

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SNH019
DA Number	N0341/15/S96/1
LGA	Northern Beaches Council
Proposed Development	Section 96(2) Application to modify the private hospital approved pursuant to N0341/15
Street Address	4 Daydream Street, Warriewood
Applicant/Owner	Strata Plan 80638 and Breckenridge Funds Management Limited C/ Buildcorp Pty Ltd
Date of DA lodgement	22 February 2017
Number of Submissions	2
Recommendation	Modify Consent
Regional Development Criteria	S96(2) modification application to development previously approved by JRPP
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2000 • State Environmental Planning Policy No.64 – Advertising and Signage • State Environmental Planning Policy (Infrastructure) 2007 • Pittwater Local Environmental Plan 2014 • Pittwater 21 Development Control Plan
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Draft modified consent
Report prepared by	David Kerr
Report date	28 June 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes / ~~No~~

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes / ~~No~~ / ~~Not~~
Applicable

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

~~Yes~~ / ~~No~~ / ~~Not~~
Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

~~Yes~~ / ~~No~~ / ~~Not~~
Applicable

Conditions

Have draft conditions been provided to the applicant for comment?

Yes / ~~No~~

N0341/15/S96/1 – 4 Daydream Street, Warriewood (Lot 39 SP 80638)

Section 96(2) Application to modify the private hospital approved pursuant to N0341/15

SUMMARY OF RECOMMENDATION:	Modify Consent
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APPLICATION SUBMITTED ON:	22 February 2017
APPLICATION SUBMITTED BY:	Buildcorp Pty Ltd
OWNERS:	Strata Plan 80638 and Breckenridge Funds Management Limited
COST OF WORKS:	-
NO. OF SUBMISSIONS:	2
DEVELOPMENT TYPE:	Integrated (RFS)
DETERMINATION LEVEL:	Sydney North Planning Panel

1.0 INTRODUCTION

The application seeks consent to modify Development Consent N0341/15 under the provisions of s.96(2) of the Act. Development Consent N0341/15, which approved the construction, fit-out and use of a new private hospital, accommodating a maximum of 99 beds, was determined by the Sydney East Joint Regional Planning Panel ('**JRPP**'), and as such, the application must be referred to the Sydney North Planning Panel ('**SNPP**') for determination.

2.0 SITE DETAILS

The site is legally referred to as Lot 39 in Strata Plan (SP) 80638 and is commonly referred to as Building 3 in the Quattro Development at 4 Daydream Street, Warriewood. The site is an L-shape lot, as shown in **Figure 1**, with a 31.48m wide frontage to Daydream Street (east), a 80.64m wide side boundary to the north, a 45.41m wide rear boundary to the west, and a total area of approximately 3066.1m².

At the time that N0341/15 was approved, a partially constructed building, approved pursuant to N0416/04 was situated at the site. The partially constructed building comprised two above ground slabs with no enclosing walls and two levels of basement carparking, accessible from Daydream Street. The works approved pursuant to N0341/15 have since commenced and the site is an active construction zone.

The Quattro Development at 4 Daydream Street comprises 3 complete buildings (Building 1, 2 and 4), which are connected to the subject site by two levels of basement carpark. The 3 completed buildings range in height and scale, with 3-4 storeys of mixed use development over 2-3 storeys of basement carparking. Daydream Street is a no-through road, with connection through to Mona Vale Road restricted to pedestrian access only. On-street parking is available along the entirety of Daydream Street, with a mixture of unlimited and time-restricted spaces. A number of established canopy trees are located along both the eastern and western sides of the street, within the public road reserve.

The site is located within the Warriewood Valley Stage One Release Area. The Stage One Release area comprises a mix of light industrial, office, warehouse, and commercial land uses in buildings of various architectural styles and forms. Childcare centres and indoor recreation facilities are also prevalent within the catchment of the site. Pittwater Uniting Church is situated to the west and upslope of the site, and mixed use development at 2 Daydream Street adjoins the site to the north.



Figure 1 - Aerial image with building numbers and site in yellow
Source: NearMap

3.0 PROPOSED DEVELOPMENT

As per the schedule of changes provided, the application seeks to modify the development approved pursuant to N0341/15, as follows:

Ground Floor

- *Introduction of the MSR, bed store, medical records, communications and pump rooms. Reconfiguration and change in number of parking bays as detailed in the carparking reconciliation plans/ documents.*

Level 1

- *Introduction of pool plant room. Change in number of parking bays.*

Podium Level

- *Administration area introduced.*
- *One bed lift only being installed on northern façade.*
- *The northern terrace adjoining the dining/ lounge has been reduced in length to 8.4 metres with such length required as it also serves part of the emergency egress from this area of the hospital. (Note: Condition C 10.A requires maximum length 6 metres).*
- *Kitchen and exhaust risers nominated (enabling deletion of Condition B26).*
- *Foyer, lounge, dining, reception layout amended.*
- *WCs and interview rooms have been reconfigured.*
- *Physio / pool WC's layout reconfigured.*
- *Pool change rooms have increased in size.*
- *Back of house area has been reconfigured.*

Level 3

- Minor internal reconfiguration works.
- A minor increase in the parapet height to screen the pitched roof form beyond.

Level 4

- Minor internal reconfiguration works.
- A minor decrease in roof parapet height and minor increase in the stair core height.

Roof

- The introduction of kitchen and exhaust risers and BCA required stair pressurisation equipment.
- The provision of fixed screening to the roof mounted plant and equipment.

External/ Elevations

- General changes to façade detailing.
- Prefinished FC wall cladding to all external walls including the lift and stairs to the northern boundary (previously shown as metal).
- Indicate the position of the A/C plant on the roof level 4 and exhaust risers for the kitchen. Condition B41.
- External signage on north and east elevation (to be illuminated) and on street level to meet access consultant requirement.
- Canopy at main entry enlarged.
- Eyebrow at north elevation deleted.
- Introduction of stair and path adjacent the existing driveway

The application also seeks to amend the conditions of Development Consent N0341/15, as follows:

- Deletion of Condition B26, which reads as follows:

Should the premises require a kitchen exhaust/mechanical ventilation system, no works in relation to the installation or operation of the system shall be undertaken prior to the submission of a development application to Council for approval to install, operate and use a mechanical ventilation system at the site.

- Deletion of Condition B41, which reads as follows:

No plant equipment or air-conditioning units are permitted on the roof of the development.

- Deletion of Condition B42, which reads as follows:

The 50 tandem parking spaces spread across both Ground Level and Level 1, associated with Lot 39, are to be allocated to members of staff. Each space is to be sign-marked accordingly.

- Deletion of Condition B43, which reads as follows:

The remaining 50 individual parking spaces spread across both Ground Level and Level 1, associated with Lot 39, are to be allocated to visitors to the hospital. Each space is to be sign-marked accordingly.

- Deletion of Condition B46, which reads as follows:

This consent does not authorise any illuminated signage.

- Deletion of Condition B48, which reads as follows:

This consent authorises the fitout of the space on the podium level, nominated as “future fitout” in accordance with the definition of a Health Services Facility.

- Deletion of Condition C9, which reads as follows:

Prior to the issuance of a Construction Certificate, the architectural drawings are to be amended to extend the parapet of the Level 4 roof in front of the Core 6 lift, so that parapet is continuous along the eastern and southern facades.

- Deletion of Condition C10(a), which reads as follows:

Prior to the issuance of a Construction Certificate, the architectural drawings and landscape plan are to be amended as follows;

- a. A reduction to the size of the terrace adjoining the lounge on the podium level, so that it does not extend more than 6m to the east of the lift shaft.*

4.0 LEGISLATION, PLANS AND POLICIES

The following planning legislation, environmental planning instruments, development control plans and policies are relevant to the subject application:

- Environmental Planning and Assessment Act 1979 (**‘the Act’**)
- Environmental Planning and Assessment Regulation 2000 (**‘the Regulations’**)
- Rural Fires Act 1997;
- State Environmental Planning Policy (Infrastructure) 2007 (**‘SEPP Infrastructure’**)
- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy No. 64 – Advertising and Signage (**‘SEPP 64’**)
- Planning for Bushfire Protection 2006
- Pittwater Local Environmental Plan 2014 (**‘PLEP 2014’**);
 - Zoning Map – B7 Business Park
 - Acid Sulphate Soils Map - Class 5
 - Height of Buildings Map – 11m
 - Floor Space Ratio Map – 1:1
 - Minimum Subdivision Lot Size Map – 8000m²
- Superseded Pittwater 21 Development Control Plan Amendment 17 (**‘Superseded DCP’**)
- Pittwater 21 Development Control Plan Amendment 19 (**‘P21 DCP’**);
 - Warriewood Valley Land Release Area Locality
 - Geotechnical Risk Management Policy for Pittwater
 - Flood Risk Management Policy for Development in Pittwater
- Roads and Maritime Services Guide to Traffic Generating Development (**‘RMS Guidelines’**)

5.0 PERMISSIBILITY

The site is zoned B7 Business Park, as shown on the Zoning Map of PLEP 2014. Pursuant to the provisions of PLEP 2014, the proposed hospital, being a form of health services facility, is prohibited development. However, Division 10 (Health services facilities) of SEPP Infrastructure provides that development for the purpose of health services facilities may be carried out on land within zone B7 Business Park. Under the provisions of SEPP Infrastructure, ‘health service facilities’ are defined as follows;

health services facility means a facility used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

- a. day surgeries and medical centres,*

- b. community health service facilities,
- c. health consulting rooms,
- d. facilities for the transport of patients, including helipads and ambulance facilities,
- e. hospitals.

Under the Standard Instrument template, hospital is defined as follows;

hospital means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:

- a. day surgery, day procedures or health consulting rooms,
- b. accommodation for nurses or other health care workers,
- c. accommodation for persons receiving health care or for their visitors,
- d. shops, kiosks, restaurants or cafes or take-away food and drink premises,
- e. patient transport facilities, including helipads, ambulance facilities and car parking,
- f. educational purposes or any other health-related use,
- g. research purposes (whether or not carried out by hospital staff or health care workers or for commercial purposes),
- h. chapels,
- i. hospices,
- j. mortuaries.

Note. Hospitals are a type of health services facility.

The proposed modifications do not alter consistency with the definition of 'hospital', and the proposed development remains permissible with consent.

6.0 BACKGROUND

6 December 2004

Development Application N0416/04 for a commercial development consisting of 4 building with a total of 10045m² of office space, 1604m² of industrial floor space and carparking for 347 vehicles was approved by Council.

19 May 2005

Modification Application N0416/04/S96/1 was approved by Council.

11 September 2006

Modification Application N0416/04/S96/2 was approved by Council.

15 August 2007

Modification Application N0416/04/S96/3 was approved by Council.

4 April 2013

A prelodgement meeting was held with regard to a proposal for alterations and additions and adaptive reuse of the existing building on the subject site as a private hospital.

28 August 2015

Development Application N0341/15 was lodged with Council.

20 October 2015

An issues letter was sent to the applicant, identifying Council's key areas of concern in relation to the proposed development.

29 October 2015

Amended plans and additional information were presented by the applicant, in response to the concerns raised by Council.

10 November 2015

In response to concerns raised by the assessment officer regarding the height of the development and the protrusion of the lift overrun, further amended plans were presented by the applicant.

2 December 2015

Development Application N0341/15 was approved by the Sydney East Joint Regional Planning Panel.

22 February 2017

The subject Modification Application N0341/15/S96/1 was lodged with Council, and was subsequently referred to Council's Community Services Team, Development Engineer, Environmental Health Officer, and Catchment Management Team for comment and/or recommendations. Furthermore, the application was externally referred to the NSW RFS, as the proposal constitutes integrated development in accordance with s.91 of the Act.

30 March 2017

The applicant was asked to address a number of inconsistencies in the information provided to support the application.

27 April 2017

The applicant provided additional information, including amended plans and supporting documentation.

29 May 2017

An amended statement was provided by the applicant to address the changes to the maximum height of the building.

7.0 NOTIFICATION

The application was notified to adjoining and nearby property owners for a period of fourteen days from 8 March through to 22 March 2017 in accordance with the Regulations and Council's Notification Policy. This notification period was then extended through to 14 April 2017, to allow for notification to individuals owners at the subject site, who were not notified during the original notification period.

Two (2) submissions were received in response to the notification period, raising concerns with regard to traffic and egress in an emergency, with a request to reopen Daydream Street to Mona Vale Road with a left in, left out arrangement.

8.0 KEY ASSESSMENT ISSUES

- **Building Height**
- **Plant and Equipment on Roof**
- **Parking**
- **Illuminated Signage**

These issues, and other areas of concern and/or non-compliance, are identified in the following compliance tables and are discussed in greater detail further in the report.

9.0 COMPLIANCE TABLE – PLEP 2014 and P21 DCP

The following table was prepared as part of the assessment of N0341/15 and has been amended to reflect the changes proposed by the subject modification. New commentary made in relation to the subject modification is shown in bold text. Where the changes do not affect compliance with the relevant standard/control, the table remains unchanged. It is noted that the DCP has been amended since the N0341/15 was assessed and approved. New controls relevant to P21 DCP have been inserted in bold text, and those controls that no longer apply have been identified.

T - Can the proposal satisfy the technical requirements of the control?

O - Can the proposal achieve the control outcomes?

N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
Pittwater Local Environmental Plan 2014					
Zone B7 Business Park			N	Y	Y
4.3 Height of Buildings	11 metres	14.98 m	N	Y	N
		15.58m See discussion.	N	Y	Y
4.4 Floor Space Ratio	1:1	1.13:1	N	Y	N
4.5 Calculation of floor space ratio and site area			Y	Y	Y
4.6 Exceptions to development standards			Y	Y	Y
			-	-	-
6.1 Warriewood Valley Release Area			-	-	-
7.1 Acid sulphate soils			Y	Y	Y
7.2 Earthworks			Y	Y	Y
7.3 Flood Planning			Y	Y	Y
7.7 Geotechnical hazards			Y	Y	Y
7.10 Essential services			Y	Y	Y
Pittwater 21 Development Control Plan					
3.1 Submission of a Development Application and payment of appropriate fee			Y	Y	Y
3.2 Submission of a Statement of Environmental Effects			N	N	Y
		See discussion.	N	Y	Y
3.3 Submission of supporting documentation			Y	Y	Y
3.4 Notification			Y	Y	Y
3.5 Building Code of Australia			Y	Y	Y
4.5 Integrated Development: Bushfire			Y	Y	Y
			Y	Y	Y
A1.7 Considerations before consent is granted			Y	Y	Y
A4.16 Warriewood Valley Release Area Locality			N	Y	N
B1.3 Heritage - General			Y	Y	Y
B1.4 Aboriginal Heritage Significance			Y	Y	Y
B3.1 Landslip Hazard			Y	Y	Y
B3.2 Bushfire Hazard			Y	Y	Y
B3.6 Contaminated Land and Potentially Contaminated Land			Y	Y	Y
B3.23 Climate Change (Sea Level Rise and Increased Rainfall)			Y	Y	Y
B3.24 Flood Hazard - Flood Category 3 - Overland Flow Path - Minor			Y	Y	Y
B3.25 Flood Hazard - Flood Emergency Response planning			Y	Y	Y
B4.18 Heathland/Woodland Vegetation			Y	Y	Y

Control	Standard	Proposal	T	O	N
B5.1 Water Management Plan			Y	Y	Y
			-	-	-
B5.2 Wastewater Disposal			Y	Y	Y
			-	-	-
B6.2 Access Driveways and Works on the Public Road Reserve			Y	Y	Y
			-	-	-
B6.3 Off-Street Vehicle Parking Requirements		See discussion.	Y	Y	Y
B6.4 Internal Driveways			Y	Y	Y
			-	-	-
B6.6 Off-Street Vehicle Parking Requirements			Y	Y	Y
			-	-	-
B6.10 Transport and Traffic Management			Y	Y	N
		See discussion.	-	-	N
B8.1 Construction and Demolition - Excavation and Landfill			Y	Y	Y
B8.2 Construction and Demolition - Erosion and Sediment Mgmt.			Y	Y	Y
B8.3 Construction and Demolition - Waste Minimisation			Y	Y	Y
B8.4 Construction and Demolition - Site Fencing and Security			Y	Y	Y
B8.5 Construction and Demolition - Works in the Public Domain			Y	Y	Y
B8.6 Construction and Demolition - Traffic Management Plan			Y	Y	Y
C5.2 Safety and security			Y	Y	Y
			-	-	-
C5.4 View Sharing			Y	Y	Y
C5.5 Accessibility			Y	Y	Y
			-	-	-
C5.7 Energy and Water Conservation			Y	Y	Y
			-	-	-
C5.8 Waste and Recycling Facilities			Y	Y	Y
C5.10 Protection of Residential Amenity			Y	Y	Y
			-	-	-
C5.16 Building Facades			Y	Y	Y
			-	-	-
C5.17 Pollution Control			Y	Y	Y
C5.19 Food Premises Design Standards			Y	Y	Y
C5.21 Plant, equipment boxes and lift over-run			N	Y	Y
		See discussion.	-	-	-
C6.1 Warriewood Valley Release Area (Stage One)			N	Y	N
		See discussion.	-	-	-
C6.18 Utilities and Services – Warriewood Valley Release Area			Y	Y	Y
			-	-	-
D16.1 Character as viewed from a public place		See discussion.	-	-	-
D16.2 Building colours and materials			N	Y	N
		See discussion.	-	-	-
D16.3 Front Building Line – Warriewood Valley Residential Sectors			Y	Y	Y
			-	-	-
SEPP No. 64 – Advertising and Signage			N	Y	Y
		See discussion.	N	Y	Y

Controls marked with a (-) are not applicable in relation to the proposal.

10.0 DISCUSSION

Building Height

- **Clause 4.3 (Height of buildings) of PLEP 2014**

The original application was approved with a maximum building height of 14.98m, being a 3.98m or 36% variation of the 11m building height development standard prescribed by clause 4.3 of PLEP 2014. The variation was supported by the JRPP on the basis that the proposal was a desirable use, and in the circumstances there was a current consent for the site, which had similar variations and which was granted while the existing building height development standard was a DCP control. The subject application seeks to amend the height of the building in multiple locations and for differing reasons. **Figure 2** demonstrates the proposed amendments to the height of the building, compared to those approved pursuant to N0341/15.

Note: As per the original application, building height has been measured from existing ground levels at the sides of the building, as measuring from pre-existing basement levels is seen to unreasonably restrict the development potential of the site.

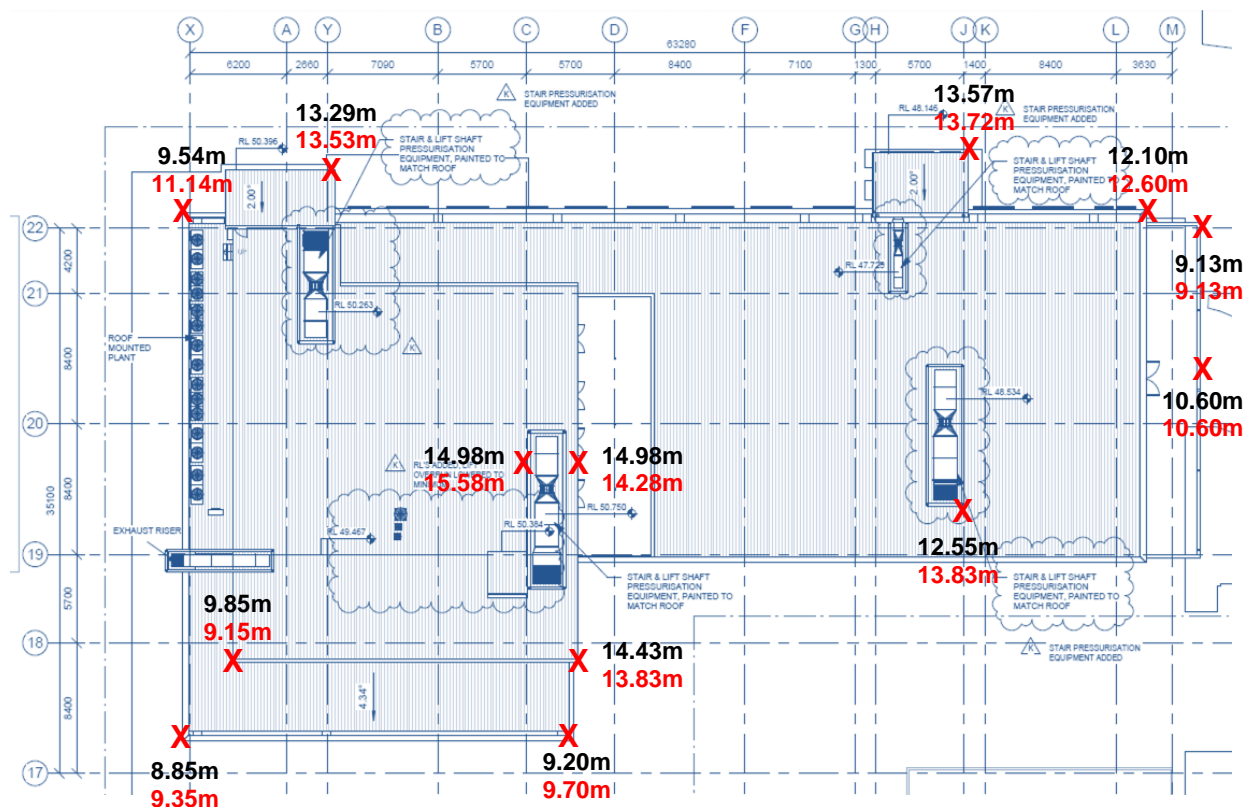


Figure 2 – Roof plan with approved heights (in black text) and proposed heights (in red text)

The primary changes to the height of the development are as follows:

- The parapet around the Level 4 roof is increased by 500mm (resulting in an intensified building height breach of up to 3.65m or 33.2% of the 11m height limit)
- The roof height of Level 5 is decreased by 600-700mm (reducing the building height breach associated with the roof form to 3.28-3.38m or 29.8-30.7% of the 11m height limit)
- The maximum height of the building is increased by 600mm in association with the roof top stair pressurisation equipment (resulting in a maximum height breach of 4.58m or 41.6% of the 11m height limit)

- A new screen is introduced along the western rear façade above the Level 4 roof to screen air conditioning units, increasing the height of the development at this point by 1.6m to 11.14m (resulting in a new height breach of 140mm or 1.27% of the 11m height limit).

Whilst the variations proposed and ultimately approved in the original application were considered in accordance with the provisions of clause 4.6 of PLEP 2014, the same provisions do not apply with respect to modification applications (*SDHA Pty Ltd v Waverly Council* [2015] NSWLEC 65) and a written request pursuant to clause 4.6 of PLEP 2014 to vary the building height development standard is not required. However, the general principles of clause 4.6 of PLEP 2016 are considered to provide appropriate guidance for determining the reasonableness of any intensified non-compliance with the building height development standard, and are therefore addressed as follow;

Is compliance unreasonable or unnecessary in the circumstances of the case?

In accordance with the NSWLEC decision in *Wehbe v Pittwater Council*, one way in which strict compliance can be seen to be unreasonable or unnecessary is if it can be demonstrated that the objectives of the standard are otherwise achieved, despite non-compliance with the 11m height limit. The objectives of the building height development standard are individually considered in respect of the proposed modifications, as follows;

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

Comment: The desired future character statement for the Warriewood Valley Release Area identifies that future development should be maintained below the tree canopy, with minimised bulk and scale. Colours and materials are to blend with the surrounding natural environment, and existing and new vegetation is to be incorporated into the design to assist in softening the built form as seen from the public domain.

Despite intensified non-compliance with the 11m height limit, the built form of the proposed development will remain below the tree canopy of the surrounding escarpment, and existing and proposed landscaping will act to soften the development as seen from the public domain. As currently proposed, the architectural plans appear to indicate that the protruding elements on the roof form are to be finished in white, in stark contrast to both the colour of the roof and the surrounding bushland to the west, and inconsistent with the desire for the development to blend with the colours of the natural escarpment to the west. However, if these elements were to be finished in a dark colour, consistency would likely be achieved in this regard.

Subject to conditions regarding colours/finishes, the proposed modifications do not detrimentally affect the height and scale of the development such that the development would no longer be consistent with the desired character of the locality.

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

Comment: The proposed building is situated within a business park complex (the Quattro Development), which features 3 existing buildings of varying height. Building 2 is the highest of the 3 existing buildings, with a 3-4 storey presentation to Daydream Street. The height of the proposed development steps up away from the street, with a 2 storey presentation to Daydream Street, increasing to 3-4 storeys at the western rear boundary of the site, where the levels of the upper floor roof are

generally consistent with those of the existing building to the west of the site.

Whilst the maximum RL of the proposed plant equipment exceeds the maximum height of surrounding buildings, the bulk and scale of the proposed development remains consistent with that which was originally approved and does not attribute to a development that can be said to be incompatible with surrounding built form.

- c. *to minimise any overshadowing of neighbouring properties,*

Comment: The proposed modifications do not attribute to any unreasonable impacts upon adjoining/neighbouring properties.

- d. *to allow for the reasonable sharing of views,*

Comment: The proposed modifications do not attribute to any unreasonable impacts upon views currently enjoyed by adjoining properties.

- e. *to encourage buildings that are designed to respond sensitively to the natural topography.*

Comment: The proposed modifications do not result in any changes to the extent of excavation or the stepped nature of the development and the overall proposal remains consistent with this objective.

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

Comment: The visual impact of the proposed modifications are considered individually, as follows:

- The parapet around the Level 4 roof is proposed to be increased by 500mm, resulting in an overall height of 1.7m. Despite the production of an amended statement addressing the proposed changes to the building height, no justification is provided for this change. The increase to the parapet height attributes to unnecessary and excessive bulk atop the proposed building, inconsistent with the objectives that aim to minimise the visual impact of the development.
- The reduction to the height of the Level 5 roof will reduce the visual impact of the proposal upon the adjoining escarpment to the rear, as seen from the street.
- The minor increases (150-240mm) to the heights of the northern service cores will not be visually apparent from the public domain.
- The newly introduced air pressurisation equipment on the upper most roof form will be visible from Daydream Street. Whilst the height of this element is only marginally (700mm) higher than the previously approved development, it is not integrated into the design of the roof form and is shown to be surrounded by white screens on the architectural drawings. The use of dark colours and non-reflective materials should minimise the adverse visual impacts of the proposed modifications.
- The screen proposed along the western rear façade above the Level 4 roof is shown as a white solid wall, reaching 1.1m above the 1.7m elevated parapet. The screen will be visible from the adjoining properties to the west and north of the site, and when travelling down Mona Vale Road. The white wall will be reflective in the afternoon sun, and does not minimise the visual impact of the development as seen in closest proximity to the natural escarpment.

Whilst the proposed amendments do not substantially alter the approved built form, minor changes are recommended to minimise the visual impact of the development and to remove unnecessary bulk to ensure a greater level of consistency with the building height limit prescribed for the locality.

Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

In considering the original application, the consent authority had to demonstrate that there was a site specific reason to justify contravention of the building height development standard. The primary factor that influenced the decision of the JRPP was that the site benefitted from a valid consent, that could still be acted upon, which allowed for the construction of a relatively similar sized development in the approximate footprint of the proposal. The consent, N0416/04, was approved pursuant to Pittwater Local Environmental Plan 1993 and the *Warriewood Valley Stage One Release Planning Context and Criteria*, when the 11m height limit was a development control, as opposed to a development standard. Noting that the proposed modifications result in a similar scale of development than that which was originally approved, with a two storey presentation to Daydream Street that steps up the slope of the site, this justification is still considered to be reasonably applied in the circumstances of the subject modification.

However, the building height limit is a development standard and it should not be varied unnecessarily and without appropriate justification. The reasonableness of the new and intensified areas of height non-compliance are considered individually, as follows:

- With the exception of the south-western corner of the Level 4 roof, the entire span of the Level 4 roof parapet is above the 11m height limit, with a maximum protrusion of 1.6m occurring in the north-eastern corner of the building fronting Daydream Street. There has been no justification provided by the applicant in this regard, and the change is incorrectly identified as a “minor decrease in roof parapet height” in the schedule of changes provided and is not nominated as a change on the amended architectural drawings provided. The proposed increase to the height of the parapet is an unreasonable breach of the building height development standard and is not supported.
- The height of the Level 5 roof was increased during the assessment of the original development application to ensure that all plant equipment and the lift over run was enclosed within the roof form. The Level 5 roof is now proposed to be lowered, and whilst an exposed lift overrun is shown on the plans, the applicant’s planning consultant has since confirmed that this change is not sought by the subject application. The lowering of the roof is supported subject to a condition requiring the plans to be amended to delete the lift overrun.
- The height of the northern service cores are to be increased by 150-240mm. Whilst no justification has been provided for this increase, the additional height will not attribute to excessive bulk and scale and the difference between the proposed and approved height will not be visually apparent from the public domain.
- The SOEE has identified that the newly produced air pressurisation equipment is a BCA requirement to ensure that in the event of a fire, smoke is removed from the emergency exit stairwells. The systems extend up to 1.8m above the associated roof, and are proposed to be enclosed by what appears to be louvered screens. Despite being identified in the BCA report that was provided at the time of lodgement, the applicant did not address the systems in the clause 4.6 submission provided, gave assurances that plant equipment could internally integrated into the design of the development, and accepted conditions to restrict plant equipment from the roof. Whilst the systems and the associated screens result in a less than ideal architectural response, the need for the systems is acknowledged and conditions are recommended to ensure the use of dark and non-reflective finishes.

- A new screen is proposed along the western façade of Level 4 to screen air-conditioning units proposed on the Level 4 roof. The incorporation of air-conditioning units on the roof is inconsistent with conditions prescribed by N0341/15 and attributes to a new area of non-compliance with the 11m height limit. No justification has been provided in this regard and as such, neither the screen nor the location of air-conditioning units, are considered to warrant departure from the building height development standard.

Conclusion:

The changes to the height of the development will result in a built form that is generally consistent with that approved pursuant to N0341/15. However, some of the proposed changes are unjustified and seemingly unnecessary, and if the application is approved, the following conditions are recommended to minimise the extent of departure from the maximum building height development standard:

- The height of parapet around the Level 4 roof shall not exceed RL 47050.
- The overrun of Lift 01 must not extend above the Level 5 roof plane.
- The stair & lift pressurisation equipment and associated screens shall be non-reflective and painted/finished in the same colour as the roof.
- The screen shown in white along the western façade of the Level 4 roof is not authorised by this consent.

Statement of Environmental Effects

• Clause 3.2 (Submission of a Statement of Environmental Effects) of P21 DCP

Clause 3.2 of P21 DCP requires the preparation of a Statement of Environmental Effects (SOEE), to demonstrate how the development satisfies the relevant provisions of the DCP and justify any areas of non-compliance. For modification applications, the SOEE should also include a list/schedule of changes, clearly articulating the modifications sought. The SOEE has not addressed the relevant provisions of PLEP 2014 and P21 DCP, has not addressed the changes in the policy which have occurred since the original application was lodged, and has not provided justification for a number of new areas of non-compliance resulting from the proposed modifications. There are also a number of inconsistencies between the schedule of changes and the plans provided to accompany the application. In these circumstances, conditions of consent are recommended to avoid any potential inconsistency or confusion in this regard.

Parking

- **Clause B6.6 (Off-Street Vehicle Parking Requirements) of Superseded DCP**
- **Clause B6.3 (Off-Street Vehicle Parking Requirements) of P21 DCP**

At the time that the original application was approved, clause B6.6 of the Superseded DCP did not provide any specific requirements for parking associated with hospitals, but rather referred to the RMS Guidelines. Whilst renumbered as part of Amendment 19 to the DCP, the provisions of clause B6.3 of P21 DCP remain consistent with the superseded control, and also refer to the RMS Guidelines for parking demand associated with hospitals.

The off-street parking requirement for a private hospital with between 30-99 beds and between 10-102 staff, as identified by the RMS Guidelines, is based on the following formula;

$$PPA = -19.56 + 0.85 B + 0.27 ASDS$$

Where;

PPA is the Peak Parking Accumulation;
B is the number of beds proposed; and
ASDS is the average number of staff per weekday shift

Based upon the information provided by the applicant with regard to the maximum amount of beds (99) and the maximum amount of staff on site at any one time (53), the minimum amount of parking spaces required would be 79 spaces.

When originally approved, the development provided 100 off-street privately owned parking spaces, in addition to the spaces for people with a disability on common property at the podium level. However, 50 of the privately owned spaces were in a tandem configuration. The Traffic and Parking Assessment Report provided to support the application recommended that the tandem spaces should be dedicated and used by staff, with the remaining 50 spaces made available to visitors and patients. Conditions of consent were recommended and ultimately endorsed, as follows:

Condition B42, which reads as follows:

The 50 tandem parking spaces spread across both Ground Level and Level 1, associated with Lot 39, are to be allocated to members of staff. Each space is to be sign-marked accordingly.

Condition B43, which reads as follows:

The remaining 50 individual parking spaces spread across both Ground Level and Level 1, associated with Lot 39, are to be allocated to visitors to the hospital. Each space is to be sign-marked accordingly.

The modification application seeks to use some of the basement parking spaces for storage and services, resulting in 88 off-street privately owned spaces located on Ground Level and Level 1. The modification application also seeks to delete Conditions B42 and B43, to allow for the parking to be allocated in a different manner; with staff parking on Ground Level and visitor parking on Level 1. As now proposed, the Ground Level comprises 36 spaces, 4 of which are in a tandem arrangement and Level 1 comprises 52 spaces, 22 of which are in a tandem arrangement.

Whilst the amended proposal still exceeds the minimum off-street parking requirements prescribed by the RMS guidelines, there remains some concern regarding the dedication of tandem parking spaces for the purpose of visitor parking. To counteract these concerns, the applicant proposes a valet service / parking attendant to coordinate tandem visitor parking spaces and also to ensure that spare capacity within the staff parking area at Ground Level can be allocated to any visitor overspill when visitor parking is in high demand.

Council's Development Engineer provided the following comments in this regard:

"The proposed changes do not affect the operation of the facility as the rehabilitation is generally a longer stay and the day patients are likely to be brought in by vehicles that do not stay at the location for the duration of the appointment and the proposed parking is in line with the RMS design guide formula and has been compared across similar facilities in the area.

Whilst the proposal is for the use of valet parking to improve the operation of the parking on site (which is marginally more efficient than self parking), a strategy needs to be put in place to manage the demand for parking on site and in the adjoining streets without any negative impact on the parking available to adjoining businesses."

The proposed reduction and reallocation of parking spaces and the proposed deletion of conditions B42 and B43 is supported subject to the use of a valet/parking attendant system between the hours of 8am to 8pm on weekdays. These hours have been selected in consideration of the hours of public access (8am to 10pm), the peak visitor time (5:30pm to 8pm), and the hours of doctor visits (7am to 6pm) as nominated in the Traffic and Parking Assessment Report provided to accompany the application. The provision of a valet/parking attendant system shall also be incorporated in the Operational Management Plan for the hospital, and is to be maintained for the life of the development.

Traffic

- **Clause B6.10 (Transport and Traffic Management) of Superseded DCP**

Two (2) submissions have been received which raise concern with regard to existing traffic congestion in the vicinity of the site, and the lack of direct vehicular connection between Daydream Street and Mona Vale Road. Council's Principal Engineer from Urban Infrastructure provided the following comments in this regard;

"Daydream St, Jubilee St and the roundabout at the intersection of Ponderosa Pde and Jubilee Ave have been constructed in accordance with the WVRMP [Warriewood Valley Roads Master Plan] and cater for the traffic volumes generated by the developments in the sector at an acceptable level of service without the need to reopen Daydream St to Mona Vale Rd for vehicular traffic. Any decision to reopen Daydream to left in / left out traffic from/to Mona Vale Rd will be made solely by the RMS when designing the upgrade of Mona Vale Road and will be based on road user safety and maximising the transport efficiency of Mona Vale Road."

As at January 2016, being the last time a Community Update was provided by RMS in relation to the upgrade works to Mona Vale Road (East), there is still no intention to reopen Daydream Street to Mona Vale Road in any way.

The modifications proposed in the subject application do not attribute to any increase in traffic associated with the approved use of the site for the purpose of a hospital, and there is no reason to warrant the refusal of the subject modification application in this regard.

Plant and Equipment on Roof

- **Clause C5.21 (Plant, equipment boxes and lift over-run) of Superseded DCP**
- **Clause D16.1 (Character as viewed from a public place) of P21 DCP**

At the time that the original application was approved, clause C5.21 of the Superseded DCP specified that lift overruns are to be internally integrated in the design of the roof, with no plant or air-conditioning equipment on the roof or visible from the public domain. However, clause C5.21 of the Superseded DCP no longer applies with respect to development in Warriewood Valley, and the new controls specific to Warriewood Valley are not applicable as they do not anticipate development for the purpose of a hospital (as it is prohibited by PLEP 2014).

The subject modification application seeks to install air pressurisation equipment and air-conditioning units on the roof, and delete condition B41, which reads as follows:

No plant equipment or air-conditioning units are permitted on the roof of the development.

Whilst not specifically applicable for hospital developments, the provisions of clause D16.1 of P21 DCP are considered to be reasonably applied in the circumstances of this application, noting that they would be applicable for any other use that of the site that is anticipated by

PLEP 2014. Similar to clause C5.21 of the Superseded DCP, clause D16.1 of P21 DCP also prescribes that lift overruns and plant and equipment boxes should be internally integrated into the design of the development, and the incorporation of air-conditioning units of roofs is not preferred or encouraged.

Whilst the incorporation of air-pressurisation on the roof is regrettably unavoidable, the air-conditioning units can be relocated within the basement carpark or to the Level 3 southern or western terrace, where they do not attribute to a breach of the building height development standard and will not be visible from adjoining sites or the public domain. With this in mind, the request to entirely delete condition B41 is not supported, however it should be amended to allow for specific equipment to be permitted.

The application also seeks consent for kitchen and mechanical exhaust risers that were not demonstrated in the original application, and seeks consent to delete Condition B26, which reads as follows:

Should the premises require a kitchen exhaust/mechanical ventilation system, no works in relation to the installation or operation of the system shall be undertaken prior to the submission of a development application to Council for approval to install, operate and use a mechanical ventilation system at the site.

Council's Health Officer is satisfied with the deletion of this condition, subject to additional information demonstrating compliance with the *Industrial Noise Policy*, and evidence that the noise associated with the use of the exhaust system is not an offensive noise, as defined under the *Protection of the Environment Operations Act 1997*.

The existing consent includes conditions requiring the production of acoustic reports prior to the issuance of any Construction Certificate and Occupation Certificate, and for the ongoing use of the premises, as follows:

The use of the premises is to conform with the noise criteria prescribed for the site by the Warriewood Valley Stage One Release Planning Context and Criteria, as follows; Daytime (7:00am – 6:00pm) – L90 40dB(A)/L10 45 dB(A) Evening (6:00pm – 10:00pm) – L90 40dB(A)/L10 45 dB(A) Night Time (10:00pm – 7:00am) - L90 35dB(A)/L10 45 dB(A).

No noise nuisance shall be caused through the operation of the business or any plant or equipment at the premises. Noise generated from the premises must not exceed the limits as specified in the NSW Industrial Noise Policy.

The existing conditions are not proposed to be amended and will be applicable to the proposed kitchen and mechanical exhaust systems. These existing conditions are considered to satisfactorily address any potential concerns regarding noise associated with the proposed kitchen and mechanical exhaust systems and the request for additional information from Council's Health Officer.

Signage

- **Clause C6.1 (Warriewood Valley Release Area (Stage One)) of Superseded DCP**
- **State Environmental Planning Policy No. 64 – Advertising and Signage**

The application seeks to delete condition B46 which stipulates that “*This consent does not authorise any illuminated signage*”, and a statement has been provided that states that the application now proposes illuminated signage. Illuminated signage was also proposed in the original application, yet was deemed to be non-compliant with relevant controls and inappropriate in the locality where there is a distinct lack illuminated signage; hence the imposition of condition B46. No justification was provided in the SOEE as to why the circumstances have changed to warrant the incorporation of illuminated signage, and 24 hour

illuminated signage is still considered to be unnecessary in association with the hospital that does not feature an emergency department and where public access is restricted between 10pm and 8am.

As specified in the assessment report for the original application, the site would benefit from an illuminated sign at ground level that provides directions to people entering the site. However, no such signage is proposed in the subject application and a specific note was included in the SOEE to state that *“approval of signage design will be subject to a separate Development Application approval process”*.

The proposed illuminated signage is also considered to be inconsistent with the objectives of SEPP 64, whereby the proposed illuminated signage is not compatible with the desired amenity and visual character of the area. In consideration of the assessment criteria of SEPP 64, the proposed illuminated signage is:

- Incompatible with the existing and desired future of the locality, which distinctly lacks 24 hour illuminated signage;
- inconsistent with the theme of advertising in the area, noting that there is no illuminated signage on buildings along Daydream Street or Jubilee Avenue; and
- Will detract from the natural escarpment behind the development, which has a distinct lack of light at night.

Note: There is one mention of a ground level sign in the schedule of changes provided, which may be the sign shown in the 3D images. However, the sign shown in the 3D images is located within the public road reserve, which is not supported by Council. For the avoidance of doubt, a condition of consent is recommended to clarify that signage is not permitted within the public road reserve.

Building Colours

- **Clause D16.2 (Building colours and materials) of Superseded DCP**

The applicant seeks consent to rely upon an amended schedule of colours and finishes, which is generally consistent with that which was approved, with the exception of the use of white for horizontal bandings between Levels 2, 3 and 4. The use of white is supported in this regard, noting that it is consistent with the adjoining buildings within the Quattro Development, and the colour palette previously approved for the site pursuant to N0416/04.

However, it is noted that the proposed schedule of colours and finishes is inconsistent with the requirements of Condition B39, and as such, it is recommended that the condition be amended to require consistency with the amended plans provided.

Condition B48

The application seeks to delete Condition B48, which reads as follows:

This consent authorises the fitout of the space on the podium level, nominated as “future fitout” in accordance with the definition of a Health Services Facility.

The amended plans propose a reconfiguration of the layout of the Podium Level (Level 2) and the area previously nominated as being subject of a “future fitout” is no longer proposed. As such, the condition is no longer required and the request to delete this condition is supported.

Condition C9

The application also seeks to delete Condition C9, which reads as follows:

Prior to the issuance of a Construction Certificate, the architectural drawings are to be amended to extend the parapet of the Level 4 roof in front of the Core 6 lift, so that parapet is continuous along the eastern and southern facades.

The amended plans demonstrate this required change and as such, the condition is no longer required and the request to delete this condition is supported.

Condition C10(a)

The application proposes the deletion of Condition C10(a), which reads as follows:

Prior to the issuance of a Construction Certificate, the architectural drawings and landscape plan are to be amended as follows;

- b. A reduction to the size of the terrace adjoining the lounge on the podium level, so that it does not extend more than 6m to the east of the lift shaft.*

This condition was recommended by Council's Landscape Architect in an attempt reduce the extent of hard surfaces and to accommodate more substantial landscaping within the setback area, to provide some softening of the built form. Noting that the applicant does not seek to delete the second part of Condition C10, which requires the incorporation of small trees to achieve 6m height and planted at 3-4m centres, and tall shrubs to achieve a height of 3-4m and planted at 1m centres, in the deep soil area along the northern and western side setbacks, Council's Landscape Architect supports the deletion of Condition C10(a).

11.0 CONSIDERATION OF S.96(2)

The subject modification application has been lodged under the provisions of s.96(2) of the Act, which are considered as follows:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- a. it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: The proposed modifications will result in a development that is essentially and materially the same as that which was originally approved. The modified development will maintain the approved use on the site for the purpose of a hospital, with the same capacity for patients and onsite services. Whilst there are changes proposed to the height of the development, the built form and scale of the development remains generally consistent with that which was originally approved, with two-three storeys presenting to Daydream Street, stepping up with an additional level at the western end of the site. Furthermore, the footprint of the development and the FSR calculation remains unchanged.

- b. it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body*

has not, within 21 days after being consulted, objected to the modification of that consent, and

Comment: A hospital on bushfire prone land is development for a 'special fire protection purpose' and constitutes integrated development under the provisions of s.91 of the Act and s.100B of the Rural Fires Act. General Terms of Approval were incorporated as conditions of Development Consent N0341/15. The NSW RFS were advised of the subject application and have since confirmed, in their correspondence dated 22 March 2017, that they have no objection to the proposed modifications, subject to the General Terms of Approval previously issued.

- c. it has notified the application in accordance with:*
- i. the regulations, if the regulations so require, or*
 - ii. a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The application has been notified in accordance with Council's Notification Policy and the Regulations.

- d. it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: Two (2) submissions were received in response to the notification of the subject modification application. Both submissions raised concerns with regard to existing traffic congestion in Daydream Street and Jubilee Avenue, which has been addressed in more detail under the heading 'Traffic', above.

13.0 CONCLUSION

Whilst the incorporation of air pressurisation equipment on the roof is regrettable, the need for such equipment is appreciated, and the visual impact of the units can be somewhat ameliorated by the use of dark and non-reflective screens. However, other increases to the height of the building are excessive and unnecessary, and in the absence of any justification, are not supported.

The loss of off-street parking and the allocation of tandem spaces to visitors is not ideal; however the proposal maintains consistency with the minimum requirements of the RMS guidelines and the demand for parking can be reasonably managed with the provision of a parking attendant / valet service.

The incorporation of high level illuminated signage is inconsistent with the character of the locality, where there is a distinct absence of such signage, and is not considered essential to the development, noting that there is no emergency department proposed.

Subject to new and amended conditions of consent, the modified development will achieve a reasonable level of consistency with the outcomes and objectives of PLEP 2014 and P21 DCP. Furthermore, the modified development will result in a development that is substantially the same as that which was originally approved, consistent with the provisions of s.96(2) of the Act, and is recommended for approval.

RECOMMENDATION

That the Sydney North Planning Panel endorse the proposed recommendation for the approval of Modification Application N0341/15/S96/1, to modify Development Consent N0341/15, which approved the construction, fit-out and use of a new private hospital accommodating a maximum of 99 beds, in the following way:

- Amend the approved documentation list, to include:
 - ***Architectural drawings, prepared by Billard Leece Partnership Pty Ltd:***
 - *A.02, revision L, dated 26 April 2017;*
 - *A.03, revision L, dated 26 April 2017;*
 - *A.04, revision L, dated 26 April 2017;*
 - *A.05, revision K, dated 1 February 2017;*
 - *A.06, revision L, dated 26 April 2017;*
 - *A.07, revision T, dated 26 April 2017;*
 - *A.08, revision S, dated 1 February 2017;*
 - *A.09, revision L, dated 26 April 2017;*
 - ***Geotechnical Risk Assessment Report Addendum Letter, prepared by Douglas Partners Pty Ltd, dated 10 February 2017;***
 - ***Traffic and Parking Impact Assessment, prepared by APEX Engineers, dated November 2016;***

- Amend Condition B39, as follows:

B39. The external colours and finishes of the building are to be as follows;

- ~~a. All external walls are to be Colorbond/Dulux "Windspray", or an equivalent or darker grey tone, with the exception of;~~
 - ~~i. The wall panel system for all external elevations of Level 5, which are to be finished in Colorbond/Dulux "Monument";~~
 - ~~ii. The lift shafts are to be finished in Terracotta tiles/wall panel system;~~
 - ~~iii. The eastern external wall of the garbage/gas storage area is to be finished in Colorbond/Dulux "Monument";~~
- b. All roofs are to be Colorbond/Dulux "Monument", or an equivalent tone;
- ~~c. All "Architectural Elements" on the external facades are to be Dulux "Domino" or an equivalent or darker tone;~~
- d. The lift overrun that protrudes the Level 4 roof is to be finished in Colorbond/Dulux "Monument", or an equivalent tone,
- e. ***The colour of the screens surrounding the roof top plant equipment are to be finished in the same colour as the associated roof,***
- f. ***Otherwise, strictly in accordance with the 'Façade Colour Legend' on the approved elevations (A.09, revision L, dated 26 April 2017).***

- Amend Condition B45, as follows:

B45. ***With the exception of the 4 x air pressurisation units and the exhaust riser,*** no plant equipment or air-conditioning units are permitted on the roof of the development.

- Delete Conditions B46 and B47, to be replaced with new conditions, as follows:

B51. A parking attendant or valet service is to be present on site between the hours of 8am and 8pm, Monday to Friday, to manage parking associated with the

development. The parking attendant or valet service is to supervise parking both the Ground Level and Level 1 carparks, and is to coordinate and manage the use of tandem parking spaces.

B52. All Level 1 spaces associated with the site are to be allocated to visitors to the hospital and are to be line-marked accordingly.

- Delete Condition B49.
- Insert new condition, as follows:

B53. For the avoidance of doubt, this consent does not authorise any signage within the public road reserve.

- Amend Condition C7, as follows:

C7. Prior to the issuance of a Construction Certificate, the Operational Management Plan is to be amended to reflect the approved size and intended use of the hospital, noting that number of beds and double rooms has altered and the surgical component of the hospital has been removed. ***Furthermore, the Operational Management Plan is to be amended to incorporate strategies for the management of on-site parking, including the provision of a parking attendant or valet service, to be present on site between the hours of 8am and 8pm, Monday to Friday, to supervise parking in both the Ground Level and Level 1 carparks, and to coordinate and manage the use of tandem parking spaces.***

- Delete Condition C9.
- Amended Condition C10, as follows:

C10. Prior to the issuance of a Construction Certificate, the architectural drawings and landscape plan are to be amended as follows;

- ~~***a. A reduction to the size of the terrace adjoining the lounge on the podium level, so that it does not extend more than 6m to the east of the lift shaft.***~~
- b. The incorporation of small trees (*Elaeocarpus reticulatus*, *Syzygium leuhmannii*) to achieve 6m height and planted at 3-4m centres, and tall shrubs (*Callistemon viminalis*, *Melaleuca* 'Dwarf Varieties') to achieve a height of 3-4m and planted at 1m centres, in the deep soil area along the northern and western side setbacks.
- c. The height of the parapet around the Level 4 roof shall not exceed RL 47050.***
- d. The overrun of Lift 01 must not extend above the Level 5 roof plane.***
- e. The screen shown in white along the western façade of the Level 4 roof is not authorised and shall be removed.***

DRAFT DETERMINATION

MODIFICATION OF DEVELOPMENT CONSENT NO: N0341/15 ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED) NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

Applicant's Name and Address:

**Buildcorp Group Pty Ltd
PO BOX 186
Camperdown NSW 1450**

Being the applicant in respect of Modification Application **N0341/15/S96/1**

Pursuant to section 81 of the Act, notice is hereby given of the determination by Northern Beaches Council, as the consent authority, of Modification Application **N0341/15/S96/1** for:

Modification to Development Consent N0341/15, which approved the construction, fit-out and use of a new private hospital, accommodating a maximum of 99 beds

At: 4 Daydream Street, Warriewood NSW 2102 (Lot 39 DP 80638)

Decision:

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, and in accordance with:

- Architectural drawings A.02 issue P, A.03 issue Q, A.04 issue Q, A.05 issue M, A.06 issue G, A.07 issue P, A.08 issue P, and A.10 issue E dated 10 November 2015 and A.09 issue H, dated 11 November 2015, all prepared by Christo Architects;
- Geotechnical Risk Assessment Report, prepared by Douglas Partners Pty Ltd, dated 10 August 2015;
- Geotechnical Risk Assessment Report Addendum Letter, prepared by Douglas Partners Pty Ltd, dated 5 November 2015;
- Structural Engineer Advise regarding Level 3 slab, prepared by Van der Meer Consulting, dated 16 November 2015;
- Operational Management Plan, prepared by [unknown], dated 15 July 2015;
- Traffic and Parking Impact Assessment, prepared by APEX Engineers, dated July 2015;
- BCA Capability Report, prepared by Vic Lilli & Partners Consulting, dated 4 August 2015;
- Report on BCA Section J Compliance, prepared by David Shreeve & Associates Pty Ltd, dated 27 July 2015;
- Arboriculture Impact Assessment Report, prepared by Jacksons Nature Works, dated 30 October 2015;

As further amended by:

- ***Architectural drawings, prepared by Billard Leece Partnership Pty Ltd:***
 - ***A.02, revision L, dated 26 April 2017;***
 - ***A.03, revision L, dated 26 April 2017;***
 - ***A.04, revision L, dated 26 April 2017;***
 - ***A.05, revision K, dated 1 February 2017;***
 - ***A.06, revision L, dated 26 April 2017;***
 - ***A.07, revision T, dated 26 April 2017;***
 - ***A.08, revision S, dated 1 February 2017;***
 - ***A.09, revision L, dated 26 April 2017;***
- ***Geotechnical Risk Assessment Report Addendum Letter, prepared by Douglas Partners Pty Ltd, dated 10 February 2017;***

- ***Traffic and Parking Impact Assessment, prepared by APEX Engineers, dated November 2016;***

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of the attached conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act 1979 (as amended), pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Note: For ease of reference, all of the previous conditions have been relisted and those conditions that have been amended or are newly introduced are in bold text, and conditions deleted are shown in strike out.

Endorsement of date of consent: 2 December 2015, ***Modified (TBA)***

Mark Ferguson
INTERIM GENERAL MANAGER

CONDITIONS OF APPROVAL

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. A sign must be erected in a prominent position onsite only showing:
 - a. the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b. the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - c. that unauthorised entry to the work site is prohibited.The sign must 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.
4. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.

B. Matters to be incorporated into the development and maintained over the life of the development:

1. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.
2. The recommendations of the risk assessment required to manage the hazards as identified in Geotechnical Report referenced in this consent are to be incorporated into the construction plans.
3. In accordance with ~~Pittwater~~ Council's DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
4. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to ~~Pittwater~~ Council website for noxious/environmental weed lists.

5. No environmental weeds are to be planted on the site. Refer to **Pittwater** Council website for environmental weed lists.
6. Any vegetation planted onsite outside approved landscape zones is to be consistent with locally native species selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Gardening available on the **Pittwater** Council website.
7. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
8. The internal driveway and parking spaces are to be appropriately line-marked and signposted.
9. No water pollution shall result from the operation of any plant or equipment or activity carried out.
10. Noise from the operation of any plant or equipment at the premises shall comply with the noise provisions of the *Protection of the Environment Operations Act 1993*.
11. The construction, fit out and finishing of the kitchen and food handling and storage areas must comply with *Australian Standard 4674-2004 Design, construction and fit-out of food premises*, and *The Food Safety Standard 3.2.3* (as part of the *Food Standards Code*) required by the *Food Regulation 2010*.
12. Walls in and adjoining food handling areas must be of solid masonry construction (no voids or cavities) and finished as specified in table 3.2 of *AS 4674-2004 Design, construction and Fit-out of food premises*.
13. Floors in food handling and display areas shall be:
 - a. appropriate for the area;
 - b. able to be effectively cleaned;
 - c. laid in accordance with the relevant Standards (see AS 3958.1 for ceramic tiles) so that there is no likelihood of pooling water and harbourage of pests
14. The floor covering in food handling areas shall be a minimum of 25mm radius at the floor wall joint, this will increase to a minimum of 50mm when splayed at 45 degrees. No "feather edge skirting" is permitted. Where vinyl or similar sheeting is installed and the sheeting is turned up to form a cove, a solid preformed coving fillet shall be used to support the sheeting.
15. Cupboards, cabinets and counter construction in food handling areas must be free of voids, cracks and crevices and designed so they can be easily cleaned and not give harbourage for vermin. They should be fitted a minimum of 150mm above the floor level or situated on a solid plinth a minimum of 75mm in height and meet the same specifications as the floor and be coved.
16. Fixtures, fittings and equipment in food handling areas shall be designed and constructed in accordance with the requirements given in Table 4.3 and 4.4 of *AS 4674-2004 Design, construction and fit-out of food premises*.
17. The ceiling over all food handling areas (including over the servery and bar) must be non-performed and finished free of open joints, cracks and crevices. The ceiling shall be finished with a sealant that is of light colour, washable and an impervious material. Drop panel type ceilings are not appropriate for these areas.

18. Hand washbasins must be provided in the food servery/preparation area, preferably installed with hands free taps. A hand wash basin should ideally be located within 5 metres of any food handling and be easily accessible and usable.
19. Hand washbasins in food servery/preparation areas must be provided with:
 - a. an adequate supply of potable warm running water delivered through a single spout;
 - b. a supply of liquid soap; and
 - c. single use hand towel
20. The premises shall be provided with equipment for cleaning and sanitizing as specified within Tables 4.1 and 4.2 of *AS 4674-2004 Design, construction and fit-out of food premises*.
21. Dishwasher and glass washers that are used for sanitizing food contact surfaces and eating and drinking utensils must comply with *AS 2945*.
22. Grease arrestors and access openings to the sanitary drainage must not be located within any food preparation and/or handling area.
23. In food preparation or servery areas, all service pipes, conducts and electrical wiring shall be either concealed in floors, walls, ceiling of plinths or be fixed on brackets so as to provide at least 25mm clearance between the pipe and the adjacent vertical surface and 100mm between the pipe and the adjacent horizontal surface.
24. All food preparation areas and areas where food is displayed must be suitably protected from the likelihood of contamination. All shelving, cupboards, doors and the like must be impervious and easy to clean on all exposed surfaces and as far as practicable and constructed and installed to prevent vermin harbourage.
25. A commercial kitchen must be provided with a kitchen exhaust hood complying with *AS/NZS 1668.1:1998 (fire and smoke control in multi-compartment buildings)* and *AS 1668.2-1991 (mechanical ventilation for acceptance indoor-air quality)* where -
 - a. any cooking apparatus has:
 - a. a total maximum electrical power input exceeding 8 kW; or
 - b. a total gas power input exceeding 29 MJ/h; or
 - b. the total maximum power input to more than one apparatus exceeds -
 - a. 0.5 kW electrical power; or
 - b. 1.8 LJ gas,

Per m² of floor area of the room or enclosure.
26. Should the premise require a kitchen exhaust/mechanical ventilation system, no works in relation to the installation or operation of the system shall be undertaken prior to the submission of a development application to Council for approval to install, operate and use a mechanical ventilation system at the site.
27. No odour nuisance, to the public or any adjoining premises, shall be created by the operation of any plant or equipment or any procedures carried out at the premises.
28. No noise nuisance shall be caused through the operation of the business or any plant or equipment at the premises. Noise generated from the premises must not exceed the limits as specified in the *NSW Industrial Noise Policy*.
29. Sanitary facilities are to comply with the requirements set out within Table F2.3 of the BCA.
30. Structural requirements for the Garbage and Recycling room/s include:
 - a. A room/enclosure is to be dedicated for the storage of garbage and recyclables.
 - b. The room/enclosure used for the storage and washing down of garbage/recycling receptacles shall be constructed of solid material (brick, concrete, concrete blocks,

structural fibrous cement or other similar homogeneous material) so as to prevent the formation of cavities which become possible harbourages for insects and vermin. Framing in timber is not permitted. The walls of the room shall be cement rendered and steel trowelled to a smooth, even surface. The floor shall be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room/enclosure.

- c. Stormwaters are to be prevented from entering the garbage/recycling enclosure/room.
- d. The garbage/recycling enclosure/room shall be vented to the external air by natural or artificial means. The installation and operation of the mechanical ventilation system shall comply with AS 1668, Parts 1 & 2.
- e. Hot and cold water hose cocks shall be located within the garbage/recycling enclosure/room or in close proximity.
- f. Clear access to the garbage/recycling enclosure/room must be available for the garbage service provider.

31. All sanitary drainage must be concealed in service ducts or otherwise hidden from external view to the satisfaction of the Responsible Authority.

32. All plumbing, electrical wiring and drainage fixtures are to be concealed and not exposed to public view on buildings over one storey in height.

33. New electrical connections are to be carried out using underground cabling.

34. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of '*Planning for Bush Fire Protection 2006*' and the NSW Rural Fire Service's document '*Standards for asset protection zones*'.

(Note: This condition was recommended by the NSW RFS in their advice dated 23 September 2015.)

35. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of '*Planning for Bush Fire Protection 2006*'.

(Note: This condition was recommended by the NSW RFS in their advice dated 23 September 2015.)

36. An Emergency/Evacuation Plan is to be prepared in accordance with the NSW Rural Fire Service document '*Guidelines for the Preparation of Emergency/Evacuation plan*' and comply with *Australian Standard AS 4083 1997 'Planning for Emergencies for Health Care Facilities'*.

(Note: This condition was recommended by the NSW RFS in their advice dated 23 September 2015.)

37. New construction shall comply with Sections 3 and 5 (BAL 12.5) of *Australian Standard 3959-2009 'Construction of buildings in bush fire-prone areas'* and section A3.7 of the Addendum Appendix 3 of '*Planning for Bush Fire Protection 2006*'.

(Note: This condition was recommended by the NSW RFS in their advice dated 23 September 2015.)

38. Landscaping on site is to comply with the principles of Appendix 5 of '*Planning for Bush Fire Protection 2006*'.

(Note: This condition was recommended by the NSW RFS in their advice dated 23 September 2015.)

39. The external colours and finishes of the building are to be as follows;
- ~~a. All external walls are to be Colorbond/Dulux "Windspray", or an equivalent or darker grey tone, with the exception of;~~
 - ~~a. The wall panel system for all external elevations of Level 5, which are to be finished in Colorbond/Dulux "Monument";~~
 - ~~b. The lift shafts are to be finished in Terracotta tiles/wall panel system;~~
 - ~~c. The eastern external wall of the garbage/gas storage area is to be finished in Colorbond/Dulux "Monument";~~
 - b. All roofs are to be Colorbond/Dulux "Monument", or an equivalent tone;
 - ~~c. All "Architectural Elements" on the external facades are to be Dulux "Domino" or an equivalent or darker tone;~~
 - d. The lift overrun that protrudes the Level 4 roof is to be finished in Colorbond/Dulux "Monument", or an equivalent tone,
 - e. *The colour of the screens surrounding the roof top plant equipment are to be finished in the same colour as the associated roof,*
 - f. *Otherwise, strictly in accordance with the 'Façade Colour Legend' on the approved elevations (A.09, revision L, dated 26 April 2017).*
40. All external glazing is to have a maximum reflectivity index of 25%.
41. *With the exception of the 4 x air pressurisation units and the exhaust riser,* No plant equipment or air-conditioning units are permitted on the roof of the development.
- ~~42. The 50 tandem parking spaces spread across both Ground Level and Level 1, associated with Lot 39, are to be allocated to members of staff. Each space is to be sign-marked accordingly.~~
- ~~43. The remaining 50 individual parking spaces spread across both Ground Level and Level 1, associated with Lot 39, are to be allocated to visitors to the hospital. Each space is to be sign-marked accordingly.~~
44. Public access to the hospital is restricted to 8:00am to 10:00pm every day.
45. This consent does not authorise the proposed sign on the northern elevation of the stairwell at the rear of the site.
46. This consent does not authorise any illuminated signage.
47. This consent does not authorise any change to the boundaries of Lot 39 in SP 80638.
- ~~48. This consent authorises the fitout of the space on the podium level, nominated as "future fitout" in accordance with the definition of a Health Services Facility.~~
49. The use of the premises is to conform with the noise criteria prescribed for the site by the *Warriewood Valley Stage One Release Planning Context and Criteria*, as follows;
- Daytime (7:00am – 6:00pm) – L90 40dB(A)/L10 45 dB(A)
 - Evening (6:00pm – 10:00pm) – L90 40dB(A)/L10 45 dB(A)
 - Night Time (10:00pm – 7:00am) - L90 35dB(A)/L10 45 dB(A)
50. *A parking attendant or valet service is to be present on site between the hours of 8am and 8pm, Monday to Friday, to manage parking associated with the development. The parking attendant or valet service is to supervise parking both the Ground Level and Level 1 carparks, and is to coordinate and manage the use of tandem parking spaces.*
51. *All Level 1 spaces associated with the site are to be allocated to visitors to the hospital and are to be line-marked accordingly.*

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
2. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
3. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
 - a. after excavation for, and prior to the placement of, any footings, and
 - b. prior to pouring any in-situ reinforced concrete building element, and
 - c. prior to covering of the framework for any floor, wall, roof or other building element, and
 - d. prior to covering waterproofing in any wet areas, and
 - e. prior to covering any stormwater drainage connections, and
 - f. after building work has been completed and prior to any occupation certificate being issued in relation to the building.

To allow a Principal Certifying Authority to carry out critical stage inspections, at least 48 hours notice must be given before building work is commenced and prior to further work being undertaken.

4. Construction works approved by this consent must not commence until:
 - a. Construction Certificate has been issued by a Principal Certifying Authority
 - b. a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
 - c. at least 2 days notice, in writing has been given to Council of the intention to commence work.
5. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.
6. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
7. Prior to the issuance of a Construction Certificate, the Operational Management Plan is to be amended to reflect the approved size and intended use of the hospital, noting that number of beds and double rooms has altered and the surgical component of the hospital has been removed. ***Furthermore, the Operational Management Plan is to be amended to incorporate strategies for the management of on-site parking, including the provision of a parking attendant or valet service, to be present on site between the hours of 8am and 8pm, Monday to Friday, to supervise parking in both the Ground Level and Level 1 carparks, and to coordinate and manage the use of tandem parking spaces.***

8. An acoustic report is to be prepared and certification from a suitably qualified professional is to be provided to the Certifying Authority, to confirm that the development can operate in accordance with the noise criteria prescribed for the site by the *Warriewood Valley Stage One Release Planning Context and Criteria*, as follows;

Daytime (7:00am – 6:00pm) – L90 40dB(A)/L10 45 dB(A)

Evening (6:00pm – 10:00pm) – L90 40dB(A)/L10 45 dB(A)

Night Time (10:00pm – 7:00am) - L90 35dB(A)/L10 45 dB(A)

9. ~~Prior to the issuance of a Construction Certificate, the architectural drawings are to be amended to extend the parapet of the Level 4 roof in front of the Core 6 lift, so that parapet is continuous along the eastern and southern facades.~~

10. Prior to the issuance of a Construction Certificate, the architectural drawings and landscape plan are to be amended as follows;

- a. ~~A reduction to the size of the terrace adjoining the lounge on the podium level, so that it does not extend more than 6m to the east of the lift shaft.~~
- b. The incorporation of small trees (*Elaeocarpus reticulatus*, *Syzygium leuhmannii*) to achieve 6m height and planted at 3-4m centres, and tall shrubs (*Callistemon viminalis*, *Melaleuca* 'Dwarf Varieties') to achieve a height of 3-4m and planted at 1m centres, in the deep soil area along the northern and western side setbacks.
- c. ***The height of the parapet around the Level 4 roof shall not exceed RL 47050.***
- d. ***The overrun of Lift 01 must not extend above the Level 5 roof plane.***
- e. ***The screen shown in white along the western façade of the Level 4 roof is not authorised and shall be removed.***

11. Engineering plans including specifications and details of the on-site stormwater detention system, are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with B5.7 of Pittwater 21 DCP.

Note: Where Council is the Principal Certifying Authority, 3 sets of engineering plans are to be submitted.

12. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site stormwater (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Geotechnical Engineers Report referenced in this consent).

Note: Where Council is the Principal Certifying Authority 3 sets of plans/specifications are to be submitted.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to the issue of a Construction Certificate.

1. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

Note: This condition does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the States building laws.

2. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001 The Demolition of Structures. Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
 - a. Protection of site workers and the general public.
 - b. Erection of hoardings where appropriate.
 - c. Asbestos handling and disposal where applicable.
 - d. Any disused service connections shall be capped off.

Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.

3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
4. The following facilities must be provided on the site:
 - a. toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - b. a garbage receptacle for food scrapes and papers, with a tight fitting lid.

Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of the development.

5. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.
6. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.
7. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
8. The site must be fenced throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

9. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
10. Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
11. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
12. Personnel with appropriate training, or demonstrated knowledge and experience in erosion and sediment control shall be responsible for supervising the installation and maintenance of approved erosion and sediment control measures – during and after construction and until the site has been restored to the satisfaction of council.
13. No works are to be carried out in Council's Road Reserve without the written approval of the Council.

Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.

14. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
15. No skip bins or materials are to be stored on Council's Road Reserve.
16. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - a. The builder's name, builder's telephone contact number both during work hours and after hours.
 - b. That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
 - c. That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - d. That no skip bins or materials are to be stored on Council's Road Reserve.
 - e. That the contact number for **Pittwater** Council for permits is 9970 1111.
17. All construction in the public road reserve must be undertaken by a Council authorised contractor.
18. A satisfactory construction traffic management plan (CTMP) prepared by a suitably qualified traffic consultant is required to be submitted to the Certifying Authority prior to the commencement of any site works. The plan is to detail:
 - a. Quantity of material to be transported,
 - b. Proposed truck movement per day,
 - c. Proposed hours of operation,
 - d. Proposed traffic routes, noting that 3 tonne load limits apply to some roads within **Pittwater the locality**,
 - e. Location of on/off site parking for construction workers during the construction period.

19. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report referenced in this consent are required to be complied with before and throughout the development period, particularly with regard to the following:
- a. Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
 - b. Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
 - c. All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
 - d. Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
 - e. Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.
20. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas. Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.
21. All works within 5 metres of the existing trees to be retained including pruning, demolition, excavation, civil works, fencing and the like must be carried out by hand under the supervision of an experienced and qualified Arborist. Should roots larger than 50mm be encountered all excavation works are to cease immediately and a qualified Arborist is to advise on the impacts of the roots removal on the tree's survival and report to the Principal Certifying Authority prior to works recommencing. If tree roots are present a pier and beam method of footing construction is to be adopted so as to bridge/span any identified lateral roots.

E. Matters to be satisfied prior to the issue of the Occupation Certificate:

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.

2. The following documents must be submitted:
 - a. A certificate from a suitably qualified engineer, certifying:
 - i. The stormwater drainage system
 - ii. The car parking arrangement (noting requirements for allocated and signposted spaces)
 - iii. Any related footpath crossing works, and/or
 - iv. Other civil works,have been constructed in accordance with the approved plans and conditions of consent.
 - b. A "works as executed" plan of the engineering and/or drainage works.
3. A copy of the Section 73 Compliance Certificate issued under the provisions of the *Sydney Water Act, 1994*, is to be forwarded to Council or the Private Certifying Authority with the Occupation Certificate.
4. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
5. Prior to the issue of an Occupation Certificate, an accredited bushfire consultant is to certify that the as-built development is consistent with the requirements of the NSW RFS, as identified in their correspondence dated 23 September 2015 and as replicated by conditions in Section B of this consent.
6. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
7. The Certifying Authority is to submit to Council the completed and signed Food Premises Occupation Certificate Fit-Out Form, which is available on Council's website.
8. Council's Environmental Health Officer is to be contacted (phone: 9970 1111) to make arrangements for an inspection of the premises for verification of compliance with the form. A minimum 48 hours notice is required for inspection.
9. Council is to forward written advice of the result of the inspection in order to confirm that there is no objection to the issuing of the Occupation Certificate.
10. Documentation supplied by Sydney Water regarding evidence of the trade waste agreement must be provided to the certifying authority prior to the issue of the Occupation Certificate.
11. Documentation supplied by a practicing mechanical engineer certifying that all mechanical exhaust ventilation systems, as installed, complies with *AS/NZS 1668.1:1998 (Fire and smoke control in multi-compartment buildings)* and *1668.2-1991 (Mechanical ventilation for acceptable indoor-air quality)*, must be provided to the certifying authority prior to the issue of the Occupation Certificate.
12. A suitably qualified professional is to provide certification that both the construction and fit-out has been completed in accordance with the relevant provisions of the *Australasian Health Facilities Guidelines*.
13. The architect is to certify that the colours of the as-built development are dark and earthy tones, consistent with the condition specifying the selection of colours that may be used in Section B of this section.
14. An acoustic report is to be prepared and certification from a suitably qualified professional is to be provided to the Certifying Authority, to confirm that the as-built development will

operate in accordance with the noise criteria prescribed for the site by the *Warriewood Valley Stage One Release Planning Context and Criteria*, as follows;

Daytime (7:00am – 6:00pm) – L90 40dB(A)/L10 45 dB(A)
Evening (6:00pm – 10:00pm) – L90 40dB(A)/L10 45 dB(A)
Night Time (10:00pm – 7:00am) - L90 35dB(A)/L10 45 dB(A)

G. Advice:

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or www.1100.com.au
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the EPA Act 1979, this development consent lapses 5 years after the date from which this consent operates if the development is not commenced.
5. To ascertain the date upon which a consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.
7. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.