal but it is piped. The Waterfront Land e-tool indicates that without a watercourse bed or bank, or any watercourse features, a controlled activity approval is not required – no watercourse. The Controlled activity exemption e-tool corroborates this outcome because the watercourse fits the description of concrete lined or piped channels. Therefore, it appears unlikely that a controlled activity permit is required. Geotechnical investigation found groundwater. Please see Water Management referral for comments. Appropriate sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p> |
| NECC (Water Management) | <p>Supported, subject to conditions</p> |

| Internal Referral Body | Comments |
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| | <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WM Policy), and; • Relevant LEP and DCP clauses; <p>The proposal does not appear to change the total impervious area of the site.</p> <p>Geotechnical investigation encountered groundwater but the proposed construction method avoids the need to dewater. If dewatering is required then the applicant must contact catchment@northernbeaches.nsw.gov.au for advice on Council's groundwater dewatering permit prior to excavating. Approvals must be obtained from WaterNSW to undertake construction if large quantities of groundwater are to be removed.</p> |
| Strategic and Place Planning (Urban Design) | <p>Supported, without conditions</p> <p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p> <p>The application seeks consent for alterations and additions to the existing educational establishment comprising of additions to the existing hall building, alterations to create a canteen within an existing footprint, new stairs and roof alterations to the hall. The works have been designed to be consistent with the existing structures on site.</p> <p>Urban Design raises no objection to the proposed development.</p> <p>Please note: Regarding any view impacts and any impacts on solar amenity and overshadowing, these matters will be dealt with under the evaluation of Council Planning Officer. Any impacts of non-compliances regarding heritage will be dealt with under the evaluation of Council Heritage Officers, and any Landscape non-compliances will be dealt with under the evaluation of Council Landscape Officers.</p> |

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs),

Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections.

Transport for NSW (TfNSW)

Section 2.118 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment:

The proposal will not impact the access arrangements to Pittwater Road and would not result in the enrolment of additional students. No further consideration or referral advice is required from TfNSW.

Part 3.4 - SCHOOLS

Part 3.4, Section 3.36 of Chapter 3 stipulates that:

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

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

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

The design quality principles are set out 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 proposed development does not substantially alter the existing context, built form and landscape of the school.

The proposal is considered to demonstrate consistency with this principle.

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 proposed development includes alterations to existing buildings to provide improved adaptability for future use and demand requirements.

The proposal is considered to demonstrate consistency with this principle.

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 layout of the existing buildings is not proposed to be altered in this application. Existing wayfinding is not expected to be unreasonably impacted by the proposal.

The proposal is considered to demonstrate consistency with this principle.

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 proposal is considered to demonstrate consistency with this principle.

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 proposal improves upon the existing school buildings to provide more usable and accessible spaces while limiting impact upon adjacent properties and the public domain.

The proposal is considered to demonstrate consistency with this principle.

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 proposed development demonstrates appropriate flexibility and adaptability of buildings and open space.

The proposal is considered to demonstrate consistency with this principle.

Principle 7 – aesthetics

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

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

Comment:

The proposed development provides for a suitable aesthetic outcome and is in keeping with the existing built form of buildings on the site.

The proposal is considered to demonstrate consistency with this principle.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

Division 1 Coastal Wetlands and littoral rainforest area

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

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

Comment:

Council is satisfied the proposed development is appropriately designed and sited in a manner that avoids adverse impact to the nearby coastal wetland.

Division 3 Coastal Environment Area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

The proposed development is not expected to cause adverse impact to the coastal environment area.

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

Comment:

Council is satisfied that the proposed development is appropriately designed and sited to ensure adverse impact to the items referred to in subsection (1) is avoided.

Division 4 Coastal Use Area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - ii)

- iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
- b) is satisfied that:
- i) the development is designed, sited and will be managed to avoid an
 - ii) adverse impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

Council is satisfied the proposed development is appropriately designed and sited in a manner that avoids adverse impact to the coastal use area.

Division 5 General

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

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

Comment:

Council is satisfied the proposed development will not cause an increased risk of coastal hazards on the site or surrounding land.

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

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

Comment:

All relevant provisions of applicable certified coastal management programs have been considered as part of the assessment of the application.

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

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. 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 sub-section 4.6 (1) (b) and (c) of this Chapter and the land is considered to be suitable for the educational land use.

Pittwater Local Environmental Plan 2014

| | |
|--|--------------------------------|
| Is the development permissible? | Zone R2 : Yes Zone SP2: Yes |
| After consideration of the merits of the proposal, is the development consistent with: | |
| aims of the LEP? | Yes |
| zone objectives of the LEP? | Zone R2 : Yes Zone SP2: Yes |

Principal Development Standards

| Standard | Requirement | Proposed | % Variation | Complies |
|---------------------|--------------------|-----------------|--------------------|-----------------|
| Height of Buildings | 8.5m | 9.98m | 17.4% | No |

Compliance Assessment

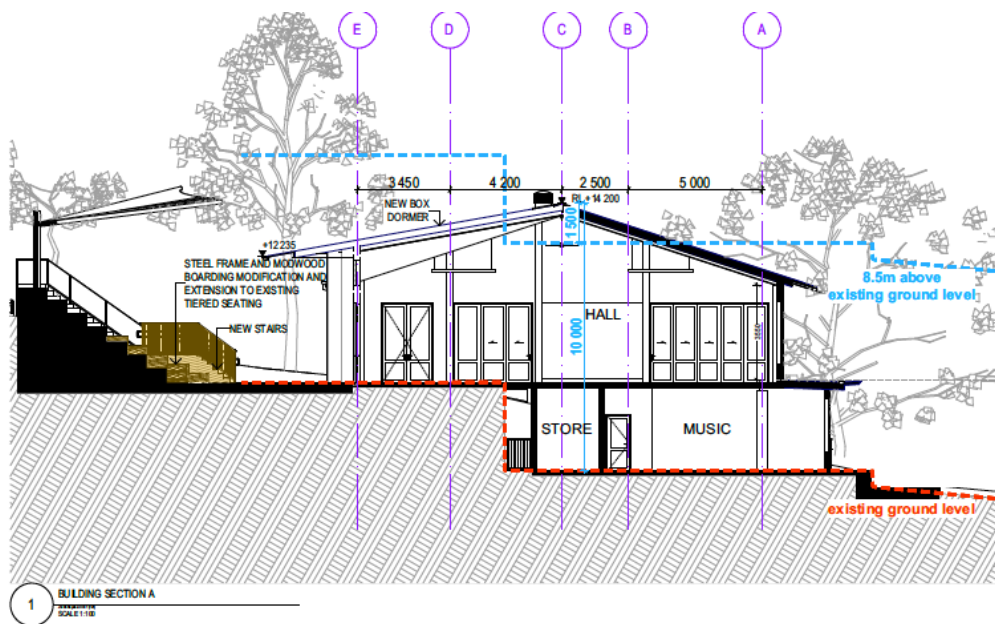
| Clause | Compliance with Requirements |
|---|-------------------------------------|
| 4.3 Height of buildings | No |
| 4.6 Exceptions to development standards | Yes |
| 5.21 Flood planning | Yes |
| 7.1 Acid sulfate soils | Yes |
| 7.2 Earthworks | Yes |
| 7.4 Floodplain risk management | Yes |
| 7.6 Biodiversity protection | Yes |
| 7.7 Geotechnical hazards | Yes |
| 7.10 Essential services | Yes |

Detailed Assessment

4.6 Exceptions to development standards

Description of Non-compliance

| | |
|--------------------------------------|---------------------|
| Development standard: | Height of Buildings |
| Requirement: | 8.5m |
| Proposed: | 9.98m |
| Percentage variation to requirement: | 17.4% |



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 recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to Development Standards

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

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

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

Comment:

Clause 4.3 - 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, in part:

- *The proposed development will maintain the general bulk and scale of the existing surrounding development and maintains architectural consistency with the existing development which promotes the orderly & economic use of the land (cl 1.3(c)). It is noted that the additions do not exceed the height of the existing building.*
- *Similarly, the proposed additions will provide for improved amenity within a built form which is compatible with the streetscape and which also promotes the orderly and economic use of the land (cl 1.3(c)).*
- *The additions to the hall provide for a re-pitched roof form to improve amenity and promote good design (cl 1.3(g)). It is noted that the additions/alterations do not exceed the height of the existing building.*
- *The existing building exceeds the maximum height control. The new additions do not exceed the existing height and strict compliance is therefore unreasonable.*
- *The non-compliance is a result of previous approved excavation on site.*

The applicant has satisfactorily demonstrated that the works are consistent with the objects of the EP&A Act, specifically the following objects of the EP&A Act:

- The building height is artificially accentuated due to the existing area of excavation relative to the prevailing slope of the site and surrounds.
- The proposed development generally maintains the pattern of the neighbourhood including predominant heights.
- The development promotes good design and amenity of the built environment, noting that the building integrates and works with the sloping topography of the property while maintaining suitable amenity for adjoining properties.

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 and SP2 Infrastructure zones. 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 PLEP 2014 are:

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

a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

Comment:

The proposed alterations do not increase the overall height of the existing building. The additions are relatively minor and maintain a one and two storey appearance. The resultant height is compatible with the existing surrounding development. The additions are on the northern side of the existing building and generally obscured from the public domain.

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

Comment:

The proposed alterations are relatively minor and will not be prominent in the streetscape. The topography of the site and the design of the additions to not exceed the height of the existing building will ensure that the proposal will be compatible with the height and scale of surrounding development.

c) to minimise any overshadowing of neighbouring properties,

Comment:

The proposed development will not cause any additional overshadowing of adjacent properties.

d) to allow for the reasonable sharing of views,

Comment:

The proposed development will not cause any unreasonable view loss.

e) to encourage buildings that are designed to respond sensitively to the natural topography,

Comment:

The proposed alterations are generally sited within existing building footprint. No excavation is required to facilitate the proposed development.

f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items,

Comment:

The proposed additions/alterations are located over existing hard surface areas and does not have any impact on the natural environment. The site is not an identified heritage item, nor is it located adjacent to any heritage items nor within a heritage conservation area.

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 existing educational use of the site is not altered by the proposed development.

It is considered that the development satisfies this objective.

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

Comment:

The existing educational use of the site is not altered by the proposed development.

It is considered that the development satisfies this objective.

- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

Comment:

The existing educational use of the site is not altered by the proposed development.

It is considered that the development satisfies this objective.

The underlying objectives of the **SP2 Infrastructure zone**:

- *To provide for infrastructure and related uses.*

Comment:

The proposal provides for additions to the existing educational establishment.

It is considered that the development satisfies this objective.

- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

Comment:

Not applicable.

Conclusion

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential and SP2 Infrastructure zones.

Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment

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

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

Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation | Complies |
|---------------------------|--------------------|-----------------|--------------------|-----------------|
| Front building line | R2 zone - 6.5m | Unaltered | N/A | Yes |
| | SP2 zone - Merit | 8.3m | N/A | Yes |
| Side building line | NW - 2.5m | Unaltered | N/A | Yes |
| | W - 1.0m | Unaltered | N/A | Yes |
| Building envelope | NW - 3.5m | Within envelope | N/A | Yes |
| | W - 3.5m | Within envelope | N/A | Yes |

| | | | | |
|-----------------|-----|-----------|-----|-----|
| Landscaped area | 60% | Unaltered | N/A | Yes |
|-----------------|-----|-----------|-----|-----|

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|-------------------------------------|------------------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.4 Church Point and Bayview Locality | Yes | Yes |
| B1.3 Heritage Conservation - General | Yes | Yes |
| B1.4 Aboriginal Heritage Significance | Yes | Yes |
| B3.1 Landslip Hazard | Yes | Yes |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes | Yes |
| B3.9 Estuarine Hazard - Business, Light Industrial and Other Development | Yes | Yes |
| B3.11 Flood Prone Land | Yes | Yes |
| B4.6 Wildlife Corridors | Yes | Yes |
| B5.13 Development on Waterfront Land | Yes | Yes |
| B5.15 Stormwater | Yes | Yes |
| B6.3 Off-Street Vehicle Parking Requirements | N/A | N/A |
| B6.6 On-Street Parking Facilities | N/A | N/A |
| B8.1 Construction and Demolition - Excavation and Landfill | Yes | Yes |
| B8.3 Construction and Demolition - Waste Minimisation | Yes | Yes |
| C5.1 Landscaping | Yes | Yes |
| C5.2 Safety and Security | Yes | Yes |
| C5.4 View Sharing | Yes | Yes |
| C5.5 Accessibility | Yes | Yes |
| C5.7 Energy and Water Conservation | Yes | Yes |
| C5.8 Waste and Recycling Facilities | Yes | Yes |
| C5.9 Signage | N/A | N/A |
| C5.10 Protection of Residential Amenity | Yes | Yes |
| C5.11 Third Party Signage | Yes | Yes |
| C5.14 Car/Vehicle/Boat Wash Bays | N/A | N/A |
| C5.15 Undergrounding of Utility Services | N/A | N/A |
| C5.16 Building Facades | Yes | Yes |
| C5.17 Pollution control | Yes | Yes |
| C5.21 Plant, Equipment Boxes and Lift Over-Run | Yes | Yes |
| C5.22 Environmental Sustainability | Yes | Yes |
| D4.1 Character as viewed from a public place | Yes | Yes |
| D4.3 Building colours and materials | Yes | Yes |
| D4.5 Front building line | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|-------------------------------------|------------------------------------|
| D4.6 Side and rear building line | Yes | Yes |
| D4.8 Building envelope | Yes | Yes |
| D4.10 Landscaped Area - Environmentally Sensitive Land | Yes | Yes |
| D4.13 Construction, Retaining walls, terracing and undercroft areas | Yes | Yes |
| D4.14 Scenic Protection Category One Areas | Yes | Yes |

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$17,597 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,759,740.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater 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 Pittwater Local Environmental Plan 2014 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.

PLANNING CONCLUSION

This proposal, for alterations and additions to an educational establishment has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to a variation to the height of buildings development standard by more than 10%.

The critical assessment issue is the variation to the permitted building height, which is not expected to unreasonably impact upon the built form and amenity site or surrounds.

The Clause 4.6 variation is well founded and is supported.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

No public submissions were made in relation to this application.

The proposal has therefore been 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 permits a contravention of clause 4.3 Height of Building development standard pursuant to clause 4.6 of the PLEP 2014 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2023/0414 for Alterations and additions to an educational establishment (St Luke's Grammar School) on land at Lot 1 DP 304830, 1973 Pittwater Road, BAYVIEW, Lot A DP 360274, 1973 Pittwater Road, BAYVIEW, Lot 20 DP 635214, 1973 Pittwater Road, BAYVIEW, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

| Approved Plans | | | | |
|----------------|-----------------|-----------------------------------|-----------------------------------|--------------|
| Plan Number | Revision Number | Plan Title | Drawn By | Date of Plan |
| A-0301 | 03 | Upper Floor Level Demolition Plan | Glendenning Szoboszlay Architects | 26/07/2023 |
| A-0302 | 03 | Roof Level Demolition Plan | Glendenning Szoboszlay Architects | 26/07/2023 |
| A-0400 | 03 | Proposed Site Plan | Glendenning Szoboszlay Architects | 26/07/2023 |
| A-1100 | 02 | Proposed Lower Floor Level | Glendenning Szoboszlay Architects | 05/04/2023 |
| A-1101 | 03 | Proposed Upper Level | Glendenning Szoboszlay Architects | 26/07/2023 |
| A-1102 | 03 | Proposed Roof Level | Glendenning Szoboszlay Architects | 26/07/2023 |
| A-1200 | 03 | Proposed Sections | Glendenning Szoboszlay Architects | 26/07/2023 |
| A-1300 | 03 | North & South Elevations | Glendenning Szoboszlay Architects | 26/07/2023 |

| | | | | |
|--------|----|------------------------|--------------------------------------|------------|
| A-1301 | 03 | East & West Elevations | Glendenning Szoboszlay Architects | 26/07/2023 |
|--------|----|------------------------|--------------------------------------|------------|

| Approved Reports and Documentation | | | |
|---|-----------------------|--------------------|-------------------------|
| Document Title | Version Number | Prepared By | Date of Document |
| Design Development Report (Ref: S230601) | B | Formiga 1 | 02/08/2023 |
| Geotechnical Investigation (Ref: GG10708.001A) | A | Green Geotechnics | 15/03/2023 |
| Waste Recycling Management Plan - St Lukes Bayview | - | RCCI | Undated |

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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 | Ausgrid Referral Response | 28/04/2023 |

(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 Certifier for the work, and

- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,

- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
- (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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or 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

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$17,597.40 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$1,759,740.00.

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

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

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

6. Security Bond

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

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. **Building components and structural soundness**

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 3.55m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

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

8. **Storage of Goods**

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level of 3.55m AHD unless adequately protected from floodwaters in accordance with industry standards.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

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

9. **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 Principal Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation.

10. **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 prepared by Green Geotechnics, Report: GG10708.001A, Dated 15th March 2023 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 Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a

minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: To protect the receiving environment.

12. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

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

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Assessment Report / Fire Audit prepared by Formiga 1, dated 2/8/2023, Rev No. B, including any required Performance Reviews, are to be considered as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

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

14. **Access and Facilities for Persons with Disabilities**

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

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

15. **Compliance with Standards**

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

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

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

16. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

DURING BUILDING WORK

17. **Wildlife Protection**

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

Reason: To protect native wildlife.

18. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

19. **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.

20. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: To protect the receiving environment.

21. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

22. 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.

23. Geotechnical Requirements

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

24. Survey Certificate

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

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

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

25. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

26. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

27. Registration of food Business

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

28. No Weeds Imported On To The Site

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

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

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

weeds.

29. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

30. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

31. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

32. **Kitchen Design, construction and fit out of food premises certification**

Prior to the issuing of any occupation certificate, certification is to be provided to the Principal Certifier by a suitably qualified person demonstrating that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Reason: To ensure that the kitchen complies with Australian Standard design requirements.

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

33. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.