

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0971
Responsible Officer:	Geoff Goodyer, planning consultant, Symons Goodyer Pty Ltd
Land to be developed (Address):	Lot 2502 DP 1143032, Ivanhoe Park, Sydney Road, MANLY NSW 2095
Proposed Development:	Demolition of existing child care centre building and installation of landscaping
Zoning:	RE1 Public Recreation
Development Permissible:	Yes – Recreation area
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Northern Beaches Council
Applicant:	Northern Beaches Council
Application Lodged:	8 July 2022
Integrated Development:	Yes (Section 58 of the Heritage Act 1977)
Designated Development:	No
State Reporting Category:	Other
Notified:	22/07/2022 to 19/08/2022 and 14/09/2022 to 12/10/2022
Advertised:	22/07/2022 and 14/09/2022
Submissions Received:	18
Clause 4.6 Variation:	No
Recommendation:	Approval
Estimated Cost of Works:	\$50,000.00

EXECUTIVE SUMMARY

This application seeks consent for the demolition of an existing redundant child care centre building, the turfing of that area with grass (so as to facilitate future landscaping subject to separate approval). Separately, the proposal includes the provision of paving, interpretive signage, lighting, bench seats, and associated landscaping works at the north-western corner of Ivanhoe Park.

The proposal is permissible with consent within the RE1 Public Recreation zone. There are no development standards that apply to the land under MLEP 2013.

Ivanhoe Park is listed on the State Heritage Register (listing No. 02029). The site comprises two heritage items listed in MLEP 2013: Ivanhoe Park (Item I162) and The Ivanhoe Loop (former tram track loop) (Item I161). The site is within the vicinity of a number of heritage items, including stone kerbs in Raglan Street (Item I2) and the group of houses at 62-72 and 76-84 Raglan Street (Item I219). The application is

accompanied by a Heritage Impact Statement and has been reviewed by Council's Heritage Advisor and NSW Heritage Office, who have both raised no objections to the proposal, subject to conditions included in the recommendation of this assessment report.

This application has been externally assessed and referred to the Northern Beaches Local Planning Panel (NBLPP) for determination as the applicant and owner is Northern Beaches Council.

The application was exhibited, including being advertised, in accordance with Council's Community Participation Plan and eighteen (18) submissions were received in response. The submissions are all in support of the proposal.

The proposal satisfies the relevant planning controls, enhances the heritage values of the relevant heritage items, enhances the amenity of the public open space, has no impact on the amenity of surrounding and nearby properties, and is considered to be in the public interest, and is therefore recommended for approval, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposal comprises of two components (see Figure 1), with the first component including the demolition of an existing redundant child care centre building. The demolition works include the child care centre building, the metal picket fence around the building and play area, the timber deck adjacent to the child care building, the sandpit and the adjacent steps and paving. All existing trees are to be retained. Following demolition, the area will be turfed pending a final decision on the landscaping elements proposed for the area.

The second component proposes to carry out landscaping and install interpretative signage, seating, lighting, and interpretative paving. on a separate part of the site. The location of these works is in the north-western corner of Ivanhoe Park. This part of the site historically formed part of the Ivanhoe Loop (former tram track). The works will interpret the alignment of the tram tracks through the use of different coloured concrete slabs and exposed blue metal aggregate. Three interpretive signage panels, each 2.2m high and 4.0m – 4.8m long, will screen the existing water tank and four steel light poles are proposed, each 4.0m high. Two seating benches are to be installed.



Figure 1. Approximate location of proposed works

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

Heritage Act 1977 – Part 4 Divisions 2 and 3: item listed on the State Heritage Register

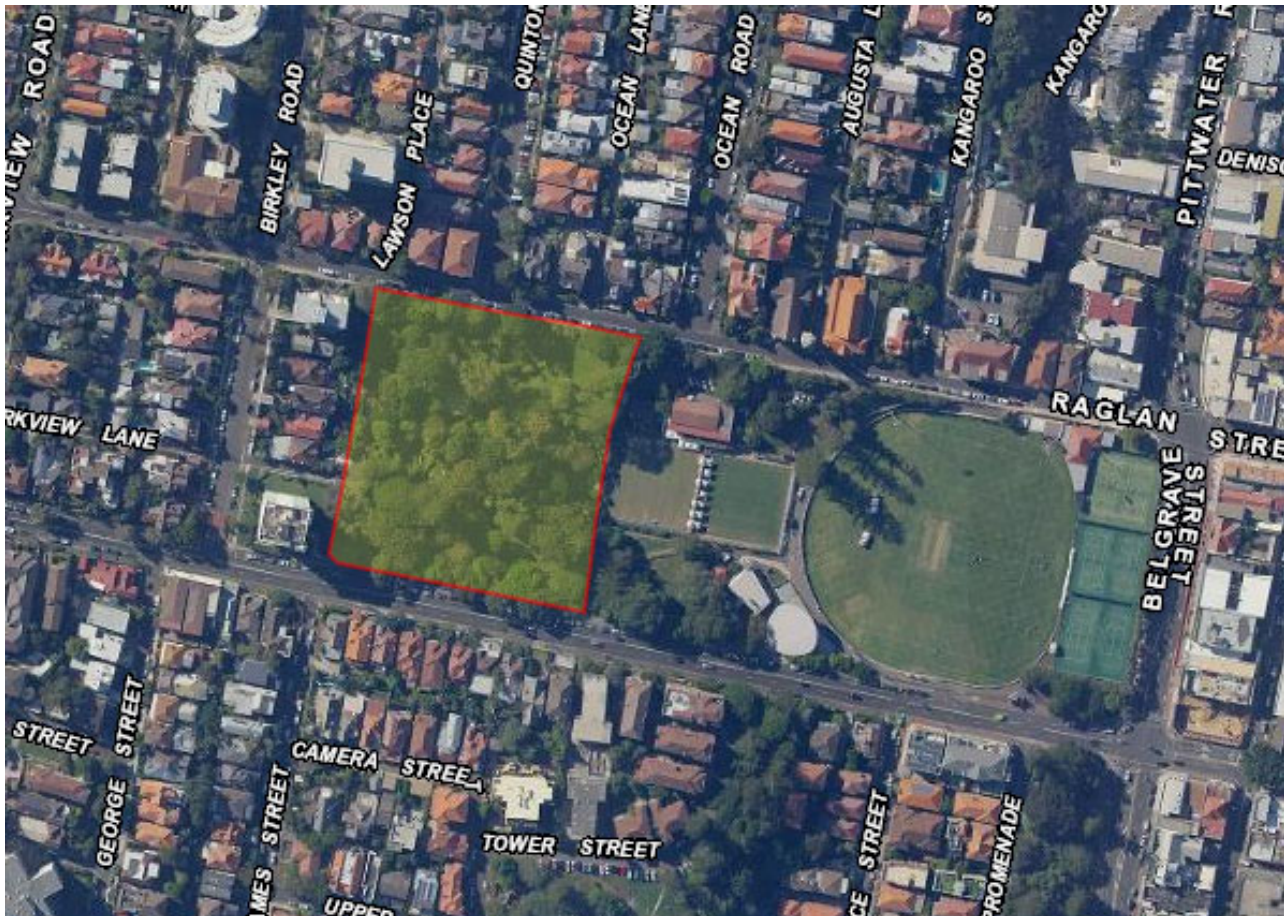
Manly Local Environmental Plan 2013 – Clause 5.10 Heritage Conservation

Manly Development Control Plan 2013 – Part 3.2 Heritage Considerations

SITE DESCRIPTION

Property Description:	Lot 2502 DP 1143032, Ivanhoe Park, Sydney Road, MANLY NSW 2095
Detailed Site Description:	Ivanhoe Park comprises a number of separate allotments (eg: for the bowling club, the football oval, and the tennis courts). The proposed works are on the steeper, western part of the site known as the Ivanhoe Park Botanic Garden (Lot 2502, DP 1143032). It is located on the southern side of Ragland Street, the eastern side of Park Avenue and the northern side of Sydney Road. Lot 2502 has an area of 1.552 hectares (by title). It is irregular in shape. The site is located within the RE1 Public Recreation zone and accommodates public open space, a child care centre building and a scout hall. The child care centre building is single-storey whilst the scout hall is a 2-storey building. The site slopes steeply from the north-west down to the south-east and is densely landscaped.

Map:



Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development to the north, west and south is characterised by a variety of residential development, including dwelling houses, duplexes, and residential flat buildings ranging from 2-storeys to 10-storeys in height, interspersed with other land uses such as a place of public worship, age care facility, and neighbourhood shop. Adjoining the site to the east are outdoor recreation facilities including bowling greens, a playing field, and tennis courts, together with a bowling club.

Nearby development includes the Manly commercial centre and the Kangaroo Street Child Care Centre.

SITE HISTORY

A search of Council's records has revealed the following relevant history:

- PLM2020/0165**
 Pre-Lodgement Meeting for Demolition of former childcare building in Ivanhoe Park and landscaping works.
 Meeting held on 6 August 2020.
 The meeting notes concluded: *The proposal is acceptable and may be supported subject to the lodgement of all required documentation, comments and considerations by Council's Referral Bodies.*

The land has been used for public recreational purposes for an extended period of time.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Northern Beaches Community Participation Plan 2019.

As a result of the public exhibition process Council is in receipt of 18 submissions who were all in support of the proposal from:

Name:	Address:
Mr Alan Fredericks	21 / 80 Evans Street, FRESHWATER NSW 2096
Mr Lloyd Keen on behalf of the Friends of Ivanhoe Park Botanic Garden	29 / 80 Evans Street, FRESHWATER NSW 2096
Dr Tony Lewis	3 / 71 Sydney Road, MANLY NSW 2095
Mr Christopher Milne	16 / 15 Laurence Street, MANLY NSW 2095
Mr Ron Mobbs	13 / 41-42 East Esplanade, MANLY NSW 2095
Ms Susan Moore	12 Birkley Road, MANLY NSW 2095
Mrs Catherine Willis	4 Malvern Avenue, MANLY NSW 2095
Mrs Lois Clarke	118 Sydney Road, MANLY NSW 2095
Mr David Drage	2 / 2 Fairlight Street, MANLY NSW 2095
Ms Elizabeth Howe	1 / 28 The Crescent, MANLY NSW 2095
Ms Tania Landsdorff	27 Waratah Street, BALGOWLAH NSW 2093
Ms Susan Robertson	16 Thornton Street, FAIRLIGHT NSW 2094
Mrs Jacklyn McCauley	6 / 42-44 Victoria Parade, MANLY NSW 2095
Mrs Jennifer Paterson	2 / 133 Sydney Road, FAIRLIGHT NSW 2094
Ms Antoinette Stevenson	2 / 21-25 Woods Parade, FAIRLIGHT NSW 2094
Ms Linda Sutton	2 / 65 Addison Road, MANLY NSW 2095
Ms Jenni Ellard	2 / 14 Birkley Road, MANLY NSW 2095
Mr Chris Wallis Smith	6E / 1-7 George Street, MANLY NSW 2095

REFERRALS

Internal Referral Body	Comments
Environmental Health – Contaminated Lands	<i>Supported - subject to recommended conditions</i> Proposal for the demolition of an existing childcare centre in Ivanhoe Park includes a hazardous building materials assessment report. It is known that the demolition will cause disturbance of asbestos containing materials and PCBs, thus the report provides recommendations on how to manage these hazardous materials to protect health and safety outcomes for workers and

Internal Referral Body	Comments
	park users. We have no objections to the proposal providing the below conditions are implemented for the works. The proposal is therefore supported.
Engineering	Supported - no conditions recommended Development Engineering has no objection to the removal of the existing building. The proposal is therefore supported.
Landscape	Supported - subject to recommended conditions The development application is for the demolition of the existing childcare centre located in Ivanhoe Park, and the installation of interpreting paving and landscape works at the Park Ave entrance to the park, as described and illustrated in the Reports and Plans. An Arboricultural Impact Assessment titled Arboricultural Management Assessment accompanies the application and is assessed as part of this Landscape Referral. Council's Landscape Referral section have considered the application against the Manly Local Environment Plan for the land zoned as RE1 Public Recreation, and the following Manly DCP 2013 controls (but not limited to): • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation The objectives of Manly LEP2013 - Land zoned RE1 Public Recreation, are satisfied as the proposed works are recognised under the Council endorsed Ivanhoe Park Landscape Masterplan and Plan of Management. The area of existing structures to be demolished are to be replaced with soft landscaping. No significant alteration to the existing landscape character of Ivanhoe Park is proposed and all existing trees in proximity to the demolition works are to be retained, and the Arboricultural Impact Assessment recommends appropriate tree protection measures including fencing, as well as trunk and ground protection. Minor pruning as noted in the Arboricultural Impact Assessment is required. Landscape Referral raise no objections to the development proposal.
NECC (Biodiversity)	Supported - subject to recommended conditions The proposal has been assessed against Manly LEP Clause 6.5 - Terrestrial Biodiversity. The proposed works will not require removal of any native trees or wildlife habitat. There are no objections to the development, subject to conditions. The proposal is therefore supported.
NECC (Flood)	Supported - no conditions recommended The application proposes to demolish the existing childcare Centre and landscaping at the Park Ave entrance to the park.

Internal Referral Body	Comments
	There are no flood related objections. The proposal is therefore supported.
NECC (Water Management)	Supported - subject to recommended conditions NECC Water Management raise no objections to the development proposal. Subject to conditions. The proposal is therefore supported.
Parks, Reserves and Foreshores	Supported - subject to recommended conditions The development application is for the demolition of the existing childcare centre located in Ivanhoe Park, and the installation of interpreting paving and landscape works at the Park Ave entrance to the park, as described and illustrated in the Reports and Plans. An Arboricultural Impact Assessment accompanies the application and is assessed as part of this Landscape Referral. In review of all relevant plans and reports that provide guidance on the open space recreational character to be provided following demolition of the existing childcare centre, no objections are raised by Parks, Reserves and Foreshores. The proposal is therefore supported.
Strategic and Place Planning (Heritage Officer)	Discussion of reason for referral
	This application has been referred as the subject site is a local heritage item and contains local heritage items: Item I162 - Ivanhoe Park (bounded by Sydney Road, Belgrave Street and Raglan Street), Manly Item I161 - The Ivanhoe Loop (former tram track route), Ivanhoe Park, Manly Both are listed in Schedule 5 of Manly LEP 2013. The site is also a listed State heritage item under the provisions of the Heritage Act, 1977: SHR #02029 - Ivanhoe Park (including Manly Oval) cultural landscape, Manly
	Details of heritage items affected
	Details of the heritage item, as contained within the Heritage Inventory, are: Item I162 - Ivanhoe Park (bounded by Sydney Road, Belgrave Street and Raglan Street) - (excerpt) <u>Statement of Significance:</u> Ivanhoe Park has historical significance at a Local level because it is a physical remnant of a nineteenth century pleasure garden from the period when the Manly village area was a seaside resort and an embodiment of local entrepreneurs who provided recreation (both leisure and sporting) facilities for prospective residents as well as for day-trippers from Sydney. It is also significant at a Local level as the site of the first Manly Council chambers building and the site of part of the Spit to Manly tram line. It is of historical significance at a Local level, and possibly at a State level, as one of the oldest cricket grounds still in use within the Sydney area, second only to the Garrison Cricket Oval, the Domain and the University Oval and

Internal Referral Body	Comments												
	one of the first to be formalised within in a suburban park. As the site of the renowned Manly Wildflower show held from 1881 onwards until 1893, the park still retains some of the ferns for which the park (and the area) was once known. <i>Item I161 - The Ivanhoe Loop (former tram track route), Ivanhoe Park, Manly</i> <u>Physical Description:</u> The tramline from Manly to the Spit left Manly via Raglan Street, entering Ivanhoe Park near the entrance to the Bowling Club, and then formed a reserved track curving around the north east corner of the Park as a passing loop or duplication. The site of the Loop survives at the northern end of Park Avenue, up which the original line continued until it reached Sydney Road. <i>SHR #02029 - Ivanhoe Park (including Manly Oval) cultural landscape, Manly (excerpt)</i> <u>Statement of Significance:</u> Ivanhoe Park (including Manly Oval) cultural landscape, is important in the course of New South Wales cultural history combining a 'pleasure garden' park, a traditional 'village green' community and sporting venue, and a passive recreational garden, demonstrating the principal characteristics of a Victorian-era park adapted to the Australian setting. This landscape is unique within New South Wales as a place with a combined history of Aboriginal heritage and 150 years of recreation, sport and community use. Ivanhoe Park (including Manly Oval) cultural landscape, is a diverse and complex site with its natural sandstone outcrops and watercourse, Victorian 'gardenesque' plantings, rich diversity of native and planted tree species, war memorial garden, traditional 'village green' oval, and sporting complex. Combined, it demonstrates an unusual yet pleasing aesthetic. Other relevant heritage listings <table border="1"> <tr> <td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td>No</td></tr> <tr> <td>Australian Heritage Register</td><td>No</td></tr> <tr> <td>NSW State Heritage Register</td><td>Yes</td></tr> <tr> <td>National Trust of Aust (NSW) Register</td><td>No</td></tr> <tr> <td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td></tr> <tr> <td>Other</td><td>No</td></tr> </table> Consideration of Application This application is for demolition of the existing former child care building in the Botanic Gardens precinct of Ivanhoe Park (western end) as well as new landscaping works comprising the installation of interpretive paving and landscaping at the Park Ave entrance to the Park. As the works affect a State heritage item, the application is an Integrated DA and comments under the Heritage Act, 1977 are required from Heritage NSW. Heritage NSW responded by letter dated 28 October 2022 and provided a number of General Terms of Approval, pursuant to Section 4.47 of the EP&A Act, 1979. This advice has been reviewed and all General Terms of Approval should be applied to any consent.	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	Australian Heritage Register	No	NSW State Heritage Register	Yes	National Trust of Aust (NSW) Register	No	RAIA Register of 20th Century Buildings of Significance	No	Other	No
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No												
Australian Heritage Register	No												
NSW State Heritage Register	Yes												
National Trust of Aust (NSW) Register	No												
RAIA Register of 20th Century Buildings of Significance	No												
Other	No												

Internal Referral Body	Comments
	A Heritage Impact Statement (HIS) by Edwards Heritage Consultants (April 2021) was submitted with the application. This report concluded that the building proposed to be demolished does not satisfy the criteria for local heritage significance. Additionally, it concluded that while the building is located within the State listed Ivanhoe Park, it does not significantly contribute to the identified fundamental heritage features of the Park. It can be seen from the Statement of Significance for Ivanhoe Park that it is listed as a cultural landscape, rich in history as an area used for the last 150 years by the community for passive and active recreation. The former child care building does not greatly contribute to this historical significance. The HIS report has been reviewed and its conclusions agreed with. While the building dates to 1963 and was designed by Edwards, Madigan & Torzillo Architects, the building has been deemed unsuitable for use as a child care centre due to issues with damp and black mould, as a consequence of the building being built over a natural watercourse. Alternative uses have been considered, however it has been determined that the building is unfit for continued use and is at the end of its useable life. It is also located in the centre of the Botanic Gardens area of Ivanhoe Park, making vehicular access difficult and intrusive on park users. Ivanhoe Park is subject to an adopted Conservation Management Plan (CMP) prepared by GML Heritage (April 2021). This CMP graded this former kindergarten building as having little heritage significance and noted that it was proposed to be demolished. As an element identified as having little significance, the CMP policies allow for the buildings removal, as it will not have an adverse impact upon the identified heritage significance of Ivanhoe Park. The CMP also identifies the primary function of Ivanhoe Park as an active and passive recreational space. Therefore removal of this building, now unfit for purpose, and recovery of the land for recreational use, will enhance the primary function of the Park. Policy 10.1 of the CMP specifically allows for the removal of building elements of lower significance, to provide opportunities for change. The area where the building is to be demolished will be replaced with soft landscaping. Heritage NSW do not have any objections to the demolition of this building. The proposed landscaping works are in accordance with the adopted Ivanhoe Park Landscape Masterplan. The works involve the construction of a pathway and landscaping to interpret part of the former tram route which curved through this part of the Park. It is considered that the works will enhance the heritage significance of this part of Ivanhoe Park and add to the historical interpretation of the park former tram route, which is separately heritage listed. Therefore no objections are raised on heritage grounds subject to photographic archival recording of the building to be demolished and its setting and the inclusion of all General Terms of Approval conditions required by Heritage NSW. Further Comments: <u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No

Internal Referral Body	Comments
	Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes

External Referral Body	Comments
Aboriginal Heritage Office	Supported - subject to recommended conditions Development Application No. DA2022/0971 Description: Demolition of an existing child care centre building and installation of landscaping Address: & Sydney Road MANLY Reference is made to the proposed development at the above area and Aboriginal heritage. No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.
Ausgrid (SEPP Infra.)	Supported - subject to recommended conditions The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Heritage Council of NSW	Supported – General Terms of Approval issued <i>“As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above integrated development application. In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the following general terms of approval are granted:”</i> See Conditions 1, 8, 13, 14, 15 and 27 and the Advice and Right of Appeal notifications in the recommendation of this assessment report.

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

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 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan 2013 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 regulations	<u>Division 8A</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. <u>Clause 50(1A)</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. <u>Clauses 54 and 109</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. <u>Clause 92</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. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 98</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. <u>Clause 98</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. <u>Clause 143A</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.

Section 4.15 'Matters for Consideration'	Comments
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
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.

Division 4.8 Integrated development

The site is listed on the NSW State Heritage Register. The proposed development requires an approval under section 58 of the *Heritage Act 1977* and is therefore “integrated development” as identified in section 4.46 of the EPA Act.

Under s. 4.47 of the EPA Act, the Consent Authority must obtain General Terms of Approval from the Heritage Council of NSW before granting consent, and any consent that is granted must be consistent with those general terms of approval. By letter dated 28 October 2022, the Heritage Council of NSW provided General Terms of Approval, including recommended conditions of consent. The recommendation below is consistent with those General Terms of Approval and includes the conditions supplied by the Heritage Council of NSW.

It is noted that under s. 4.48 of the EPA Act, the Consent Authority cannot refuse to grant consent on heritage grounds that is the subject of a heritage approval.

Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022

This Regulation was published on 30 September 2022. The explanatory note to the Regulation states that its objective is “*to impose requirements on councils to manage conflicts of interest that may arise in connection with council-related development applications because the council is the consent authority.*”

It introduces various requirements for council-related development applications, including the submission of a conflict management strategy with the development application, a 28-day public exhibition period, and consideration of a conflict of interest policy before determining such an application.

Clause 2 of the Regulation specifies that it commences on 3 April 2023. Consequently, the Regulation is not a matter for consideration with this development application.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS) AND STATE REGIONAL ENVIRONMENTAL PLANS (SREPS)

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Biodiversity and Conservation) 2021

Chapter 6 Bushland in Urban Areas

The site is located on land zoned for public open space. Therefore, Chapter 6 of this SEPP is applicable to the assessment.

For land zoned or reserved for public open space, the Consent Authority shall not grant development consent unless it has taken into account:

- a) the need to retain any bushland on the land,*
- b) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*
- c) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

Comment:

The proposed development does not result in the removal of vegetation on the public open space. Suitable conditions are recommended with this consent to alleviate impacts upon the reserve. Overall, the proposal is considered to align with the requirements of this chapter.

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for child care purposes conflict-of-interest for a significant period of time prior to which it was used for public open space. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for recreational land use.

A Destructive Hazardous Building Materials Assessment report has been submitted with the development application. It identifies low risk non-friable asbestos within the existing building and makes recommendations to address this risk. Council's Environmental Health Officer has reviewed the proposal with regards to the presence of asbestos and PCBs on the site and raised no objections subject to conditions which are included in the recommended conditions of consent.

MANLY LOCAL ENVIRONMENTAL PLAN 2013

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

Compliance Assessment

There are no development standards in LEP 2013 relevant to this proposal.

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
5.10 Heritage conservation	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Detailed assessment

5.10 Heritage conservation

The proposal has been reviewed by the Heritage Council of NSW and by Council's Heritage Officer. Both bodies have raised no objections to the proposal subject to conditions which are included in the recommendation of this assessment report.

Subject to the imposition of those conditions the proposal is considered to satisfy the objectives of clause 5.10 of MLEP 2013:

- (a) *to conserve the environmental heritage of Manly,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The proposal was notified to the Heritage Council of NSW in accordance with clause 5.10(9) of MLEP 2013, and their response has been taken into consideration and adopted as part of the recommendation of this assessment report.

6.5 Terrestrial biodiversity

The site is identified as an area of biodiversity on the Terrestrial Biodiversity Map.

Clause 6.5(3) of MLEP 2013 require the following matters to be taken into consideration:

- (a) *whether the development is likely to have—*
 - (i) *any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*

Comment: The proposed development will remove a building and introduce landscaping into the area that is consistent with this matter for consideration.
 - (ii) *any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*

Comment: The proposed development will remove a building and introduce landscaping into the area that is consistent with this matter for consideration.
 - (iii) *any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*

Comment: The proposed development will reduce fragmentation of the biodiversity structure, function and composition of the land.
 - (iv) *any adverse impact on the habitat elements providing connectivity on the land, and*

Comment: The proposed development will not have an adverse impact on habitat elements.
- (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment: No additional measures are considered necessary in this regard.

Clause 6.5(4) of MLEP 2013 require that development consent must not be granted unless Council is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*

Comment: The proposed development will remove a building and introduce landscaping into the area and satisfies this matter for consideration.

- (b) *if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*

Comment: The proposed development will remove a building and introduce landscaping into the area. There are no impacts that need to be avoided and the proposal satisfies this matter for consideration.

- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment: The proposed development will remove a building and introduce landscaping into the area. There are no impacts that require minimisation and the proposal satisfies this matter for consideration.

It is noted that Council Biodiversity Officer has reviewed the proposal and raised no objections subject to conditions that are included in the recommendation below.

MANLY DEVELOPMENT CONTROL PLAN 2013

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.2.1 Consideration of Heritage Significance	Yes	Yes
3.2.2 Alterations or Additions to Heritage Items or Conservation Areas	Yes	Yes
3.2.3 Fences for Heritage Items and Conservation Areas	Yes	Yes
3.2.5 Exceptions to Parking Requirements and FSR Development Standards for Heritage Developments	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
3.5.5 Landscaping	Yes	Yes
3.5.6 Energy efficiency/conservation requirements for non-residential development	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.6 Accessibility	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.4 Other Development (all LEP Zones)	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.3 Signage	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes
Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles	Yes	Yes

Ivanhoe Park Plan of Management

Council adopted the Ivanhoe Park Plan of Management at its meeting on 21 October 2021. Council also adopted a Landscape Master Plan for Ivanhoe Park at the same time.

The proposal is consistent with these plans. In particular:

- The replacement of the child care centre with a central lawn is specified as an Action for Implementation in the Plan of Management and identified in the Landscape Master Plan.
- The interpretation of the tramway pathway is specified as an Action for Implementation in the Plan of Management.
- Upgrades to park lighting and park furniture are specified in the Plan of Management.

7.12 CONTRIBUTIONS

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

However, no contribution is required for the proposed development because the proposed cost of works (\$50,000) is less than \$100,000.

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.

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

PLANNING CONCLUSION

This proposal, for demolition works and installation of landscaping, has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to it being a council-related application (Council is the applicant) and because Council has received ten (10) or more submissions.

The submissions are all in support of the proposal.

The critical assessment issue is the listing of the site as a heritage item on the State Heritage Register and other heritage listings in MLEP 2013. The proposal has been reviewed by the Heritage Council of NSW and by Council's Heritage Advisor, both of which support the proposal subject to conditions. Those conditions are included in the recommendation of this assessment report.

The proposal is consistent with the detailed planning for Ivanhoe Park as documented in the Ivanhoe Park Plan of Management and the Landscape Master Plan for Ivanhoe Park, both of which were adopted by Council on 21 October 2021.

Overall, the development will result in an enhancement of the heritage values of Ivanhoe Park and to its amenity and utility as an area for public recreation.

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

RECOMMENDATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2022/0971 for Demolition of existing child care centre building and installation of landscaping on land at Lot 2502 DP 1143032, Ivanhoe Park, Sydney Road, Manly 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
DA01 – Site / Location Plan (Rev B)	Feb 2022	Northern Beaches Council
DA02 – Floor Plan (Rev B)	Feb 2022	Northern Beaches Council
IDIE-DD-01 – Specified Notes (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd

IDIE-DD-02 – Existing Conditions Plan (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-03 – General Layout Plan (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-04 – Access, Protection & Demolition Plan (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-05 – Setout Plan (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-06 – Level, Grading and Drainage Plan (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-07A – Concrete Surfaces Plan (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-07B – Concrete Details (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-08 – Section AA (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-09 – Planting Plan (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-10 – Paving Details (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-11 – Poles Details (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-12A – Coreten Screen Key Plan (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-12B – Coreten Internal Structure Details A (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-12C – Coreten Internal Structure Details B (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-12D – Coreten Internal Specified Notes (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd
IDIE-DD-13 – Typical Details (Rev T2)	11/06/2020	Thompson Berrill Landscape Design Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Heritage Impact Statement	April 2021	Edwards Heritage Consultants
Arboricultural Management Assessment for Demolition of Ivanhoe Park Pre School	July 2021	Growing My Way
Destructive Hazardous Building Materials Assessment	July 2021	Prensa Pty Ltd
Ivanhoe Park Landscape Masterplan (Rev 05)	July 2021	NBRS and Partners
Ivanhoe Park Plan of Management	10 May 2021	Northern Beaches Council
Preliminary Landslip Assessment for Ivanhoe Park	25 March 2022	Crozier Geotechnical Consultants
Statement of Environmental Effects	October 2021	Northern Beaches Council

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	Undated	Northern Beaches Council

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

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

2. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	25 August 2021
NSW Heritage Office	General Terms of Approval	28 October 2021

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 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.

5. No Approval for any Signage

No approval is granted under this Development Consent for signs (as defined under Manly Local Environment Plan 2013 and State Environmental Planning Policy (Transport and Infrastructure) 2021. A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage.

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

6. Erosion and Sediment Control Plan

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

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

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

Reason: Protection of the receiving environment.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

7. Photographic Archival Record

A photographic archival record the former child care building (including interiors and exteriors) and its setting within Ivanhoe Park, is to be prepared generally in accordance with the guidelines issued by the Heritage NSW, Department of Planning and Environment. This record must be submitted to Council's Heritage Officer for approval, prior to commencement of any demolition or works on-site.

The photographic record should be made using digital technology and should include:

- Location of property, date of survey and author of survey;
- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100;
- Photographs which document the site, cross-referenced in accordance with recognised archival recording practice to catalogue sheets. The extent of documentation will depend on the nature of the item.

Reason: To provide an archival photographic record of the building to be demolished and its setting, prior to any works.

8. Photographic Archival Record (Heritage Council of NSW General Terms of Approval)

A photographic archival recording of the former kindergarten building must be prepared prior to the commencement of works. This recording must be in accordance with the Heritage NSW publication 'Photographic Recording of Heritage Items using Film or Digital Capture' (2006). The digital copy of the archival record must be provided to Heritage NSW, Department of Planning and Environment.

Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.

9. Section 60 Application (Heritage Council of NSW General Terms of Approval)

An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

10. Working and Access on Reserves Permit

Works (undertaken by principal contractors working without Council supervision) on land owned or managed by Council require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks and Recreation business unit.

Reason: Public safety and the protection of Council infrastructure.

11. Installation and Maintenance of Sediment and Erosion Control

Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period. Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

12. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment report, to supervise, implement and approve arboricultural works in accordance with the recommendations of the report.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Reason: Tree protection.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. Site Protection (Heritage Council of NSW General Terms of Approval)

Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure significant fabric including vegetation is protected during construction.

14. Unexpected Finds Protection (Heritage Council of NSW General Terms of Approval)

The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics or any other buried fabric are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: All significant fabric within a State Heritage Register curtilage should be managed according to its significance. This is a standard condition to identify to the applicant how to proceed if historical archaeological relics, or other unexpected buried discoveries such as works are identified during the approved project.

15. Aboriginal Objects (Heritage Council of NSW General Terms of Approval)

Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the *National Parks and Wildlife Act 1974*. Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the *National Parks and Wildlife Act 1974*.

Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.

16. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

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

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

Reason: Protection of the receiving environment.

17. **Wildlife Protection**

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

Reason: To protect native wildlife.

18. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works.

Reason: To protect wildlife habitat.

19. **Control of Hazardous Materials**

At all times during demolition works, operators must implement the site-specific recommendations of the report "Destructive Hazardous Building Materials Assessment, Job No: 96631S", dated July 2021 by Prensa Ptd Ltd.

Reason: to minimise the risk of exposure to environmental and health hazards identified in the hazardous building materials report.

20. **Protection of Council's Public Assets**

Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Reason: To protect and/or restore any damaged public asset.

21. **Tree and Vegetation Protection**

a) All existing trees shall be retained and protected in accordance with the Arboricultural Impact Assessment, including:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no demolition material, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

v) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees, vi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

b) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

c) The arboricultural works listed in a) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

d) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Reason: Tree and vegetation protection.

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

22. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

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

23. Priority Weed Removal and Management

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) within the development footprint are to be removed.

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

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

24. Asbestos Clearance Certificate

Prior to occupation certificate being issued, an asbestos clearance certificate must be provided to the Principal Certifier by an Occupational Hygienist.

Reason: to ensure the site is safe and suitable for use, SEPP (Resilience and Hazards) 2021 compliance.

25. Removal of All Temporary Structures/Materials and Construction Rubbish

Once demolition and any construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds 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 Occupation Certificate.

Reason: To protect reserve amenity and public safety.

26. Condition of Retained Vegetation - Project Arborist

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 on all existing trees required to be retained, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

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

27. Compliance (Heritage Council of NSW General Terms of Approval)

If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

Advice (Heritage Council of NSW General Terms of Approval)

Section 148 of the *Heritage Act 1977* allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

Right of Appeal (Heritage Council of NSW General Terms of Approval)

If you are dissatisfied with this determination, section 70A of the *Heritage Act 1977* gives you the right of appeal to the Land and Environment Court.

FINAL DECLARATION

Consultant Name: Geoff Goodyer

In submitting this report to Council, I declare that I do not have a conflict of interest in making this recommendation.