

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0557
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Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 1 DP 1045063, 46 Eurobin Avenue MANLY NSW 2095
Proposed Development:	Alterations and additions to a dwelling and use as an educational establishment
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes, under SEPP (Transport and Infrastructure) 2021
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Robinson Urban Planning Pty Ltd

Application Lodged:	29/05/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	07/06/2024 to 21/06/2024
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 237,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for 'Alterations and Additions to a dwelling and use as an educational establishment' to form part of the adjoining school known as "Stella Maris". Specifically, the application consists of:

- Alterations and additions to the existing dwelling house comprising:
 - (a) Removal of some internal walls and the amenities on the first floor
 - (b) Internal reconfiguration to make way for staff administration and a uniform shop
 - (c) New entrance gate on eastern side boundary shared with the Main Campus

- Change of use from a residential dwelling to an 'Educational Establishment (school) to be used in association with Stella Maris College.
- Consolidation of the lot into the school larger school allotment.

The proposal does not include any of the following:

- Change to the existing student and staff population or hours of operation
- Tree removal
- Signage
- External lighting
- Use of the New School Site for interschool or weekend sport activities.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - Zone R1 General Residential
 Manly Local Environmental Plan 2013 - 5.21 Flood planning
 Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

SITE DESCRIPTION

Property Description:	Lot 1 DP 1045063 , 46 Eurobin Avenue MANLY NSW 2095
Detailed Site Description:	The subject site consists of one (1) allotment located on the southern side of Eurobin Avenue. The site is irregular in shape with a frontage of 22.7m along

Eurobin Avenue and a depth of 30.48m. The site has a surveyed area of 486.1m².

The site is located within the R1 General Residential zone and accommodates a two storey residential dwelling.

The site has a flat topography with a some medium height canopy trees between 5m and 8m in height. The site has two driveways which provide access to parking areas either side of the dwelling.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a school to the east, with various 1 to 3 storey buildings, heritage listed residential dwellings to the north and residential dwellings to the west and south.

Map:



SITE HISTORY

Subject Site (46 Eurobin Avenue)

The site has been used for a residential purposes for an extended period of time. A search of Council's records has revealed there are no recent applications on 46 Eurobin Avenue.

Stella Maris School

DA 232/2014

The adjoining site is a school known as 'Stella Maris College'. There was a development application approved by the Sydney East Regional Panel under 232/2014 for "*Re-development of an existing*

Educational Establishment including Development partial demolition, construction of three (3) storey buildings with basement car park, refurbishment of buildings, an increase in student numbers by 200, landscaping and a covered play area - Stella Maris College".

The first stage of this the redevelopment has been completed and consists of the new building constructed on the common boundary of 50 Eurobin Avenue.

The application 232/2014 approved an increase of the student numbers by 200 (from 950 students to 1,150 student population by 2025) and increase the number of staff from 125 to 136 by 2025 (11 additional staff).

The approved second stage of the development is currently being undertaken. The second stage comprises of an Arts Building and comprises of:

- Demolition of the existing two and three storey building within the north-east portion of the site.
- Construction of a new three storey building to replace the abovementioned demolished structures, which will contain art, design and technology classrooms as well as food technology, a multimedia room and GLAs. A new open space terrace is to be located on the roof of the new art building above the multimedia and design rooms.
- Refurbishment of the existing C Bock along the eastern boundary of the site adjacent Collingwood Street.
- Upgrading and reconfiguration of landscape treatments to the centre courtyard and provision of a new open deck space above the canteen.
- New weather-resistant enclosure positioned over the basketball court to create an all-weather play area.

DA2023/0020

There was also a recently approved application at 48 and 50 Eurobin Avenue to demolish two existing houses and change the use of the site to a school (DA2023/0020). A temporary demountable building currently sits across the site to allow continued operation of the school by providing additional class rooms during the construction on the existing campus. The demountable buildings are to be removed after 2 years as per the conditions of DA2023/0020. A condition of consent was recommended on DA2023/0020 to require student numbers to be consistent with the approval under DA 232/2014.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 07/06/2024 to 21/06/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no concerns with the application.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p>
Environmental Health (Contaminated Lands)	<p>General Comments</p> <p>Environmental Health has been requested to consider this proposal for "Alterations and additions to a dwelling and use as an educational establishment" in respect of the potential for contaminated lands</p> <p>The development proposes:</p>

Internal Referral Body	Comments
	<p>1. Alterations and additions to the existing dwelling house comprising:</p> <ul style="list-style-type: none"> (a) Removal of some internal walls and the amenities on the first floor (b) Internal reconfiguration to make way for staff administration and a uniform shop (c) New entrance gate on eastern side boundary shared with the Main Campus <p>2. Change of use from a residential to educational establishment (school), to be used in association with Stella Maris College. The following operational details are proposed:</p> <ul style="list-style-type: none"> (a) Hours of operation consistent with Stella Maris Colleges' existing hours of operation. <p>The Preliminary Site Investigation (PSI) report notes that the site has been in use for residential purposes since at least 1918</p> <p>The PSI also notes that buildings upon the land were constructed in an era known for utilising asbestos containing materials in the building fabric and lead-based paints.</p> <p>It is also noted within the report the potential for historical importation of fill of unknown origin associated with construction of on-site residential dwelling.</p> <p>Environmental Health agrees that the site represents a low potential risk of contamination and supports the proposal, recommending a number of appropriate conditions of consent relation to the removal, management and disposal of contaminants, as well as the requirement to notify the relevant authority should evidence of contamination not previously identified by encountered.</p> <p>Recommendation</p> <p>SUPPORTED - subject to conditions</p>
<p>Environmental Health (Industrial)</p>	<p>General Comments</p> <p>Environmental Health has been requested to consider this proposal for "Alterations and additions to a dwelling and use as an educational establishment" in respect of potential noise impacts by the proposed development.</p> <p>The development proposes:</p> <p>1. Alterations and additions to the existing dwelling house comprising:</p> <ul style="list-style-type: none"> (a) Removal of some internal walls and the amenities on the first floor (b) Internal reconfiguration to make way for staff administration and a uniform shop

Internal Referral Body	Comments
	<p>(c) New entrance gate on eastern side boundary shared with the Main Campus</p> <p>2. Change of use from a residential to educational establishment (school), to be used in association with Stella Maris College. The following operational details are proposed:</p> <p>(a) Hours of operation consistent with Stella Maris Colleges' existing hours of operation.</p> <p>An acoustic report supplied with the proposal documentation notes that as there is no parking on site, there is no increase in traffic noise expected as a result of the development.</p> <p>It is also considered that, as the proposed new use of the premises is that of administration and uniform supply, that these activities would not be expected to generate additional noise of any concern.</p> <p>The acoustic report does note there is no detail currently as to proposed mechanical plant associated with the development, therefore no acoustic assessment of proposed mechanical plant has been undertaken.</p> <p>As a result of this it is considered appropriate to recommend a condition of consent requiring that, prior to the issuing of a Construction Certificate, a further acoustic report is to be provided to the Certifying Authority, which demonstrates that mechanical plant intended to be installed will comply with NSW Noise Policy for Industry noise criteria.</p> <p>Additionally, it is recommended that the building subject to this proposal not be used for classroom tuition without further formal assessment.</p> <p>Recommendation</p> <p>SUPPORTED - subject to conditions</p>
NECC (Coast and Catchments)	<p>This Development Application is to seek consent for the following works on the New School Site:</p> <p>1. Alterations and additions to the existing dwelling house comprising:</p> <p>(a) Removal of some internal walls and the amenities on the first floor</p> <p>(b) Internal reconfiguration to make way for staff administration and a uniform shop</p> <p>(c) New entrance gates on eastern side boundary shared with the Main Campus</p> <p>2. Change of use from a residential to educational establishment (school), to be used in association with Stella Maris College</p>

Internal Referral Body	Comments
	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Resilience & Hazards) 2021 and has also been assessed against requirements of the Manly LEP 2013 and Manly DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.</p> <p>Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Robinson Urban Planning Pty. Ltd. dated 1 May 2024, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Manly LEP 2013 and Manly DCP No coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Manly LEP 2013 and Manly DCP.</p>

Internal Referral Body	Comments
NECC (Development Engineering)	The proposed development is in Region 1. Vehicle crossing construction is not proposed. Minor additional impervious areas are proposed, which can drain to the kerb. Development engineering raises no objections to the proposed development.
NECC (Flooding)	<p>The proposal is for a change of use at the premises and interior alterations. It is proposed that the premises will be changed from a residential dwelling to a commercial dwelling. The proposed business will be owned and operated by Stella Maris College but there will be no classes or educational activities taking place on the premises. As such, the application has been assessed as 'Business & Industrial Use'.</p> <p>The site is within the Medium Risk Flood Precinct. It has the following flood characteristics:</p> <ul style="list-style-type: none"> • Flood Planning Level: 3.64m AHD • 1% AEP Flood Level: 3.14m AHD • 1% AEP Hydraulic Category: Flood Fringe • Probable Maximum Flood (PMF) Level: 5.62m AHD • PMF Life Hazard Category: H5 <p>Subject to the following conditions, the proposal complies with Section 5.4.3 of the Manly DCP and Clause 5.21 of the Manly LEP.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>This application has been referred as it is in the vicinity of a number of heritage items listed in Schedule 5 of Manly LEP 2013, being:</p> <p><i>Item I159 - Convent of The Good Samaritan:Stella Maris - Iluka Ave, Manly</i></p> <p><i>Item I160 - 2 Moreton Bay Fig trees, Iluka Ave (courtyard in Stella Maris Convent)</i></p> <p><i>Item I154 - Group of 2 storey residential flat buildings - Eurobin Ave, northern side (from Pittwater Road to Collingwood Street), Manly</i></p>
	Details of heritage items affected
<p>Details of the heritage items in the vicinity, as contained within the heritage inventory, are:</p> <p><i>Item I159 - Convent of The Good Samaritan:Stella Maris - Iluka Ave, Manly</i></p> <p><u>Statement of Significance</u></p> <p>The site is of major importance in terms of the social history of benevolence and social welfare in the area.</p> <p><u>Physical Description</u></p> <p>Rendered and exposed brick building complex, generally of two storeys, with pronounced Spanish Mission influence in decoration. Significant elements include: cantilevered bay windows, wrought iron window grilles; decorative render to entry and extant joinery. Elements of the Chapel building include brick buttresses, Gothic</p>	

Internal Referral Body	Comments		
	<p>arched entrance, rosette window and the use of quatrefoils. Item 1160 - 2 Moreton Bay Fig trees, Iluka Ave (courtyard in Stella Maris Convent) <u>Statement of Significance</u> Aesthetic and part of Mr. Rolfe's 1860 garden. Now incorporated into the fabric of the Convent.</p> <p>Item 1154 - Group of 2 storey residential flat buildings - Eurobin Ave, northern side (from Pittwater Road to Collingwood Street), Manly <u>Statement of Significance</u> A fine example of flat buildings.</p>		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	No	Comment if applicable
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	<p>This application is for change of use of the existing dwelling from residential to school uses, in conjunction with the adjoining Stella Maris College. It also proposes minor alterations to the building including removing some internal walls and amenities on the first floor and internal re-configuration to accommodate use for staff administration and the school uniform shop. Two timber gates are proposed in the existing timber fence on the eastern boundary.</p>		
	<p>There will be no change to the externals of this building, nor is there any change to the front fencing or any new signs proposed. Given this, there will be no change to the streetscape presence of this building and therefore no visual impact upon the heritage items in the vicinity. These heritage items are also separated from the subject site by other buildings or Eurobin Avenue. Therefore, it is considered that this proposal will have no adverse impact on the heritage items in the vicinity.</p>		
	<p>Therefore, no objections are raised on heritage grounds and no conditions required.</p>		
	<p><u>Consider against the provisions of CL5.10 of MLEP 2013:</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? N/A</p>		

Internal Referral Body	Comments
	<p>Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? N/A</p>
<p>Traffic Engineer</p>	<p>Proposal description: Alterations and additions to a dwelling and use as an educational establishment.</p> <p>The proposal is for the alterations and additions to the existing dwelling on the site with the purpose of changing its use from residential to an educational establishment (school) to be used in association with Stella Maris College.</p> <p>The traffic team has reviewed the following documents:</p> <ul style="list-style-type: none"> • Plans (Master Set) – Revision C, designed by JDH Architects, dated 12/04/2024, and • Statement of Environmental Effects (SEE) prepared by Robinson Urban Planning Pty Ltd, dated 1 May 2024. <p>The proposed application involves making minor internal alterations to the building at No. 46 Eurobin Avenue and changing the site's use to staff administration and a uniform shop. The applicant states that there will be no increase in staff or student numbers. However, the proposed building will accommodate four (4) office areas, a uniform store, a staff breakout area, and a board room. It is assumed that these changes may accommodate increased staff and student numbers in the future, if not immediately. The Statement of Environmental Effects submitted with the development application explains, "<i>The DA does not propose any change to the existing school population. No change is proposed to the current operating hours of the College across the combined sites.</i>"</p> <p>No traffic and parking impact assessment report has been provided to support the application. Therefore, a review of the Statement of Environmental Effects (SEE) and the most recent Development Application (DA) has been carried out to gather relevant background information. According to the SEE, vehicular and pedestrian access to the New School Site and the Main Campus will remain unchanged. There are no proposed changes to the current on-site car parking or loading/unloading arrangements on the Main Campus. The two on-site car spaces on the New School Site will be kept for staff parking.</p> <p>According to the latest Development Application (DA), the current school provides off-street parking for only 31 vehicles – all for staff. The existing school has approval for 1150 students and 140 staff. At the time of the school's last DA, the applicant's traffic impact assessment advised that 10 staff members also parked at the Benedict campus (corner of Pittwater Road/Balgowlah Road) but that</p>

Internal Referral Body	Comments
	<p>80% of staff drove to the school. This means that approximately 71 staff members are currently parking on the residential streets around the site. Council has issued about 15 resident parking permits with various restrictions on their days and times of use for school staff to park within the Ocean Beach permit parking zone, the remaining staff members presumably park in unrestricted parking zones in Queenscliff or park within time restricted parking zones in surrounding streets or carparks within Manly.</p> <p>The school does not offer any off-street parking for students. In the school's last development application, the traffic impact assessment from the applicant indicated that 35 senior students (4% of the school's total enrollment at the time) commuted to school by driving. With the current approved population of 1150, it is reasonable to estimate that 4% of students still drive to school, which equals 46 students. These students would likely park on the street in the surrounding unrestricted residential areas.</p> <p>Before and after-school drop-off and pick-up zones have been introduced along the school's Iluka Road frontage, and a similar zone was also added along the school's Eurobin Avenue frontage. The later was introduced to cater for parking issues associated with the existing school premises and NOT to support any expansion of the school. The restrictions also address ongoing resident concerns about drop-off and pick-up activity occurring across driveways to residences opposite the school on the northern side of Eurobin Avenue. The Eurobin Avenue drop-off and pick-up zone abuts an extended length of before and after school Bus Zone, which extends over the remainder of the school's Eurobin Street frontage towards Collingwood Street.</p> <p>Considering the information above, it's clear that the school puts a significant strain on parking. Approximately 117 parking spaces in the surrounding residential areas are constantly occupied throughout the day, in addition to parking restrictions before and after school on the school's frontages. Any growth in student or staff numbers would not be feasible and could not be supported without additional off-street parking on the school premises to accommodate this increase.</p> <p>For the above reasons, the DA could only be supported on traffic grounds if it was conditioned that student numbers were to be capped at 1150 students and staffing numbers capped at 140 staff.</p> <p><u>Conclusion</u></p> <p>Subject to conditions, the application can be supported on traffic grounds.</p> <p><i>*Planner Note - Upon review of DA 232/2014 the approved student numbers are 1150 and 136 staff (not the 140 staff quoted above). Notwithstanding this, the staff and student numbers are not to increase under this application and a condition has been</i></p>

Internal Referral Body	Comments
	<i>recommended to limit student and staff numbers as approved under DA232/2014.</i>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Sustainable Buildings) 2022

3.1 Application of Chapter

- (1) This Chapter applies to development, other than development for the purposes of residential accommodation, that involves—
- (a) *the erection of a new building \$5 million, or*
 - (b) *alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10 million or more.*

Comment: The chapter is not applicable as it does not involve the erection of a new building or alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10 million or more.

- (2) This Chapter does not apply to the following development—
- (a) development that is permitted with or without consent or that is exempt or complying development under—
 - (i) *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, or*
 - (ii) *State Environmental Planning Policy (Resources and Energy) 2021, Chapter 2, or*
 - (iii) *State Environmental Planning Policy (Transport and Infrastructure) 2021, Chapter 5,*
 - (b) development on land wholly in any of the following zones—
 - (i) *Zones RU1, RU2 or RU3,*
 - (ii) *Zone E5,*
 - (iii) *Zone IN3,*
 - (iv) *Zones C1, C2 or C3,*
 - (v) *Zones W1, W2, W3 or W4,*

- (c) development for the purposes of residential care facilities.

Comment: As per Clause (1), the Chapter is not applicable to the development.

SEPP (Transport and Infrastructure) 2021

Chapter 2 - Infrastructure

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections.

Chapter 3 - Educational Establishments and child care facilities

Part 3.4 - SCHOOLS

Part 3.4, Section 3.36 states that (1) "*Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone*". The zone R1 General Residential is a 'prescribed zone' under the SEPP (T & I) 2022 and therefore development for the purpose of a school is permitted in the zone.

Part 3.4, Section 3.36 of Chapter 3 stipulates that:

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

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

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

The applicant has provided an analysis of the design principles within the statement of environmental effects.

In addition, the design quality principles are set out and addressed as follows by Council:

Principle 1 – context, built form and landscape

Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage, including Aboriginal cultural heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.

Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.

School buildings and their grounds on land that is identified in or under a local environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural environment of the area, and located and designed to minimise the development's visual impact on those qualities and that natural environment.

Comment: The site is directly connected to the existing school site and therefore the proposal to expand the school onto the subject sites is a logical extension due to the physical connection between the sites. Whilst it is recognised that the to the north, west and south are residential dwellings a school is not considered to be out of place in an R1 Zone and a school being adjacent to residential dwelling is not an uncommon scenario. This is reflected by the fact schools are permitted in the residential zone by virtue of the SEPP.

The built form will be retained and the dwelling house will undergo adaptive reuse to suit the schools needs, whilst maintaining the existing streetscape. Any future built form will be subject to a further approval via a development application or need to meet the requirements of the SEPP (Transport and Infrastructure) 2021. The site is not identified as 'Scenic Protection' under the Manly LEP 2013.

Principle 2 – sustainable, efficient and durable

Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling.

Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.

Comment: The proposal to undertake an adaptive reuse to suit the needs of the school minimises the consumption of energy.

Principle 3 – accessible and inclusive

School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.

Note. Wayfinding refers to information systems that guide people through a physical environment and enhance their understanding and experience of the space.

Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.

Comment: Access pathways and ramps are used to access the buildings to provide equitable access. The building serves a purpose of administration functions for the school and there is ample opportunity within the existing school grounds to cater for activities for the wider community.

Principle 4 – health and safety

Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.

Comment: The building is used for staff offices and amenities, with limited student use. An access gate is provided between the building and the main school campus, without having to on the road.

Principle 5 – amenity

Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.

Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants.

Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.

Comment: An acoustic report is provided to address the use of the site which concludes the use will not generate unreasonable noise impacts. Solar access and outlook for the adjoining properties remains unchanged.

Principle 6 – whole of life, flexible and adaptive

School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.

Comment: The adaptive reuse of the building is a suitable option to service the school needs, while maintaining present street character.

Principle 7 – aesthetics

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

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

Comment: The proposed streetscape is maintained through the adaptive reuse.

In response to item (b):

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

Comment: The building serves a purpose of accommodating staff offices and amenities and there is ample opportunity within the existing school grounds to cater for activities for the wider community.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

Division 1 Coastal Wetlands and littoral rainforest area

2.7 Development on certain land within coastal wetlands and littoral rainforests area

- 1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:
 - a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
 - b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
 - c) the carrying out of any of the following:
 - i) earthworks (including the depositing of material on land),
 - ii) constructing a levee,
 - iii) draining the land,
 - iv) environmental protection works,
 - d) any other development

Comment: Not within land containing coastal wetlands or littoral rainforest.

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

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

Comment: Not on land in proximity to coastal wetlands or littoral rainforest.

Division 2 Coastal Vulnerability Area

2.9 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- b) the proposed development:
 - i) is not likely to alter coastal processes to the detriment of the natural environment or
 - ii) other land, and
 - iii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Comment: Not within coastal vulnerability area.

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

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

Comment: The proposed development is not considered to give rise to adverse impacts on the matters listed a) to g) above, given the site is located within an existing residential context with no direct frontage to Manly Lagoon or the coastline.

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

Comment: The proposal has been designed to avoid impacts and conditions have been recommended

with regard to erosion and sediment control and stormwater during and post development.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an
 - ii) adverse impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment: The proposal due to its location and distance to the foreshore area will not result in impacts to the matters listed i) to v). The site is not identified as having aboriginal heritage. Built environment heritage is discussed elsewhere within this report. Council is satisfied that the development has been sited to avoid impacts.

Division 5 General

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

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

Comment: There is no increase to coastal hazards as a result of this proposal.

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

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

Comment: There is no coastal management program applicable to this site.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State

Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of Chapter 4, the applicant has submitted a Preliminary Environmental Site Investigation dated 26 February 2024 and prepared by Reditus Consulting. In its conclusion, the investigation states:

- *Reditus considers that there was a Low Risk of site contamination and that the site is suitable for the proposed change in land use (education administration space). No further contaminated land site assessment or remediation is considered necessary.*

Therefore, as the Investigation indicates that the site is suitable Council can be satisfied site contamination has been properly considered and investigated, with conditions recommended to address any unexpected finds beneath the existing dwelling footprints.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	No change	N/A	Yes
Floor Space Ratio	FSR: 0.6:1	FSR: 0.57:1 (No change)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.21 Flood planning	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes

Detailed Assessment

Zone R1 General Residential

The proposal is considered against the R1 Zone Objectives as follows:

- ***To provide for the housing needs of the community.***

Comment: The use as a school is permitted with consent by virtue of the SEPP (Transport and Infrastructure) 2021 and therefore, is permissible in the R1 Zone. Given there are land uses permitted in the R1 Zone other than housing (e.g. child care, community centres) a development in the R1 Zone that does not provide additional housing is anticipated by the planning controls and is therefore not contrary to the zone objectives given it is a permissible land use.

Therefore, this particular objective is not relevant to the proposed development.

- ***To provide for a variety of housing types and densities***

Comment: N/A - See above.

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

Comment: A high percentage of students who attend the school who reside in the area and in Manly and therefore, the school is a facility that provides a service to meet the needs of residents.

5.21 Flood planning

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) *is compatible with the flood function and behaviour on the land, and*
- (b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

Comment: Council's Flood Team is satisfied that the site can be managed in a way that does not adversely impact the safe occupation and efficient evacuation of people in a flood event. The proposal does not reduce the amount of flood storage on the land.

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- (a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) *the intended design and scale of buildings resulting from the development,*
- (c) *whether the development incorporates measures to minimise the risk to life and ensure the safe*

evacuation of people in the event of a flood,

(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

Comment: Council's flood team are satisfied in relation to the matters listed (a) to (d), see referral response elsewhere within this report.

Manly Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.4.1 Demolition	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.4.2 Alterations and Additions	Yes	Yes
5.4.3 Flood Prone Land	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

3.1.1 Streetscape (Residential areas)

The streetscape is maintained as the existing house is retained in the existing form and the existing landscape setting.

3.4.2 Privacy and Security

The change of use is not considered to give rise to adverse privacy impacts. However, given the daytime use of the upper level may be intensified, a condition is recommended for the south (rear) and west (side) facing windows on the upper level to consist of opaque glazing to a height of 1.5m above floor level to mitigate privacy impacts. The north facing windows overlook the street and east facing windows overlooking the school only and as such, do not require such treatment.

Council's EHO have recommended conditions in relation to the use of the rooms (not to be used for tuition) as to mitigate acoustic impacts.

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

The proposal does not seek to increase the number of students or staff at the school, as such, the proposed change of use will not increase the traffic generation of the school and a condition will be imposed to require the current student numbers to remain consistent with the previous approvals.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$2,370 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$237,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2024/0557 for Alterations and additions to a dwelling and use as an educational establishment on land at Lot 1 DP 1045063, 46 Eurobin Avenue, MANLY, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

Approved Plans

Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA-000	A	Cover Page	JDH Architects	29/01/2024
DA-001	A	Proposed Location and Boundary Plan	JDH Architects	29/01/2024
DA-002	A	Proposed Site Plan	JDH Architects	29/01/2024
DA-101	D	Existing/Demolition Ground Floor Plan	JDH Architects	29/01/2024
DA-102	D	Existing/Demolition First Floor Plan	JDH Architects	29/01/2024
DA-111	C	Proposed Ground Floor Plan	JDH Architects	29/01/2024
DA-112	C	Proposed First Floor Plan	JDH Architects	29/01/2024
DA-113	A	Roof Plan	JDH Architects	29/01/2024
DA-201	A	Proposed Gate	JDH Architects	29/01/2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BCA and DDA Capability Statement Ref S240044	1	MBG	23/04/2024
Waste Management Plan	-	Applicant	Undated
Noise Impact Assessment	A	JHS	12/04/2024
Preliminary Site Investigation Project 24015	1	Reditus	26/02/2024
Flood Assessment Report Ref: S220191-CV-RP-02	A	SCP Consulting	13/03/2024

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

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

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

2. **Approved Land Use**

This consent authorises the use of the site and building for the express purposes as shown on the approved plans, in association with the educational establishment Stella Maris. This consent does not authorise the use of the building for school tuition or classrooms.

Reason: To ensure compliance with the terms of this consent

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

Reason: Legislative requirement.

4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) 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.
- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
- i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that

applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

- iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) 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 demolishedThe 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.
- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety

- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$2,370.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$237,000.00.

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

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

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

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

6. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. Building components and structural soundness

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 3.64m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

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

8. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.

- An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
- Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
- No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
- How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
- If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
- A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Due to the proximity of the site adjacent to Stella Maris College, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.

- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

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

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

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

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

9. Privacy Treatment to windows

The west and south facing windows on the first storey of the building are to be treated with opaque glazing to a height of 1.5m (measured from finished floor level). The opaque glazing shall be fixed and made of materials that complement the design of the approved development.

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

Reason: In order to maintain privacy to the adjoining properties.

10. Acoustic Report Required for Mechanical Plant

Prior to the issuing of any Construction Certificate, additional documentation from an appropriately qualified acoustic consultant is to be submitted to the satisfaction of the Principal Certifier.

The documentation is to provide detail of all mechanical plant selection, location and acoustic treatment required in order to control noise emissions to satisfactory levels in order to comply with noise criteria contained within the NSW Noise Policy for Industry.

Reason: To prevent noise nuisance by using mitigation measures in design.

11. **Compliance with Standards**

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. **Work Zones and Permits**

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

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

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

13. **Road Occupancy Licence**

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows.

Reason: Requirement of TMC for any works that impact on traffic flow.

14. **Demolition Traffic Management Plan**

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

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

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.

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

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

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

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

15. **Hazardous Building Materials Survey**

A hazardous building materials survey is to be conducted by a suitably qualified and experienced person. The survey is to include a survey of hazardous building materials including but not limited to asbestos, lead, SMF and PCBs. Following the survey a Hazardous Building Materials Register is to be prepared for the premises providing recommendations for the safe management/removal of hazardous building material.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

DURING BUILDING WORK

16. **Site Contamination**

All stockpiles of potentially contaminated soil must be stored in a secure area on the site (no greater than 48 hours) so as not to cause pollution or public health risk until disposed of at a waste facility. All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination: Protection of the Environment Operations Act 1997; and Environment Protection Authority's waste classification guidelines.

Reason: To protect human health and the environment.

17. Implementation of Demolition Traffic Management Plan

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

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

18. Implementation of Construction Traffic Management Plan

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

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

19. Ongoing Management

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

Reason: To ensure public safety.

20. Removing, Handling and Disposing of Asbestos

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

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

21. **Requirement to Notify about New Contamination Evidence**

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

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

22. **No increase to staff and student numbers**

This development consent does not authorise any increase to the number of staff or students at the school. The number of staff and students associated with the school shall remain in accordance with application number 232/2014.

Any increase to the number of students is subject to a further development application with Council.

Reason: To ensure traffic impacts are maintained and maintain consistency with previous consent granted.

23. **Building Not to be used for Classroom Tuition**

The building that is the subject of the development is not to be used for the purposes classroom tuition without further consent from Council.

Reason: To preserve the amenity of residential receiving properties.

24. **Conditions - On-Going: Conditions of Use**

The premises will not be used as a classroom, student break out area or any other area where students congregate.

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

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Jordan Davies, Principal Planner

The application is determined on 04/07/2024, under the delegated authority of:



A handwritten signature in blue ink, appearing to read "R. Piggott".

Rodney Piggott, Manager Development Assessments