

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Assessment Officer: Nic England - Planner

Address / Property Description: Lot 1 in DP 601101, No. 8 Wyatt Avenue, Belrose

Proposal Description: Alterations and additions to existing school (John Colet School) as part of Staged Development consent for new classrooms and ancillary works and staged increase in student numbers at John Colet School

Development Application No: DA2019/1420

Application Lodged: 11 December 2019

Plans Reference: 1000 Revision F; 1001 Revision C; 1170 Revision C; Landscape Plans Sheets 1 to 5

Applicant: Templum Design Architects

Owner: John Colet Schools Inc

Locality: C8 Belrose North

Category: Category 3

Variations to Controls (Cl.20/Cl.18(3)): Yes (Building Height; Side Setback, Front Setback)

Referred to DDP: No

Referred to NBLPP: Yes

Land and Environment Court Action: No

SUMMARY

Submissions: 9

Submission Issues: Inconsistency with Desired Future Character; amenity impacts on local area; impact on surrounding road network; visual impact of built form; numbers of staff and students; loss of landscaped open space

Recommendation: Approval

Attachments: Report to Sydney North Planning Panel for MOD2019/0627

Executive Summary

The subject application seeks consent for Stage “Q” of Staged development consent No.DA2015/0558 issued by the Joint Regional Planning Panel on 18 May 2015 for “Staged Development for new classrooms and ancillary works and staged increase in student numbers. The proposal is Category 3 development under WLEP2000, and requires the consent authority to consider the recommendations and finding of an independent public hearing with regards to the Desired Future Character.

A modification of consent MOD2019/0627, for the staged development DA2015/0558 will be determined by the Sydney North Planning Panel on 28 October 2020 which seeks to amend the staged consent which this Development Application would be consistent with. This Development Application is contingent on the modification being approved by the SNPP. A Supplementary Memo to the Local Planning Panel will be prepared following the decision of the SNPP which will address the decision on the modification of consent.

In detail, the works consist of alterations and additions to the existing Chisholm House building at the John Colet School, as follows:

- ground level works for a 145m² art room;
- 1st floor additions for two (2) classrooms with a total floor area of 210m²; and
- detailed landscaping works adjacent the western boundary adjoining the revised building.

During public notification, nine (9) submissions were received. Issues raised in these submissions ranged from: consistency with objectives and requirements of Council’s policies; impact on parking and traffic; and general residential amenity.

The proposal will result in non-compliances with the relevant built form controls relating to: Building Height; Front Setback; and Side Setback. A detailed assessment of these non-compliances has found that proposal will still be consistent with the requirements of Council policy and no adverse impact on the amenity of the surrounding area and residents will result from these proposed additions to Chisholm House.

Accordingly, this report finds that the proposal is consistent with the Desired Future Character and recommends approval be granted to this application, subject to the recommended conditions.

LOCALITY PLAN (not to scale)



Subject Site: Lot 1 in DP 601101, No. 8 Wyatt Avenue, Belrose

Public Exhibition: The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan.

As a result, the application was notified to 137 surrounding land owners and occupiers (and objectors to the original submission) for a period of not less than 21 days commencing on 11 January 2020 and ending on 8 February 2020. The application was also advertised in the Manly Daily for the same period. A second notification was undertaken between 21 April 2020 and ending on 23 May 2020, as result of amended plans.

Furthermore, a notice was placed upon the site.

A total of nine (9) submissions were received in response to the public exhibition of the application.

SITE DESCRIPTION

The land subject to the application is located on the northern side of Wyatt Avenue, known as Lot 101 in DP 8747509, No. 8 Wyatt Avenue, Belrose.

The land is used for the purposes of a primary school, known as the “John Colet School”. The school occupies a total of seven (7) buildings, with parking for 19 vehicles. The school currently has approval for a maximum of 225 students.

The site possesses significant areas of vegetation, particularly adjoining the northern rear boundary, where approximately 400m² of remnant vegetation is situated.

Development adjoining the site consists of the following:

- Undeveloped Crown land to the north of the site;
- Unformed road reserve immediately adjacent the western boundary;
- Residential dwellings to the east and west; and
- Public open space (Wyatt Reserve and sportsfields) to the south of the site on the opposite side of Wyatt Avenue.

SITE HISTORY / BACKGROUND

A search of Council records reveals that the site has been the subject of numerous applications since approval was granted on 15 March 1995 under Consent No. 95/135 for the occupation of the existing premises as an educational establishment.

Applications/ consents of most relevance to the subject application include the following:

DA2015/0558: consent for “Staged Development for new classrooms and ancillary works and staged increase in student numbers at John Colet School” which was approved by the then Sydney East Joint Regional Planning Panel on 18 May 2016. This consent is the subject of the proposed modification.

The consent was issued under the Staged development provisions of the then Section 83B of the Environmental Planning & Assessment Act 1979. It gave conceptual consent to future upgrades and further intensification of the school land use, over eleven (11) stages, “A” to “Q”.

Specifically, this consent permitted Stage “1” (A and B), for 2 new classrooms and various site works and an increase in students from 225 to 285. This is the maximum number of students currently permitted on the land.

The consent allowed a further 350 students and 30 staff, which was to be subject of future application/s.

This consent is proposed to be modified, by MOD2019/0627, and reported to the Sydney North Planning Panel on 28 October 2020 for determination, to accommodate the works proposed in this application.

PLM2019/0056: A pre-lodgement meeting was held on 16 April 2019, to discuss proposed modifications to the existing Staged consent.

The proposal included non-compliances to the front, side setbacks and floor-to-ceiling heights.

The Notes provided to the applicant following the meeting concluded that the proposed modifications could be supported subject to design amendments being made on the recommendation of Council's Urban Designer, specifically in regard to issues of the treatment of the western façade which is subject to the non-compliance with the western (side) setback. Specific comments in relation to this façade include:

"The drawings submitted for the pre-lodgement meeting show little detail and articulation to the treatment of the western façade. Acknowledging that there are constraints in that this elevation faces west and has the height compounded / exaggerated by the fall in topography at this point the design development requires a careful articulation of materials and through modulation softening or layering of materiality; open/closed, transparent/opaque strategies to reduce the impacts of the bulk and form of the end of the new building.

Strategies that comprise layering of material; glazing, battening or other such treatments that engage in a dialogue with the surrounding neighbourhood and context is highly encouraged"

DESCRIPTION OF THE DEVELOPMENT

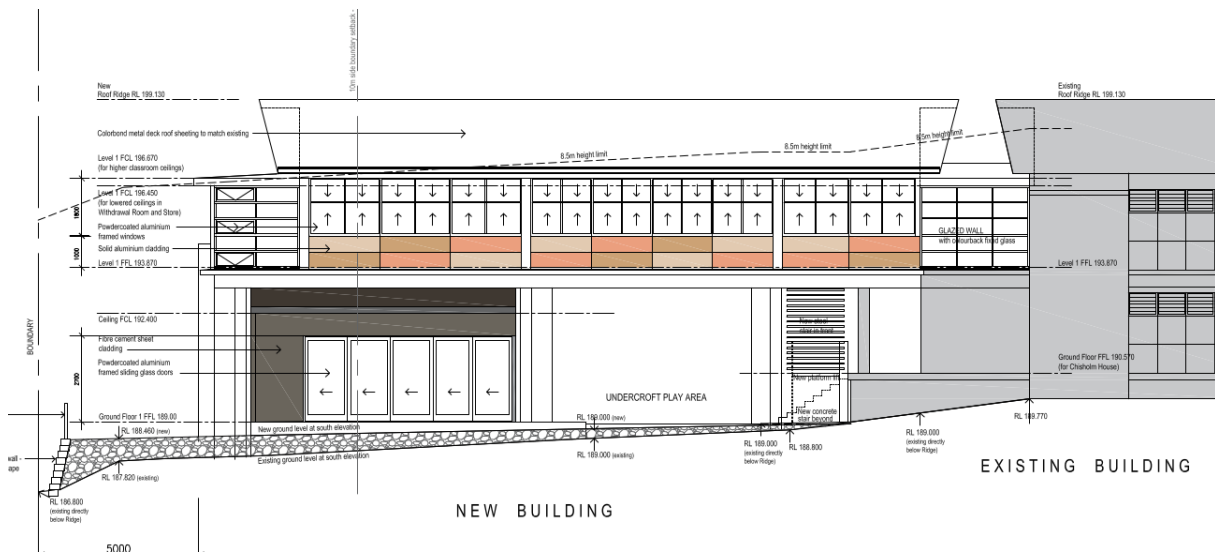
The application is made as a component stage "Q" of Staged Development consent DA2015/0558 and will comprise of an extension to the western portion of Chisholm House.

In detail, the works consist of:

- ground level works for a 145m² art room;
- 1st floor additions for two (2) classrooms with a total floor area of 210m²; and
- detailed landscaping works adjacent the western boundary adjoining the revised building.

An excerpt of the plans provided below demonstrates the elevations and floor plans.

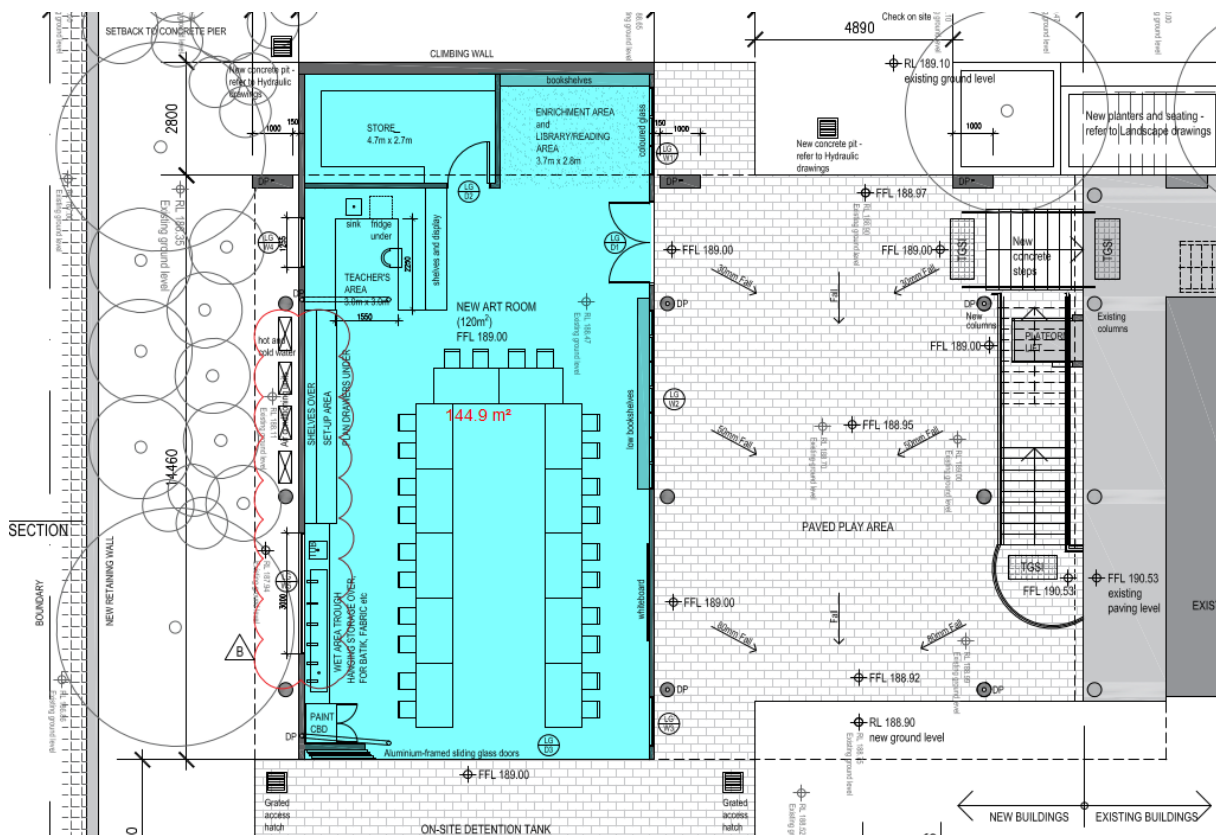
South elevation facing Wyatt Avenue:



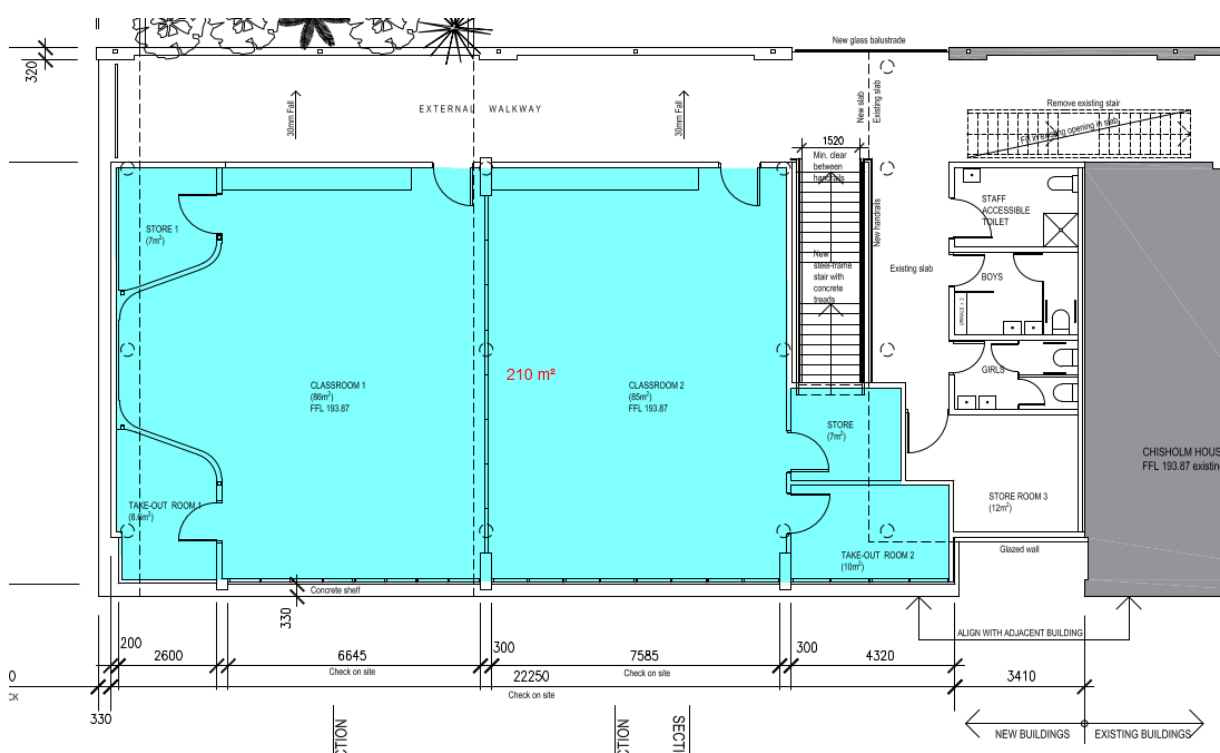
West Elevation:



Ground floor art room:



1st floor classrooms:



The proposal does not involve any increase to staff and/or student numbers, beyond the maximum permitted (350) in DA2015/0558.

AMENDMENTS TO THE SUBJECT APPLICATION

The proposal was amended, via plans received by Council on 21 April 2020. The plans were amended to include an additional window on the west elevation of the ground floor art room. The amendments were re-notified.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979;
- b) Environmental Planning and Assessment Regulations 2000;
- c) Local Government Act 1993;
- d) Disability Discrimination Act 1992;
- e) Rural Fires Act 1997;
- f) State Environmental Planning Policy No. 55 – Remediation;
- g) State Environmental Planning Policy 2007 – (Infrastructure);
- h) Warringah Local Environment Plan 2000; and
- i) Warringah Development Control Plan.

PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan.

As a result, the application was notified to 137 surrounding land owners and occupiers (and objectors to the original submission) for a period of not less than 21 days commencing on 11 January 2020 and ending on 8 February 2020. The application was also advertised in the Manly Daily for the same period. A second notification was undertaken between 21 April 2020 and ending on 23 May 2020, as result of the amended plans.

Furthermore, a notice was placed upon the site.

A total of nine (9) submissions were received in response to the public exhibition of the application:

As a result of the public exhibition process council is in receipt of 9 submission/s from:

Name:	Address:
Mr Ronald John Patton Mrs Cynthia Joy Patton	19 Wyatt Avenue BELROSE NSW 2085
Mr Philip Bloom	C/- Stocklands Sheds Pty Ltd Po Box 159 KELLYVILLE NSW 2155
Clare Mcelroy	Address Unknown
Marc Blake	Address Unknown
Mr Kenneth Ernest Small	19 Stratford Drive BELROSE NSW 2085
Belrose Rural Community Association Inc	Po Box 224 BELROSE WEST NSW 2085
Barry Burton Yeomans Beverly Ann Yeomans	15 Wyatt Avenue BELROSE NSW 2085
Mr Ian Jon Berry	14 Stratford Drive BELROSE NSW 2085
Mrs Anna-Louise Ainsworth	10 Patrick Street BEACON HILL NSW 2100

The issues raised in the submissions have been summarised and are addressed below:

- *The application should be refused as it is not complete as required by Condition No.5 of the Staged consent DA2015/0558.*

Comment: The intent of condition No.5 was that applications were to be lodged for any works for the remaining Stages F to Q. The condition did not specify any limit to the numbers of application that could be lodged, as the intent was to provide the school with the flexibility of seeking consent as the demand arose. The condition does not require a singular application for Stages F to Q and hence this is not a relevant reason to refuse the application.

- *There is not a sufficient kerb and gutter on the northern side of Wyatt Avenue, and during school functions cars park on the road reserve and hinder access to No.24 Wyatt Avenue. Approval should be conditional upon the provision of this infrastructure.*

Comment: The proposal relates to a component of an existing overall Staged consent. The Staged consent required no upgrades to the surrounding areas infrastructure, specifically the surrounding road network and drainage system. Based on the application being a component of an existing Staged consent, any condition to this application is not required.

- *Any application on the land would increase the level of traffic generated from the school, which would diminish the efficiency and safety of the local road network.*

Comment: The proposal is within the framework of an existing staged consent and substantially retains the nature of the original consent and no increase to students or staff beyond what is already approved, is proposed. Hence, there will be adverse impact on the safety and efficiency of the surrounding road network.

- *The proposal would result in an adverse reduction in building setbacks and a loss of landscaped open space on the site.*

Comment: A discussion of the proposed application in regard to the Built Form controls of WLEP 2000 is provided elsewhere in this report. In summary, the proposed setbacks will provide an adequate response to the existing character of the built form in the locality and there will remain adequate landscaped open space on the site to achieve the objectives of the control.

- *Traffic management measures and a traffic report required by condition 6 of the Staged consent have not been provided with the application.*

Comment: The requirements of Condition No.6 in effect require that: all parking spaces be consistent with the Australian Standard and that the internal access road be a one-way movement. A report has been provided from a qualified traffic engineer to demonstrate that the application will comply with this condition.

- *There is insufficient parking in the school to accommodate for the demands of staff parking, based on other independent sources of information relating to the level of staffing in the school.*

Comment: The development as approved provides adequate car parking spaces to accommodate the demands of students and staff. The proposed works will not change this aspect of the approved development, hence there is adequate parking on the site to cater for the traffic generated.

- *The proposed works are not consistent with the Desired Future Character of the locality and is not a low impact, low intensity land use.*

Comment: A detailed consideration of the proposed application in regard to the Desired Future Character of the C8 locality is provided elsewhere in this report. In summary, the proposed works will retain the intensity of the approved land use and hence no adverse impact is caused in this regard. The consideration of whether the Staged Development was consistent with low impact low intensity was considered in the determination of the staged consent and will be considered as part of the current modification due to be determined on 28 October 2020 by the Sydney North Planning Panel. The works under this consent do not change the school population and therefore it is not considered to change the intensity of impact of the school on the locality.

- *The bulk and scale of the proposed development is not consistent with the locality or the objectives of the WLEP 2000.*

Comment: The Desired Future Character of the C8 Locality specifies that the character of the locality will remain unchanged, by preserving the natural environment and limiting new development to detached style housing or low intensity, low impact land uses. The proposed works will not result in any disturbance of the existing natural environment and will not result in any substantive change to the existing character by virtue of the works being an extension to an existing school. The application is in effect operating within existing intensity and impact parameters established by the Staged consent DA2015/0558. Hence, the application is considered to be a low intensity, low impact land use and in turn is consistent with the Desired Future Character of the locality.

- *Insufficient measures to protect the existing natural environment have been provided with the application.*

Comment: The proposed works will have a very minor impact on the natural environment of the site as the area of landscaped open space that will be removed adjoining the western boundary is heavily modified and contains no significant area of habitat.

- *The application is not in the public interest as the proposal is motivated by profit and will result in adverse impacts on the adjoining built and natural environments.*

Comment: The impact of the proposed works on the natural environment is not adverse and the commercial viability of the existing land use is not a relevant matter of consideration in the assessment of the proposal.

- *The application will result in adverse levels of illumination in evening periods to the adjoining dwelling at No.9 Wyatt Avenue.*

Comment: The existing school operates predominantly during the day and evening activities are infrequent. The proposed works are situated at least 50m from the adjoining residence at No.9 Wyatt Avenue and no adverse level of light spill is likely from this part of the site.

- *The application will not comply with the Front Setback built form control and adopting the same setback as the existing building is not adequate to justify the non-compliance.*

Comment: A complete discussion of the compliance with the Front Setback built form control is provided elsewhere in this report. In summary, the adoption of the existing front setback of Chisholm House for the “Q” extension provides a unified built form response to the existing streetscape and the context of the surrounding area is adequate to justify the non-compliance.

- *The application will not comply with the Building Height built form controls of WLEP 2000.*

Comment: A detailed consideration of the variation to the Building Height control is provided elsewhere in this report. In summary, the variation in the height is justified based on the existing built form of Chisholm House, the surrounding context of the streetscape and the absence of any adverse amenity impact on any adjoining residence.

- *There is insufficient stormwater management provided.*

Comment: Council’s Development Engineers have advised that the existing stormwater management system on the land is adequate to accommodate the proposed works.

LAND AND ENVIRONMENT COURT ACTION

No appeal action has been pursued through the NSW Land and Environment Court.

REFERRALS

External Referrals

Ausgrid

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

NSW Rural Fire Service (RFS)

The application involves works to an existing school within a bushfire prone area and as such is ‘Integrated Development’ pursuant to section 4.47 of the Environmental Planning and Assessment Act 1979. In this regard, a bushfire safety authority is required from the RFS under Section 100B of the Rural Fire Services Act 1997.

The application was referred to the NSW Rural Fire Service (RFS) for comment and concurrence. The RFS raised no objection to the proposed works, subject to conditions which will be applied to this consent.

Internal Referrals

Building Assessment

The application was referred to Council's Building Assessment division for consideration. The following comments have been provided:

"The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.

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.

The proposal is therefore supported."

Development Engineering

The application was referred to Council's Development Engineer for consideration. The following comments have been provided:

"The application has been investigated with respects to aspects relevant to the Development Engineering and Certification Section. No objections are raised to the proposed development, subject to conditions. The proposal is therefore supported."

Landscape Officer

The application was referred to Council's Landscape Officer for consideration. The following comments have been provided:

"The Landscape Plans and Arborist's Report submitted with the application are noted. The Landscape Plans indicate regrading of grassed areas around the proposed building with retaining walls and proposed tree, shrub and ground-cover planting. The Arborist's Report indicates that four native trees are required to be removed to accommodate the works. Two of the trees are rated in the Arborist's Report as being of Low retention value and two are rated as Medium retention value. The Landscape Plan proposes replanting of nine native trees and four deciduous exotic trees. (Thirteen trees in total). In view of the above, no objections are raised to approval with regard to landscape issues subject to tree protection and replanting conditions as indicated below. The proposal is therefore supported."

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

Section 4.15 Assessment

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Part A7 (Notification) of the Warringah Development Control Plan applied at the time the proposal was notified. The proposal has been notified and advertised in accordance with the DCP.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p>Division 8A 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>Clauses 54 and 109 of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p>Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p>Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p>Clause 98 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>Clause 98 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>
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) The environmental impacts of the proposal on the natural and built environment are addressed under the General Principles of Development Control in this report. In summary, the proposal is satisfactory with conditions, having regard to environmental impacts.</p> <p>(ii) The proposal will not have a detrimental social impact on the locality considering the educational character of the proposal.</p> <p>(iii) The proposal will not have a detrimental economic impact on the locality considering the mixed semi-rural uses within the surrounding locality and the existing and ongoing use of the site for educational purposes.</p>
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	Refer to the previous discussion in Public Exhibition.

Section 4.15 'Matters for Consideration'	Comments
Section 79C (1) (e) – the public interest	<p>Issues raised in the public interest have been addressed in this assessment and conditions of development consent.</p> <p>No matters have arisen that would justify the refusal of the application in the public interest.</p> <p>The wider public interest is served by ensuring that the proposal is consistent with the relevant planning controls under WLEP 2000.</p>

Local Government Act 1993

Council is empowered under the *Local Government Act 1993* to be the approval authority for this proposal and grant any works or permits required in accordance with Section 68 of that Act as part of the development assessment process. This includes the management of stormwater, waste handling and access or works to a local public road.

Disability Discrimination Act 1992

Under Section 23 of the *Disability Discrimination Act 1992* provision must be made to ensure equitable and convenient access to the public and semi-public space within the development.

Accessibility design standards are defined within Australian Standard (AS) 1428.2 for construction work. In this case, all student and staff areas must permit adequate ease of access including AS 1428.2 compliant parking spaces, toilet facilities and accessibility to staff rooms.

The proposed works have demonstrated compliance with these standards.

ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policies

State Environmental Planning Policy No 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 part of the subject site has been used continuously for educational purposes for a significant period of time.

Therefore, no further consideration is required under Clause 7(1) (b) and (c) of SEPP 55 and the site is considered to be suitable for the proposed extension to the existing land use.

State Environmental Planning Policy (Infrastructure) 2007

Clause 45 of SEPP Infrastructure 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 5m 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 5m of an overhead electricity power line.

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a new swimming pool. In this regard, the subject application is considered to satisfy the provisions of Clause 45.

Notwithstanding, the proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Regional Environment Plans

None applicable.

Local Environment Plans

Warringah Local Environment Plan 2000 (WLEP 2000)

The property is subject to Clause 1.3(1A) of the Warringah Local Environmental Plan 2011 and is classified as 'Deferred Land'. The development is therefore guided by the provisions of the Warringah Local Environment Plan 2000 and is located within the C8 Belrose North locality.

C8 Belrose North

The Desired Future Character Statement for Locality C8 states:

"The present character of Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

Development will be limited to new houses conforming with the housing density standards set out below and low intensity, low impact uses.

A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Middle Harbour."

The proposed development is defined as "primary schools" under the WLEP 2000 dictionary. "Primary schools" are identified as Category 3 development in this locality.

Clause 12(3)(a) of WLEP 2000 requires the consent authority to be satisfied that the proposed development is consistent with the Locality's DFC statement.

Accordingly, an assessment of consistency of the proposed development against the locality's DFC is provided hereunder:

"The present character of the Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.

Comment: The application is a component of a Staged consent to an existing school, which has taken effect on the subject land. In this regard, the existing character of the locality will remain unchanged and the proposal is consistent with this requirement of the DFC.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to to blend with the colours and textures of the natural landscape will be strongly encouraged.

Comment: The proposed works will result in no loss of existing natural habitat, vegetation or landforms. The area of existing landscaped space is modified and possesses no remnant native vegetation. Adequate colours and materials have been selected to compliment the local environment. The proposal is hence consistent with this requirement of the DFC.

Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses

Comment: As the proposal is not detached style housing, the proposal will need to demonstrate that it is a low intensity, low impact use to demonstrate consistency with the DFC.

The matter of 'low-intensity, low-impact' uses was adequately considered in the assessment of the original application consistent with the NSW Land and Environment Court (LEC) judgement in *Vigor Master Pty Ltd v Warringah Council [2008] NSWLEC 1128*. In this judgement, the following was established that "intensity" and "impact" were as follows:

"Intensity – is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore "low intensity" would constitute a development which has a low level of activities associated with it" and;

"Impact – is commonly used in planning to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape, privacy, solar access etc. Therefore "low impact" would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to change the amenity of the locality."

A discussion in respect of these two (2) terms within the DFC is provided below:

"Intensity"

As stated before, the application is a component of an existing Staged consent, DA2015/0558. In the consideration of this application, it was determined that the intensity of the use was in effect "low" after a detailed consideration of other similar land uses in the locality, in particular

the nearby Christian Covenant and Belrose Primary Schools. Following on from this conclusion, and as the application represents no change to the existing Staged consent, therefore the proposal satisfies the “intensity” test of the DFC.

“Impact”

Consistent with the aforementioned LEC judgement, a consideration of the impacts highlights two (2) broad areas of impact that are pertinent in an assessment of the proposal against the DFC. These are:

- Impact on native vegetation / habitat / threatened species; and
- The potential impact of additional traffic on the local road network.

As stated previously, there will no loss of existing native vegetation or any area of significant habitat for threatened species. In regard to traffic generation, there will be no increase in existing approved number of students / staff at the school, resulting in no increase in traffic generation beyond that already approved.

Therefore the proposal satisfies the “impact” test of the DFC.

Based on the discussion provided above, the proposal is consistent with this requirement of the DFC.

A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.

Comment: Not applicable to the proposed development.

Development in the locality will not create siltation or pollution of Middle Harbour.”

Comment: Not applicable to the proposed development.

As detailed above the proposed development is considered to be consistent with the Locality’s DFC statement.

Built Form Controls (Development Standards)

The following table outlines compliance with the Built form Controls of the above locality statement:

Built Form Control	Required	Proposed	Compliance
Housing Density	1 dwelling per 20 hectares	The proposal does not involve housing	N/A
Building Height	8.5 metres 7.2m (floor to ceiling)	10.2m Not specified	No No See discussion under Clause 20 below.

Built Form Control	Required	Proposed	Compliance
Front Building Setback	Wyatt Avenue: 20m	17.2m	No
Rear and Side Building Setback	10m	Rear: No change Side (west): 5m	No change No See discussion under Clause 20 below.
Bushland Setting	50% (5,895m ²)	56% (6,560m ²)	Complies
Extractive Industry	Applies to quarry sites	Not applicable	N/A
National Park Setback	N/A	N/A	N/A

CLAUSE 20

Clause 20(1) stipulates:

“Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.”

Building Height

Description of non-compliance

The non-compliance occurs relates to an overall building height of 10.2m.

This represents a variation of 17%.

Merit consideration

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

- *Ensure that development does not become visually dominant by virtue of its height and bulk.*

The overall height of the proposed works have been predicated on the existing height of the Chisholm House building. By adopting this height, the extension integrates with the existing built form and hence when viewed from Wyatt Avenue is not considered to become visually dominant by virtue of its height and bulk.

The development is considered to satisfy this objective.

- *Preserve the amenity of surrounding land.*

As noted elsewhere in this report, the extension is located adjacent to non-residential uses (i.e. predominantly open space and bushland areas) with the only exception being a residential property which is located approximately 50m to the south-east across Wyatt Avenue.

In this regard, the increased building height would not create any adverse or unreasonable amenity impact to surrounding land.

The development is considered to satisfy this objective.

- *Ensure that development responds to site topography and minimises excavation of the natural landform.*

The extension occurs at the front and side of the existing building and does not involve any significant excavation works, apart from the minor terracing works for the landscaping.

The development is considered to satisfy this objective.

- *Provide sufficient area for roof pitch and variation in roof design rather than a flat roof.*

The development includes a pitched roof form which is considered to provide sufficient variation to complement the existing school which predominantly consists of traditional pitched roof forms.

The development is considered to satisfy this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2000 and the objectives specified in s.5(a)(i) and (ii) of the *Environmental Planning and Assessment Act, 1979*.

Accordingly, this assessment finds that the variation to the Building Height built form control is supported, in this particular circumstance.

Front Building Setback

Description of non-compliance

The non-compliance occurs at the front of the building facing Wyatt Avenue and results in a front setback of 17.2m.

The control permits a front setback of 20m resulting in a variation of 14%.

Merit consideration

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

- *Create a sense of openness.*

The frontage of the extension is setback to generally align with the facade of the existing school buildings facing Wyatt Avenue.

The proposed front setback of 17.2m is considered sufficient to maintain a sense of openness to the street.

The development is considered to satisfy this objective.

- *Provide opportunities for landscaping.*

The proposed front setback is considered sufficient to allow for the continued level of landscaping currently evident within the front setback area.

The development is considered to satisfy this objective

- *Minimise the impact of development on the streetscape.*

The proposed front setback will align the development to the existing building frontage while maintaining a sufficient level of landscaping to soften the built form.

The development is considered to satisfy this objective.

- *Maintain the visual continuity and pattern of buildings, front gardens and landscape elements.*

The proposed front setback will align the development to the existing building frontage while maintaining a sufficient level of landscaping to soften the built form.

As such, the development will maintain the visual continuity and pattern of buildings, front gardens and landscape elements of the site when viewed from the street.

The development is considered to satisfy this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2000 and the objectives specified in s.5(a)(i) and (ii) of the *Environmental Planning and Assessment Act, 1979*.

Accordingly, this assessment finds that the variation to the Front Building Setback built form control is supported, in this particular circumstance.

Rear and Side Building Setback

Description of non-compliance

The non-compliance at the eastern side of the building and results in a side setback of 5m.

The control permits a side setback of 10m resulting in a variation of 50%.

Merit consideration

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

- *Create a sense of openness in rear yards.*

The non-compliance does not occur within the rear area of the site.

This objective is not relevant to the proposal.

- *Preserve the amenity of adjacent land.*

The western facade of the proposed extension faces an unformed road reserve, 20m in width. Beyond that, is an access handle, also 20m in width, for an adjoining property which is also undeveloped. Hence, the proposed works will not have any adverse impact upon the amenity of that land.

The development is considered to satisfy this objective.

- *Maintain the visual continuity and pattern of buildings, rear gardens and landscape elements.*

The proposed side setback will align the development to the side setback of the existing building while maintaining a sufficient level of landscaping to soften the built form.

As such, the development will maintain the visual continuity and pattern of buildings, front gardens and landscape elements of the site when viewed from the neighbouring bushland.

The development is considered to satisfy this objective.

- *Provide opportunities to maintain privacy between dwellings.*

As stated previously, western façade of the proposed extension faces vacant public and private land and will not have any adverse impact upon the privacy of that land.

The development is considered to satisfy this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2000 and the objectives specified in s.5(a)(i) and (ii) of the *Environmental Planning and Assessment Act, 1979*.

Accordingly, this assessment finds that the variation to the Rear and Side Building Setback built form control is supported, in this particular circumstance

General Principles Of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed application:

General Principles	Applies	Comments	Complies
CL38 Glare and reflections	YES	The extent of area of proposed windows are not significant and a further condition can apply to ensure that there is no adverse level of glare and reflection emitted.	Yes
CL39 Local retail centres	NO	No comment required	N/A
CL40 Housing for Older People and People with Disabilities	NO	No comment required	N/A
CL41 Brothels	NO	No comment required	N/A
CL42 Construction Sites	YES	Complies, subject to condition.	Yes

General Principles	Applies	Comments	Complies
CL43 Noise	YES	Whilst the proposal will result in an increase in the floor area of the existing building, there is no increase in student numbers or staff. Therefore, it is considered that the development would not have any adverse acoustic impact on neighbouring land.	Yes
CL44 Pollutants	NO	No comment required	N/A
CL45 Hazardous Uses	NO	No comment required	N/A
CL46 Radiation Emission Levels	NO	No comment required	N/A
CL47 Flood Affected Land	NO	No comment required	N/A
CL48 Potentially Contaminated Land and CL49 Remediation of Contaminated Land	YES	<p>Council records indicate that part of the subject site has been used continuously for educational purposes for a significant period of time.</p> <p>Therefore, no further consideration is required under Clauses 48 and 49 and the site is considered to be suitable for the extension to the existing educational land use.</p>	Yes
CL49a Acid Sulphate Soils	NO	No comment required	N/A
CL50 Safety and Security	YES	<p>The following safety design features are already incorporated into the premises:</p> <ul style="list-style-type: none"> Controlled access to the school grounds is achieved from the street by a gate from the subject site; Entrance to the building is clearly identifiable from the street; and Casual surveillance is provided over the carparking facilities. <p>The proposal will not change these existing arrangements.</p>	YES
CL51 Front Fences and Walls	NO	No comment required	N/A
CL52 Development Near Parks, Bushland Reserves and other public Open Spaces	NO	No comment required	N/A
CL53 Signs	NO	No comment required	N/A
CL54 Provision and Location of Utility Services	YES	Water and electricity services are available to the site.	Yes
CL55 Site Consolidation in 'Medium Density Areas'	NO	No comment required	N/A
CL56 Retaining Unique Environmental Features on Site; and	YES	The area of open space that will be lost as a result of the increased footprint of the building does not contain any significant habitat or fauna. Council's Landscape Officer has no objection to the removal of the existing trees and is satisfied that the revised	Yes

General Principles	Applies	Comments	Complies
CL58 Protection of Existing Flora		landscape plan for the side setback on the western boundary is adequate to ensure future propagation of beneficial vegetation.	
CL57 Development on Sloping Land	NO	No comment required	N/A
CL59 Koala Habitat Protection	NO	No comment required	N/A
CL60 Watercourses and Aquatic Habitats	NO	No comment required	N/A
CL61 Views	NO	No comment required	N/A
CL62 Access to sunlight	NO	No comment required	N/A
CL63 Landscaped Open Space	YES	The will not unreasonably decrease the existing provision of landscaped open space currently on the site such that it will conflict with the objective the Landscaped Open Space built form control.	Yes
CL63A Rear Building Setback	NO	No comment required	N/A
CL64 Private open space	NO	No comment required	N/A
CL65 Privacy	YES	The non-residential use of the development is not located adjacent to any dwellings (the nearest dwelling is located approximately 50m south-east and across Wyatt Avenue).	Yes
CL66 Building bulk	YES	The proposal maintains the built form and scale of the existing building to which it is attached. The resulting bulk and scale is therefore visually consistent with the overall school development.	Yes
CL67 Roofs	YES	The proposal will retain the existing roof form of the existing Chisholm House building and provide a unified and consistent built form to the streetscape.	Yes
CL68 Conservation of Energy and Water	N/A	No comment required	N/A
CL69 Accessibility – Public and Semi-Public Buildings	YES	The proposal has demonstrated that it will achieve compliance with the appropriate standards for provision of Access/Egress and Essential Services as provided for under Part D and Part E of the BCA.	Yes, subject existing to condition
CL70 Site facilities	YES	Existing site facilities are adequate to cater for the proposed application.	Yes
CL71 Parking facilities (visual impact)	YES	No change is proposed to the approved parking facilities.	Yes
CL72 Traffic access and safety	YES	No change is proposed to the existing traffic access/egress arrangements and, because the proposal does not involve any increase to staff and/or student numbers, will not generate additional traffic volume. A condition of consent is recommended to ensure that purpose of Condition 6 of the Staged Masterplan (DA2015/0558) is maintained.	Yes
CL73 On-site Loading and Unloading	YES	Adequate access for the loading and unloading of construction materials is available from Wyatt Avenue.	Yes

General Principles	Applies	Comments	Complies
		No change is required for student pick-up/set-down areas or for supplies and delivery parking.	
CL74 Provision of Carparking	YES	The applicant confirms that the development does not increase in staff and/or student numbers. Therefore, the development will not generate a need for additional carparking beyond what is already approved, and provided for, at the school.	Yes
CL75 Design of Carparking Areas	YES	No change is proposed to the provision of on-site carparking.	Yes
CL76 Management of Stormwater	YES	The application has been reviewed by Council's Development Engineer who advises that no objection is raised and no additional conditions are required to be imposed.	Yes
CL77 Landfill	NO	No comment required	N/A
CL78 Erosion and Sedimentation	NO	No comment required	N/A
CL79 Heritage Control	NO	No comment required	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	No comment required	N/A
CL82 Development in the Vicinity of Heritage Items	NO	No comment required	N/A
CL83 Development of Known or Potential Archaeological Sites	NO	No comment required	N/A

Other Relevant WLEP 2000 Clauses

Schedule 5 - State Policies

Bushland In Urban Areas	The proposed development is consistent with the aims and objectives of Schedule 5.
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Schedule 8 - Site Analysis

Site Analysis	A formal site analysis plan was submitted with the original development application and additional site information is contained in the Statement of Environmental Effects, the survey, tree survey and the architectural plans, which satisfy the site analysis requirements of Schedule 8.
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Schedule 11 - Koala Feed Tree Species and Plans of Management

Koala Feed Tree Species and Plans of Management	The site is not identified as containing any Koala population or Koala habitat. The proposal is consistent with the requirements for the protection of koala habitat.
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Schedule 15 - Statement of Environmental Effects

Statement of Environmental Effects	A Statement of Environmental Effects was submitted with the development application which satisfies the requirements of Schedule 15.
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Clause 15(1) of Warringah Local Environmental Plan 2000 requires that the consent authority must consider a Statement of Environmental Effects (SEE) prepared in accordance with the criteria listed in Schedule 15. The applicant has submitted a Statement of Environmental Effects, prepared by City Plan Associates, which addresses Schedule 15 of WLEP 2000. The following is provided having regard to these provisions:

In addition, Clause 15(2) requires the consent authority to consider the findings of an independent public hearing prior to the determination of the application. Reporting of this application to the Northern Beaches Planning Panel is considered to satisfy this clause. A summary of the Schedule 15 Statement is provided below:

Consideration	Proposed
(1) Summary of the Statement of Environmental Effects (SEE)	The applicant has provided a summary within the the Statement of Environmental Effects provided with the application that is sufficient to satisfy this requirement of Schedule 15.
(2) Consistency of the proposal with the desired future character statement and general principles of development control established by the plan.	The applicant has provided a detailed discussion and justification to demonstrate the proposal's compliance with the C8 Belrose North locality and the General Principles of Development Control.
(3) Objectives of the proposed development.	<p>With regard to Point 3 of Schedule 15 the applicant has established that the objectives of the proposal are as follows:</p> <p>The objectives of the proposed development are as follows:</p> <ul style="list-style-type: none"> <i>To seek approval for a Stage 2 DA relating to the extension of Chisholm House involving a ground floor art room, undercroft play area, two (2) first floor classrooms, associated amenities and landscaping.</i> <i>To ensure that the proposal is consistent with the desired future character of the C8 Belrose North locality and to ensure that there is no adverse environmental impact (internally within the site and externally).</i> <p>Comment: The objectives of the proposal have been adequately described and no fundamental objection is raised with the objectives of the proposal. The proposal has satisfied this requirement of Schedule 15.</p>
(4) An analysis of feasible alternatives. (including (a) Consequences of not carrying out the development and (b) Justification for the development)	The applicant has provided a detailed analysis within the SEE in regards to this requirement. This was also undertaken in the assessment of the Staged consent. In summary, the Masterplan presents as the best outcome on the site given the opportunities and constraints of the site. It is also acknowledged that not carrying out the development would restrict the options for educational services in north-eastern Sydney.
(5) Development and context analysis.	The applicant has provided sufficient information to demonstrate compliance with this requirement of Schedule 15.
(6) Biophysical, economic and social considerations and the	The applicant has provided sufficient information to demonstrate compliance with this requirement of Schedule 15.

Consideration	Proposed
principles of ecologically sustainable development.	
(7) Measures to mitigate any adverse effects of the development on the environment	The extent of Stage 2 works are not such as to require any specific measures to mitigate any adverse impacts of the proposal. Future applications that relate to the stages of the Masterplan closer to the vegetated north-west boundary, may require further information of such mitigation measures.
(8) Other approvals required	As the land relates to a school in a bushfire prone area, the development is Integrated development (Bushfire Safety Authority required under Section 100B of the Rural Fires Act 1997). Concurrence has been provided by the NSW Rural Fire Service in this regard.

It is considered that the submitted Statement of Environmental Effects prepared by City Plan Services dated December 2019 and in response to the provisions of Clause 15/Schedule 15 adequately addresses the compatibility of the of the development with the Locality and the DFC.

Schedule 17 - Carparking Provision

Carparking Provision	<p>The proposal does not include any increase to the current enrolment for the School. Parking requirements are addressed under the heading "General Principles" – Clause 71 to 75 previously in this report.</p> <p>The approved provision of carparking on the existing school site is satisfactory in accordance with Schedule 17.</p>
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POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The land is located in an area subject to Council's Contributions Plan. A previous modification to the Staged consent DA2015/0558 (condition No.8) specified a contribution for separate stages of works to the subject application.

The contribution to this application will be as follows:

\$20,888.97 (based on a cost of works of \$2,088,897).

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, the provisions of relevant Environmental Planning Instruments, including the WLEP 2000, and the relevant codes and policies of Council.

The proposed works relate to the existing Chisholm House building, with the built form of the extension predicated on this existing character. The works are to Stage "Q" of the staged consent DA2015/0558.

The proposal does not involve any increase to staff and/or student numbers, beyond that maximum already approved in Condition No.7 of DA2015/0558, which was 350 students.

The proposed development has been considered against the provisions of Clause 15 of WLEP 2000, as the proposal relates to Category 3 development. The Desired Future Character of the C8 Locality specifies that the character of the locality will remain unchanged, by preserving the natural environment and limiting new development to detached style housing or low intensity, low impact land uses.

The proposed works will not result in any disturbance of the existing natural environment and will not result in any substantive change to the existing character by virtue of the works being an extension to an existing school. The application is in effect operating within existing intensity and impact parameters established by the Staged consent DA2015/0558. Hence, the application is considered to be a low intensity, low impact land use and in turn is consistent with the Desired Future Character of the locality.

Non-compliances were considered in relation to the Building Height, Front Building Setback and Rear and Side Building Setback built form controls. In each instance, the non-compliances were found to be relatively minor, consistent with the objectives of each control and subsequently supported.

The application has been publicly exhibited in accordance with the WLEP 2000 and the Northern Beaches Community Participation Plan . A total of 9 submissions were received during public notification. Upon consideration of the issues raised in these submissions, none were considered to warrant the refusal of the application.

Hence, the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

As a result of the application and the consideration of the matters detailed within this report it is considered that Council as the consent authority grant approval.

RECOMMENDATION - APPROVAL

THAT Council as the consent authority grant approval to Development Application No. DA2019/1427 for Alterations and additions to an existing school on land at Lot 1 DP 601101,8 Wyatt Avenue, Belrose, 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
DA-1001 Rev B	12 November 2019	Templum Design
DA-1100 Rev B	2 April 2020	Templum Design

DA-1101 Rev A	12 November 2019	Templum Design
DA-1102 Rev B	2 April 2020	Templum Design
DA-2000 Rev A	12 November 2019	Templum Design
DA-2001 Rev A	12 November 2019	Templum Design
DA-2002 Rev B	2 April 2020	Templum Design
DA-3001 Rev A	12 November 2019	Templum Design
DA-3002 Rev A	12 November 2019	Templum Design
DA-3003 Rev A	12 November 2019	Templum Design
DA-3004 Rev A	12 November 2019	Templum Design
DA-4002 Rev A	12 November 2019	Templum Design
DA-4003 Rev A	12 November 2019	Templum Design

Engineering Plans		
Drawing No.	Dated	Prepared By
Sheet 1 of 1	27 November 2019	CPM

Reports / Documentation – All recommendations and requirements contained within:		
Report Title / No.	Dated	Prepared By
Bushfire Protection Assessment B193386 - 2	27 August 2019	Australian Bushfire Protection Planners Pty Limited
Building Code of Australia Capability Statement	29 November 2019	Mark Stone
Aboricultural Impact Assessment	November 2019	Accurate Tree Assessment
Design Compliance and Swept Path Analysis No.200110.01FA	15 April 2019	McLaren Traffic Engineering

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
38 / 1 Rev F	29 November 2019	Conzept Landscapes
38 / 2 Rev F	5 December 2019	Conzept Landscapes

38 / 3 Rev D	21 November 2019	Concept Landscapes
38 / 4 Rev E	21 November 2019	Concept Landscapes
38 / 5 Rev A	24 September 2019	Concept Landscapes

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	12 November 2020	Templum Design

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

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

2. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
NSW Rural Fire Service	Referral - RFS - 8 Wyatt Avenue Belrose	28 April 2019

(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 \$20,888.97 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 \$2,088,897.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 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 \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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. BCA Report (Class 2-9)

A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Accredited Certifier* will need to be submitted with the Construction Certificate application addressing the following:

The report is to detail the extent to which the proposed building 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 building works required to ensure that the specified measures and facilities for the proposed development are appropriate for its intended use to:

- i) restrict the spread of fire from the building to other buildings nearby, and
- ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and
- iii) where appropriate, provide access for persons with a disability, and
- iv) provide facilities and services appropriate for the development

*To be regarded as an "appropriately qualified accredited certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifying Authority with the Construction Certificate application.

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

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

9. On-site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Warringah Water Management Policy PL850, and generally in accordance with the concept drainage plans prepared by cpm Engineering, job reference number 16058-C02, Sheet 1, dated 27/11/19. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. PSD is to be calculated on the maximum allowable impervious fraction

of 0% for the areas considered for the proposed alterations and additions only.

ii. PSD does not exceed 20 litres per second per outlet per 15m run of kerb and gutter for storms up to and including the 100 year ARI.

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

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

10. Bushland Management - Existing Positive Covenant

Bushland is to be protected, conserved, rehabilitated and managed in accordance with the existing Positive Covenant under Section 88B of the Conveyancing Act 1919. This instrument is written and registered on the title so that the owners are bound to manage and protect the area in perpetuity in accordance with the Bushland Management Plan as defined in the instrument.

Reason: Management and protection of bushland.

11. Amend Landscape Drawings

The submitted Landscape Plan is to be amended in accordance with the requirements of the 2015 staged development consent and the following:

- Prevention of the use of grevillea species in landscaping and rehabilitation to limit the likelihood of hybridisation;
- Replacement of non-local plant species with native plants grown from local provenance seed and cuttings
- Provision of a native plant schedule based on characteristic species of the Duffys Forest vegetation community and local species listed in current and previous ecological assessments.

The amended Landscape Plan is to be certified by a qualified landscape architect prior to issue of the Construction Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls and previous consent conditions.

12. 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 Certifying Authority prior to the issue of the Construction Certificate.

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

13. 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 Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

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

- i "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- i 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.

14. Development Contributions

A monetary contribution of \$20,888.97 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 \$2,088,897.

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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. Tree protection

- (a) Existing trees which must be retained
 - i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation. For clarity, Trees Numbered 37a, 37b, 38b and 39 as identified in the Arboricultural Impact

Assessment dated November 2019 prepared by Accurate Tree Assessment are approved for removal.

ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by the Project Arborist on site.
- iii) All tree protection to be in accordance with the Arboricultural Impact Assessment dated November 2019 prepared by Accurate Tree Assessment and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with relevant local planning controls and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

16. Project Arborist

- i) A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.
- ii) The Project Arborist is to oversee all tree protection measures, removals, inspection hold points and works adjacent to protected trees as outlined in the Arboricultural Impact Assessment dated November 2019 prepared by Accurate Tree Assessment and AS4970-2009 Protection of trees on development sites.
- iii) The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

17. 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.

18. 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:

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

19. Survey Certificate

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

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

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

20. Traffic Control During Road Works

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

Reason: Public Safety.

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

22. Stockpiling of Topsoil

During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.

Reason: To ensure protection and retention of the Urban Forest/Natural Environment.

23. Native Vegetation Protection

Guards or fences are to be provided around native vegetation as identified/nominated on the approved plans. The guards or fences are to be installed prior to the commencement of any work on the site. No works, including utility installations (eg water, sewer, telephone, drainage), are to be undertaken within 4 metres of the trunk of any such trees. The tree guards shall be a minimum 1200mm high at least four (4) metres from the base of the nominated tree/s and constructed from timber posts and rails or posts and suitable plywood panels.

Reason: To protect and retain trees/the natural environment proposed for retention.

24. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

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

25. Landscape completion certification

a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

26. Condition of retained vegetation

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Certifying Authority assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

- a) Compliance to Arborist recommendations for tree protection and excavation works.
- b) Extent of damage sustained by vegetation as a result of the construction works.
- c) Any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites.

27. 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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

28. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

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

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater detention/disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for on-site storm water detention/disposal is to be submitted to the Certifying Authority prior to the issue of final Occupation Certificate.

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

29. Required Planting

Trees shall be planted in accordance with the following schedule:

Minimum No. of Trees Required.	Species	Location	Pot Size
All trees	As indicated on Landscape Plan Dwg No. LPDA20-38/1 Rev. F dated 29.11.19 prepared by Conzept Landscape Architects	As indicated on the Landscape Plan	As indicated on the Landscape Plan

a) Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity.

30. Weed Removal and Management

No weeds are to be imported on to the site. All invasive and priority weeds on the site are to be removed and managed continuously, in accordance with the Biosecurity Act 2015.

Details demonstrating the removal and management of weeds are to be prepared by the project ecologist in writing and submitted to the Principal Certifying Authority prior to occupation certificate.

Reason: Weed management and biosecurity

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

Once construction has been completed all silt and sediment fences, silt, 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)

32. 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 the NSW Fire Brigade.

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

Each year the Owners must send to the Council and the NSW Fire Brigade 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 Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

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

33. Landscape maintenance

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity.

34. Control of Weeds

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

35. No Planting Environmental Weeds

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

36. Dead or Injured Wildlife

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

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.
