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| SUPPLEMENTARY REPORT: | DEVELOPMENT APPLICATION No. X/38/2022 (PPWSC 227) for a Removal of 8 demountable blocks and construction of a 2 storey classroom building with sports court, including the removal of 12 trees, associated landscaping and stormwater works, and upgrades to existing roads at St Columba's Catholic College, 168 Hawkesbury Road, SPRINGWOOD NSW 2777 |

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| Reason for report | 1. To confirm that the issue of the Aboriginal Due Diligence issue which was the sole reason for Council’s initial recommendation for refusal of the application has now been resolved and the development application is supported by Council.
2. To advise that the conditions of consent are now agreed between the parties.
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| Details  | 1. Due Diligence Report

Council originally recommended refusal of this development application as the application had not been accompanied by a Due Diligence Report, prepared by a suitably qualified consultant, in accordance with the OEH Code of Practice. A Due Diligence Report has now been provided, prepared by Baker Archaeology. The report found that:*No Aboriginal objects are known to be present on the study area, being the area of ground where construction and demolition of existing structures is proposed. No Aboriginal objects are anticipated to occur within the ground.**The history of construction disturbance makes the discovery of any Aboriginal objects improbable.* *No impacts to Aboriginal objects are anticipated to occur.*Council accepts the findings of this report and considers that the reason for refusal has now been resolved. A condition of consent, has also been included to address unexpected finds, should they arise.1. Agreed Conditions of Consent

The conditions of consent, have now been agreed to by both the applicant and council. These conditions are attached to the report. In addition to the inclusion of the unexpected finds condition, there are some minor plan numbering amendments and renumbering of conditions. Changes to the original conditions are shown in red to for the benefit of the panel.  |

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| RECOMMENDATION | 1. The panel accepts that the request under Clause 4.6 of Blue Mountains Local Environmental Plan 2015 to vary the Height of Building development standards under clause 4.3 of Local Environmental Plan 2015, has demonstrated that there are sufficient environmental planning grounds to justify the non-compliance with the development standards, and that it is unreasonable and unnecessary to require compliance in this instance as the proposed development will be consistent with the objectives of the standards, the Environmental Management zone and the Environmental Planning and Assessment Act 1979.
2. That the Development Application X/38/2022 for Removal of 8 demountable blocks and construction of a 2 storey classroom building with sports court, including the removal of 12 trees, associated landscaping and stormwater works, and upgrades to existing roads on St Columba's Catholic College, 168 Hawkesbury Road, SPRINGWOOD NSW 2777 be determined in accordance with s4.16 of the Environmental Planning and Assessment Act, by the granting of development consent subject to the conditions stated in Part 2 of this report.
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| Reason/s in support of the recommended decision | 1. The proposed development has demonstrated that there are sufficient environmental planning ground to justify non-compliance with the development standard in relation to the Height of Building under clause 4.3 of the Local Environmental Plan 2015.
2. The proposed development generally complies with the relevant State and local planning policies.
3. The proposed development maintains a balance between the preservation of heritage items, native bushland including endangered ecological communities and protection of assets from bush fire.
4. The proposed development provides additional facilities for the school, but does not increase the school population, or adversely impact on traffic, parking, or neighbour amenity.
5. Adjoining property owners were notified of the proposed development. One submission was received relating to pedestrian safety. However, the proposal does not increase traffic or impact on pedestrian safety.
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| Disclosure | Disclosure of any political donation and/or gift - No |
| Declaration of interest | Nil |

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| Supplementary Report author | Debbie Pinfold, Senior Development Assessment PlannerBlue Mountains City Council. |
| Date of Report | 9 December 2022 |

PART 2 Agreed conditions of consent

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| Confirmation of relevant plans and documentation |  | To confirm and clarify the terms of consent, the development shall be carried out in accordance with the following plans and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent: |

| Document | Prepared by: | Drawing No | Issue | Date |
| --- | --- | --- | --- | --- |
| Demolition Plan | Allenza Architecture | DA06 | B | 19/08/22 |
| Site Plan | Allenza Architecture | DA07 | B | 19/08/22 |
| Site Sections | Allenza Architecture | DA09 | B | 19/08/22 |
| Ground Floor Plan | Allenza Architecture | DA10 | B | 19/08/22 |
| First Floor Plan | Allenza Architecture | DA11 | B | 19/08/22 |
| Roof Plan | Allenza Architecture | DA12 | B | 19/08/22 |
| Proposed Elevations | Allenza Architecture | DA13 | B | 19/08/22 |
| Proposed Sections – Sheet 1 | Allenza Architecture | DA14 | B | 19/08/22 |
| Proposed Sections – Sheet 2 | Allenza Architecture | DA15 | B | 19/08/22 |
| Site Plan – IPA Overlay | Allenza Architecture | SK005 | P1 | - |
| Waste management Plan | Allenza Architecture | - | - | - |
| Overall Landscape Plan | Xeriscapes | DA-L101 | A | 30.08.2022 |
| Detailed Landscape Plan (1 of 2) | Xeriscapes | DA-L102 | A | 30.08.2022 |
| Detailed Landscape Plan (2 of 2) | Xeriscapes | DA-L103 | A | 30.08.2022 |
| Precedent Images | Xeriscapes | DA-L201 | A | 30.08.2022 |
| Indicative Plant Schedule | Xeriscapes | DA-L301 | A | 30.08.2022 |
| Weed management Plan | DA Landscape Plans | - | 1.0 | 6 September 2022 |
| Bush Fire Assessment Report | Bushfire Consulting Services P/L- | - | 4 | 31/08/2022 |
| Arboricultural Impact Statement  | Mark Bury Consulting | - | - | 1 August 2022 |
| Stormwater Management Report | JHA | - | 3 | 12.04.22 |
| Geotechnical Report  | Construction Sciences | - | - | 25 March 2022 |
| Flora and Fauna Assessment  | KHA Ecology & Bushfire | - | - | December 2021 |
| Civil Services Ground Floor Plan | JHA | C202 | P4 | 12.04.22 |
| Civil Services Details Sheet | JHA | C300 | P4 | 12.04.22 |
| Civil Services Erosion and Sedimentation Control Plan and Details | JHA | C400 | P4 | 12.04.22 |
| Aboriginal Heritage Due Diligence Assessment | Baker Archaeology | - | - | 8 December 2022 |

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| Rural Fire Service Bushfire Safety Authority concurrence Council reference 22/261773 |  | The development must comply with all concurrence requirements and conditions of NSWS Rural Fire Service dated 21 October 2022, attached to and forming part of this development consent. |

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| Sydney Water building plan approvalPrior to works commencing |  | A building plan approval must be obtained from Sydney Water Tap in to ensure that the approved development will not impact Sydney Water infrastructure.A copy of the building plan approval receipt from Sydney Water must be submitted to the Principal Certifying Authority prior to works commencing.Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au/) - Plumbing, building & developing - Sydney Water Tap in, or telephone 13 20 92. |

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| Sydney WaterSection 73 CertificatePrior to issue of any occupation certificate |  | A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au/) *Plumbing, building and developing* or telephone 13 20 92.The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to issue of any occupation certificate. |

**Prior to the Issue of a Construction Certificate**

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| Water management detailed design |  | Prior to the issue of a Construction Certificate, the certifying authority is to be satisfied that the DA Issue Civil Services plans by JHA have been amended to reflect the position of the building and other works as shown on the approved architectural plans. |

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| Update of St Columba’s Fire and Vegetation Management Plan (Molino Stewart 2011) |  | Prior to commencement the issue of a Construction Certificate, the St Columba’s Fire and Vegetation Management Plan (Molino Stewart 2011) shall be revised by a suitably qualitified ecologist to reflect the Asset Protection Zone required for the approved development and acknowledge the presence of the threatened species Leucopogon fletcheri subsp. fletcheri plants immediately adjacent to the eastern side of the campus near the asset protection zone boundaries.As protection of the new building also relies on existing bush fire protection measures on the site, including fire trails, the updated plan shall also incorporate further protection measures for the endangered population of Pultenaea villifera on the property, such as some form of signage to reduce likelihood of inadvertent damage due to vegetation management, or other activities such as fire trail maintenance.The updated plan shall be submitted to Council’s Program Leader Environment and Landscape for approval prior to the issue of a Construction Certificate.  |

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| Sterile Zone – Main Building |  | A sterile zone in accordance with the image below, is to be provided along the northern wall of the Main building (former Seminary) to prevent any potential ‘rising damp’ impacts due to the proposed landscaping works and to help in the long-term conservation of the heritage item (Source: Salt attack and rising damp: A guide to salt damp in historic and older buildings, Heritage Council of NSW)The sterile zone shall form part of the Construction Certificate plans. Diagram  Description automatically generated |

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| City-wide Local Infrastructure Contribution |  | In accordance with the *Blue Mountains City-wide Local Infrastructure Contributions Plan 2022*adopted 28 June 2022 (“the Contributions Plan”), a contribution of $198,200.84 shall be paid to Council.This amount will be adjusted\* at the time of payment in accordance with Section 3.7 of the Contributions Plan. The contribution shall be paid prior to the issue of a construction certificate, or commencement of the use of the land, whichever occurs sooner. The Contributions Plan is available for inspection at Council’s offices or on Council’s website at www.bmcc.nsw.gov.au.\*Using the All Groups Consumer Price Index (Sydney), as published by the Australian Bureau of Statistics. You are advised to check the current amount payable with Council prior to any payment. |

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| Construction certificate |  | A construction certificate is required prior to the commencement of any building works. This certificate can be issued either by Council as a certifying authority or by an accredited certifier. |

**Prior to and During Construction Work**

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| Building Code of Australia |  | All building work must be carried out in accordance with the provisions of the Building Code of Australia. |

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| Signage |  | To ensure that the site is easily identifiable for deliveries and provides information on the person responsible for the site, a sign displaying the following information is to be erected in a prominent position on the site prior to building, subdivision or demolition works commencing:* The name, address and telephone number of the principal certifying authority for the work.
* The name of the principal contractor for any building work and a telephone number on which that person may be contracted outside working hours, and
* The statement that “Unauthorised entry to the site is prohibited”.
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| Site management |  | To safeguard the local amenity and pedestrian safety, reduce noise nuisance and to prevent environmental pollution during the construction period:1. Site and building works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 7am-6pm, and on Saturdays between 8am-3pm, excluding public holidays. Alteration to these hours may be possible for safety reasons but only on the agreement of Council.
2. As the construction site is within an existing operational school, a construction management plan shall form part of the application for a Construction Certificate. The Construction Management Plan shall include:
* A nominated development area shall be established, which shall include the construction zone, materials storage and construction access.
* Measures to ensure that the development, including access routes for construction across the site, do not impact on the safety or functioning of the school during the construction process.
* Stockpiles of topsoil, sand, aggregate, spoil or other building materials, and temporary structures (such as site sheds and toilets) shall be stored wholly within the nominated development area within the subject property and clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site..
* Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken within the development area , with pollutants contained on site.
* Builders waste generated under this consent (including felled trees, tree stumps and other vegetation) must not be burnt or buried on site.
* A garbage receptacle must be provided on the work site before construction works commence and must be maintained until the building works are completed. The receptacle must have a tight fitting lid or other suitable measure to prevent waste from leaving the site during weather events. All waste (including building waste, food scraps/ waste, papers) must be contained in the garbage receptacle and removed to an approved Waste Disposal Depot. In the case of vegetation, it is to be mulched for re-use on the site, with the exception of environmental and declared noxious weeds.
* The approval of Council under the Roads Act 1993 is to be obtained prior to the placement of any materials or temporary structures on Council land
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| Workers amenities |  | Before work starts, toilet facilities must be provided for construction personnel on the site. Amenities are to be installed and operated in an environmentally responsible and sanitary manner, within the nominated development area.  |

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| Erosion & sediment controls |  | To preserve the unique environment of the Blue Mountains and to contain soil and sediment on the property, controls in accordance with the Development Control Plan are to be implemented prior to clearing of the site vegetation and the commencement of site works. This will include:* The installation of a sediment fence with returned ends across the low side of the site so that all water flows through. These shall be maintained at no less than 70% capacity at all times. Drains, gutters, roadways etc., shall be kept clean and free of sediment.
* To prevent the movement of soil off site, a single entry/exit point to the property shall be constructed of 40mm blue metal aggregate or recycled concrete to a depth of 150mm. The length must be at least 5 metres with the width at least 3 metres.

Soil erosion fences shall remain and must be maintained until all disturbed areas are restored by turf, paving or revegetation. |

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| Aboriginal Heritage – Unexpected Finds |  | In the event that an Aboriginal object is identified, all work must stop in the general vicinity of the land and an archaeologist should be contacted to assess the object and, if confirmed, advise on the requirements for an Aboriginal Heritage Impact Permit under section 90 of the *NPW Act*. |

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| Limit of vegetation removal |  | No trees or other vegetation is to be removed or pruned unless such works are permitted by this development consent, including approved plans and consent conditions, or such works comprise weed removal as permitted by DCP 2015 Part C2.3 or prior written approval from Council is obtained.Only trees and other vegetation located within the following areas or under the following circumstances may be removed:1. Trees identified for removal on the Landscape plan,
2. Understorey within the required Asset Protection Zones (APZs) but only the minimum level of slashing, pruning, thinning or removal necessary to comply with NSW Rural Fire Service conditions and guidelines (Planning for Bushfire Protection (PBP) and Standards for Asset Protection Zones). No trees are required or permitted to be removed to comply with the NSW Rural Fire Service Asset Protection zones and
3. trees and vegetation are identified as weed species of the Blue Mountains in DCP 2015 Part C2.3.

The useful life expectancy of trees to be retained is not compromised during the site preparation, construction or the asset protection zone implementation process. |

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| Weed control  |  | Systematic and effective control of all invasive species\* is to be undertaken prior to or concurrently with the commencement of works, in accordance with the approved Weed Management Plan. Techniques used must be consistent with best practice and low impact bushland regeneration techniques, and in accordance with any specifications noted in any approved BMCC weed management strategies or plans available at: <https://www.bmcc.nsw.gov.au/weeds> or as recommended within the Blue Mountains DCP 2015 Part C2.2. The property owner is to ensure control is undertaken on a regular basis to ensure eradication of mature weeds in all areas within the development footprint, including the Asset Protection Zone.\*As identified under the provisions of the *Biosecurity Act 2015* and the Blue Mountains DCP 2015 Part C2.3. |

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| Protection of retained trees  |  | Prior to the commencement of any work on site and in accordance with DCP 2015 Part E4.4, trees to be retained within and adjacent to the construction area are to be protected from accidental damage and other adverse impacts to their root system, trunk and branches during site preparation and approved construction works. Protection measures for the trees identified for retention between the Main Building and proposed building shall be implemented and maintained in accordance with the Arboricultural Management Plan (Tree Protection Plan) which forms schedule 7 of the approved Arboricultural Report.   |

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| Accidental damage to trees  |  | In the event of unauthorised damage to trees to be retained (caused by approved clearing operations, construction or excavation works), necessary repair work is to be undertaken within 48 hours under the guidance of a qualified tree surgeon or horticulturalist. This applies when: 1. roots exceeding 50 mm in diameter and within 3 metres of the trunk of the tree have been cut, ripped, scraped or broken
2. limbs greater than 50 mm in diameter and within 5 metres of the trunk of the tree have been cut, ripped, scraped or broken
3. bark with a total area over 200 square centimetres has been removed from the trunk of the tree in one or more places.

If repair work is impracticable or is attempted and fails, removal of the tree(s) may be undertaken only following written approval from Council. Compensatory planting or additional tree retention in alternative areas (where available) will be a requirement. |

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| Provision of underground services within the Tree Protection Zone |  | The provision of underground services within the Tree Protection Zone (TPZ) of retained trees is to be in accordance with the Australian Standard 4970-2009 Protection of Trees on Development Sites. 1. In the first instance underground services are to be routed outside the established TPZ.
2. Where this is not possible, they must be installed by directional drilling (at least 600 mm deep) or in manually excavated trenches (including the use of pneumatic and hydraulic tools).
3. For any manual excavation, all roots exceeding 50 mm in diameter and within 3 metres of the trunk of the tree are to be retained except where otherwise advised by a qualified consulting arborist.

In the event of unauthorised damage to retained trees, repair work is to be undertaken within 48 hours under the guidance of a qualified tree surgeon or horticulturalist. |

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| Bushland conservation |  | Native vegetation, bedrock outcrops, rock ledges and other natural site features located beyond the footprint of the approved works (including asset protection zones) are to be protected and conserved in their natural condition to preserve and enhance biodiversity values. |

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| Restoration of disturbed areas |  | To prevent sediment leaving the site, all disturbed areas, earthworks and/or batters within the construction zone are to be stabilised and restored immediately it is possible to do so. These areas are to be revegetated with native or other non-invasive groundcover species.Surface treatment and landscaping adjacent to building(s) in bushfire prone areas should be non-combustible, discontinuous and shall reduce the risk of direct flame contact and radiant heat on the development to comply with NSW Rural Fire Service requirements. |

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| APZ fuel reduction implementationPrior to the issue of any occupation certificate |  | Asset Protection Zone (APZ) management is to achieve a balance between biodiversity conservation and the protection of life and property from bushfire. 1. As the Asset Protection Zone is largely located within the footprint of the existing Bush Fire and Vegetation Management Plan for the site, no tree removal is required or permitted to establish the required Asset Protection Zone for this site.
2. Understorey clearing only is permitted for establishment of the approved extension of the Asset Protection Zone to the north and north west of the building.
3. Low impact methods of fuel reduction are used to prevent excessive soil disturbance or damage to trees or other vegetation to be retained.
4. High habitat shrub species (e.g. *Banksia*) are preferentially retained and exotic (e.g. *Pinus radiata*) and high flammability species (e.g. Tea Tree) have been targeted for removal.
5. Burning of vegetative waste generated by the provision and maintenance of the asset protection zone is unacceptable. Waste should be mulched and re-used on the site in landscaping no closer than 3 metres to the dwelling, or cut and dried for use as firewood. Surplus material must be appropriately disposed of at a Council waste management facility. No waste is to be disposed of in bushland areas adjoining the Asset Protection Zone.
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| Protection of threatened species / threatened ecological communities |  | The site is identified as containing, or being adjacent to, habitat for the following threatened species and/or threatened ecological communities:Threatened Ecological Communities: * *Blue Mountains Shale Cap Forest*

Threatened Species: * *Leucopogon fletcheri* subsp. *fletcheri* and
* *Pultenaea villifera*.

These items, their location and habitat are to be kept in good condition at all times and must be protected by the effective implementation of the following impact mitigation measures:1. Implement all recommendations, ameliorative measures, tasks, methods and timeframes outlined within the approved Flora and Fauna Plan, including the update of the existing approved Bushfire and Vegetation Management Plan.
2. Provide permanent wildlife friendly protective fencing
3. Undertake ongoing environmental and noxious weed control in accordance with the approved Weed Management Plan..

The applicant shall undertake any works as directed by Principal Certifier/Council to ensure adequate protection is achieved. **Note -** These items is listed under the Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act, 1999 and/or the NSW Biodiversity Conservation (BC) Act, 2016. Under the EPBC Act and BC Act it is an offence to harm threatened species, threatened ecological communities or their habitats. |

**Prior to the issue of the Occupation Certificate**

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| **Repair of damage** |  | The applicant shall repair or reconstruct any damage to Council infrastructure caused by construction activity relating to the development as required by the Council's Supervising Engineer prior to release of any Occupation Certificate |

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| **Certification – Site stormwater system including rainwater tank and Water Quality Treatment – Construction** |  | The stormwater management system, including rainwater retention and re-use system, water quality treatment device/s and infiltration system must be completed to the satisfaction of the Principal Certifier prior to the issue of an Occupation Certificate. The following documentation is to be submitted prior to the final inspection:* A works as executed plan prepared by a suitably qualified person.
* Certification by the system designer, or other suitably qualified person that the system has been constructed in accordance with the approved plans and will function as intended,
* Any variation to the approved design is to be noted together with any required remedial works to ensure the system will function as intended.
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| **Onsite Stormwater Detention****Positive covenant****(maintenance)** |  | To ensure the rainwater tank(s) and water quality treatment device/s are satisfactorily maintained, the Principal Certifier shall be satisfied that a covenant under Section 88E of the Conveyancing Act, 1919 has been registered over the property.The terms of the 88E Instrument with positive covenant shall include, but not be limited to, the following:a. The Proprietor of the property shall agree to be responsible for keeping clear and the maintenance of all tanks, pits, pipelines, trench barriers and other structures.b. The registered Proprietor shall indemnify the Council and any adjoining landowners against damage to their land arising from the failure of any component of the OSD or failure to clean, maintain and repair the OSD.The 88E Instrument shall also contain a provision that it may not be extinguished or altered except by Blue Mountains City Council.The 88E Instrument shall be submitted to Council for endorsement prior to lodgement at NSW Land and Property Information. |

**PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE**

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| Updated Conservation Management plan |  | As the Amended CMP dated August 2022 only addresses the changes to the physical fabric and the site context as part of the submitted document, which is insufficient, the CMP shall be updated to:1. include all the components outlined in Part I3.1.2 of the Blue Mountains DCP 2015.
2. provide an ‘Assessment of significance’ using the accepted criteria and the endorsed heritage inventory sheet.
3. A grading of significance of the various components must be included.
4. The assessment must be comprehensive addressing all the new buildings and their impacts on the collective heritage significance of the site.
5. An investigation of opportunities and constraints for the site must be included that leads to the development of comprehensive Conservation Policies for the site in accordance with the information provided above.

A comprehensive updated CMP that addresses all the components as required in the guiding documents included above must be submitted for approval by Council’s Heritage Advisor prior to the issue of an Occupation Certificate. |

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| Occupation certificate |  | The building must not be used or occupied prior to the issue of any occupation certificate in accordance with sections 6.9 and 6.10 of the *Environmental Planning and Assessment Act 1979*. |

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| Annual fire safety statementEach essential fire safety measure in the building |  | Each year, within 12 months of the previous statement or after a certificate of installation has been issued for the building (whichever is applicable), the owner of the building must submit to Council an annual fire safety statement that must demonstrate that each essential fire safety measure in the building is being maintained.A copy of the statement (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire & Rescue NSW by email at afss@fire.nsw.gov.au. A further copy is to be prominently displayed in the building. |

**ATTACHED – NSW Rural Fire Service General Terms of Approval**



 

