

# Wollongong Local Planning Panel Assessment Report | 20 April 2021

<b>WLPP No.</b>	Item 1
<b>DA No.</b>	DA-2020/1374
<b>Proposal</b>	Designated Development - construction of two (2) sections of The Grand Pacific Walk footpath
<b>Property</b>	341-345 Lawrence Hargrave Drive, CLIFTON NSW 2515 and Lot 11 Lawrence Hargrave Drive, CLIFTON NSW 2515 Lot 1 DP 948600, Lot 11 DP 1137408
<b>Applicant</b>	Wollongong City Council
<b>Responsible Team</b>	Development Assessment & Certification - City Wide Planning Team (AK)
<b>Lodged</b>	1 December 2020

## ASSESSMENT REPORT AND RECOMMENDATION

### Executive Summary

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#### Reason for consideration by Local Planning Panel – Determination

The proposal has been referred to the Local Planning Panel for **determination** pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Schedule 2 Clause 4 (a) of the Local Planning Panels Direction, the proposal is designated development. The works are located within the mapped Littoral Rainforest Area pursuant to the SEPP (Coastal Management) 2018.

The proposal is also referred to the Local Planning Panel for **determination** pursuant to Schedule 2 Clause 1(a) of the Local Planning Panels direction, as the land is owned by Wollongong City Council, and Council is the applicant.

#### Proposal

The proposed development is part of the wider works schedule associated with the Grand Pacific Walk. As a result of the Littoral Rainforest overlays the proposed works relate to the areas located within these identified Littoral Rainforest. The works proposed are as follows:

- Minor demolition works.
- Construction of new concrete footpaths with varying widths (minimum 2.4m wide)
- Construction of new kerb and gutter along Lawrence Hargrave Drive.
- Minor landscaping works associated with footpaths and kerb & gutter.
- Construction of new bus stop concrete slab and installation of relocated bus shelter

The proposal is considered Designated Development in accordance with Part 2, Division 1, Section 10(2) of the SEPP (Coastal Management) 2018 as works are proposed within an area identified as Littoral Rainforests. As such, the application must be made in accordance with the requirements of Part 4, Division 4.3 (4.10 & 4.12(8)) and associated Regulations 2000. Secretary's Environmental Assessment Requirements (SEARs) must also be obtained in accordance with Schedule 2 of the EP&A Regulations 2000. The form and set out of the EIS must also be prepared in accordance with Schedule 2 of the EP&A Regulations 2000 and the issued SEARs.

## **Permissibility**

The proposed footpath and associated infrastructure works are located wholly within the SP2 zoned road reserve and are considered permissible in this instance. It is also noted that the proposed works are adjoining and related to two other Council owned lots zoned RE1 Public Recreation and E2 Environmental Conservation.

## **Consultation**

The application was exhibited in accordance with Council's Community Participation Plan 2019 and two (2) submissions were received following notification. The issues raised relate to additional driveway construction and better lighting for safety and security. These concerns are discussed in greater detail at section 1.5 of this report.

The proposal has been referred to Council's Landscape, Geotechnical, Heritage, Environment, and Engineering Officers with conditionally satisfactory and/or no objections advice provided in each instance.

The proposal was referred to the Department of Planning to provide notice of the receipt of Designated Development and the forwarding of submissions received at the conclusion of the exhibition period. No further comments were received.

The proposal was also referred to Transport for NSW pursuant to Clause 101 of the ISEPP for development with frontage to a classified road. TfNSW provided a satisfactory response letter dated 3 March 2021 subject to conditions.

## **Conclusion**

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979, the provisions of the SEPP (Coastal Management) 2018, Wollongong Local Environmental Plan 2009, and all relevant Council DCPs, Codes and Policies and found to be satisfactory.

The proposed works relate to the existing road reserve of Lawrence Hargrave Drive and would not be considered inconsistent with the objectives of the SP2 Infrastructure zone.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development. Despite the works being located within the mapped littoral rainforest area, the mapping is inaccurate as it overlays modified land containing a road reserve and disturbed land.

## **RECOMMENDATION**

Development Application DA-2020/1374 be approved subject to the conditions contained in Attachment 4.

## **1 APPLICATION OVERVIEW**

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### **1.1 PLANNING CONTROLS**

The following planning controls apply to the proposal:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulations 2000
- Protection of the Environment Operations Act 1997

#### State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP (Infrastructure) 2007
- SEPP (Coastal Management) 2018
- State Environmental Planning Policy (Koala Habitat Protection) 2020

#### Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

#### Development Control Plans:

- Wollongong Development Control Plan 2009

#### Other policies

- Wollongong City Wide Development Contributions Plan 2020
- Wollongong Community Participation Plan 2019

The proposal is satisfactory with regard to the applicable planning controls as discussed in the body of this report.

### **1.2 DETAILED DESCRIPTION OF PROPOSAL**

The proposed development is part of the wider works schedule associated with the Grand Pacific Walk. As a result of the Littoral Rainforest overlays the proposed works of this application relate only to the portions of the works located within these Littoral Rainforest areas. These minor works proposed are as follows:

- Minor demolition works.
- Construction of new concrete footpaths with varying widths (minimum 2.4m wide)
- Construction of new kerb and gutter along Lawrence Hargrave Drive.
- Minor landscaping works associated with footpaths and kerb & gutter.
- Construction of new bus stop concrete slab and installation of relocated bus shelter

### **1.3 BACKGROUND**

No previous development history is relevant to the subject sites.

The NSW Department of Planning, Industry and Environment (DPIE) has issued Secretary's Environmental Assessment Requirements (SEARs) for the proposal on 30 April 2020. The SEARs outline the requirements to be considered in the preparation of an Environmental Impact Statement (EIS) to be lodged with the development application.

The current application was lodged on 1 December 2020. A pre-lodgement meeting was held for the proposal on 5 October 2020.

#### Customer service actions

There are no outstanding customer service requests of relevance to the development.

### **1.4 SITE DESCRIPTION**

The development area for the proposed works is located on Lawrence Hargrave Drive at two separate road reserve locations (See Figure 1 below). These works have frontages to 341-345 Lawrence Hargrave Drive, CLIFTON NSW 2515 & Lot 11 Lawrence Hargrave Drive, CLIFTON NSW 2515.



**Figure 1: Locality Plan**

As outlined above in Figure 1 the development area is from Moronga Park in the north to the frontage of 347 Lawrence Hargrave Drive in the south. The works proposed as part of this development application “bookend” the extremities of the full extent of the works schedule for the Grand Pacific Walk with the middle portion via Council’s Review of Environmental Factors assessment process via SEPP (Infrastructure) 2007, Division 17 (Road and Traffic) Section 97, and the environmental impacts of these works have been considered in accordance with the requirements of Part 5 of the EP&A Act 1979. This development application has been lodged as the works within the bookends are located within areas identified as Littoral Rainforest which must be assessed via Designated Development.

The lots identified above for the purpose of locating the works within the road reserve are both owned by Council; however, no works are proposed on these lots. As such, no plans of management are impacted by the proposed works.

#### Property constraints

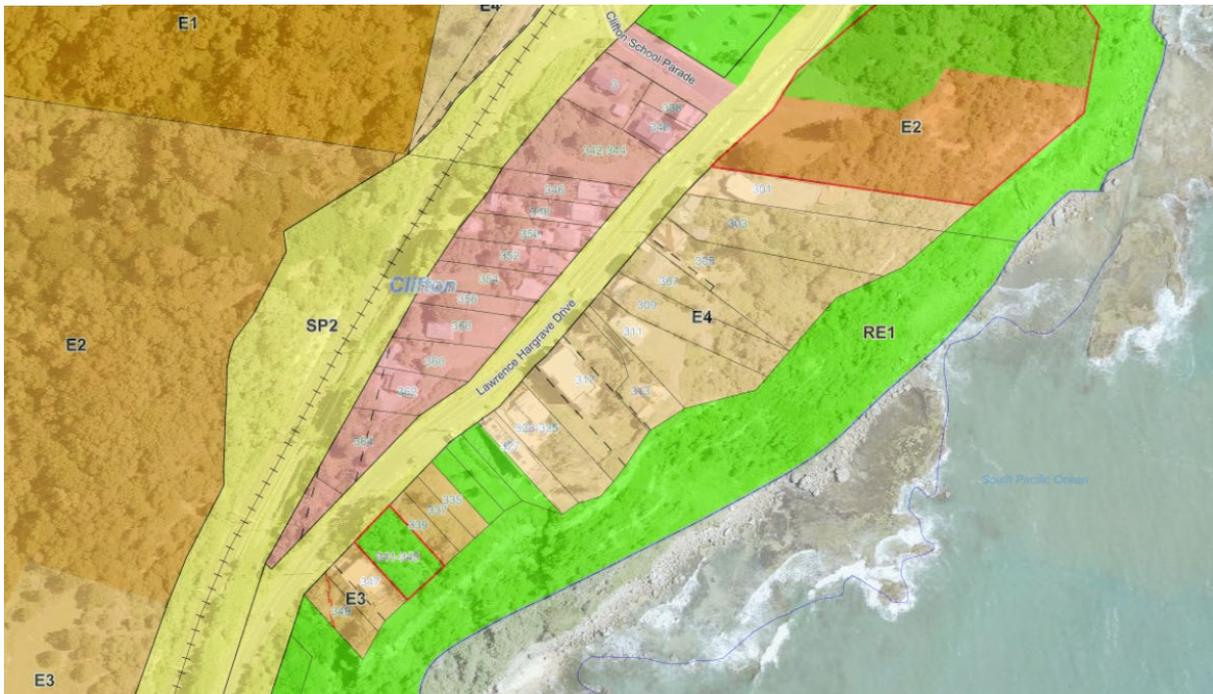
Council records identify the land as being impacted by the following constraints:

- Unstable land
- Acid sulphate soils
- Bushfire
- Coastal Hazards

There are no restrictions on the title.



**Figure 2: Aerial photograph**



**Figure 3: WLEP 2009 zoning map**

### 1.5 SUBMISSIONS

The application was exhibited in accordance with Council’s Community Participation Plan 2019 and the public exhibition requirements of the EP & A Regulation 2000 for designated development. This included a notice in The Advertiser and the installation of a sign at the site. Two (2) submissions were received within the notification period which are addressed below.

**Table 1: Submissions**

Concern	Comment
<p><b>1. Roadway Lighting</b></p> <p>Lighting of the roadway and adjoining footpath should be provided to increase safety and security.</p>	<p>None of the works and frontages identified in the submissions relate to the works proposed as part of this development application. The frontages identified in the submissions have been dealt with separately via Council's Review of Environmental Factors assessment process.</p>
<p><b>2. Kerb &amp; Footpath Design</b></p> <p>Rolled kerb should be extended from the Clifton Hotel redevelopment to the frontages of 305 to 313 LHD.</p> <p>The footpath height now established by the works at the Clifton Hotel may have adverse impacts on the surrounding residential driveway slopes.</p> <p>It is requested that an additional vehicle crossing be constructed on the frontage of No. 309 LHD to allow additional car parking spaces to be created onsite.</p>	<p>None of the works and frontages identified in the submissions relate to the works proposed as part of this development application. The frontages identified in the submissions have been dealt with separately via Council's Review of Environmental Factors assessment process.</p>

## 1.6 CONSULTATION

### 1.6.1 INTERNAL CONSULTATION

Details of the proposal were referred to Council's Geotechnical, Landscape, Heritage, Environment, Development Engineering and Contributions Officers for assessment. Satisfactory referral advice, comments and/or recommended conditions were provided in each instance.

### 1.6.2 EXTERNAL CONSULTATION

#### Department of Planning, Industry and Environment

The application is identified as designated development and notice of receipt of the application was provided to the Department. In accordance with Section 4.10 of the EP&A Act 1979, the applicant obtained SEARs which outlined the statutory matters that must be included in any EIS. It is considered the application has been prepared in accordance with these requirements and was referred to the Department following lodgement for public exhibition in accordance with Clause 50(6) of the EP&A Regulation 2000. At the conclusion of the exhibition period two (2) submissions were received and the Department was also notified of this outcome as required by S81 of the Regulations via the Planning Portal process. No further comments were received.

#### Transport for NSW (TfNSW)

A referral was sent to TfNSW and a satisfactory response was received on 3 March 2021, subject to conditions which are included as part of the conditions at Attachment 4.

#### Sydney Trains

A referral was sent to Sydney Trains and a response was received via the Planning Portal outlining that a decision was not required. No conditions of consent were recommended.

## 2 NSW BIODIVERSITY CONSERVATION ACT 2016

Section 1.7 of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents and approvals under this Act.

Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. For the subject site, entry into the offset scheme would be triggered by clearing of an area greater than 0.25 hectares based upon the minimum lot size of the WLEP 2009 R2 zoned land (i.e. less than 1 hectare minimum lot size).

No native vegetation is proposed to be cleared for the development and as the minimum subdivision lot size for the land under WLEP 2009 is 449sqm the proposal does not trigger the requirement for a biodiversity offset scheme.

However, as the two development areas are identified as being Littoral Rainforest the site is identified as being of high biodiversity value on the Biodiversity Values Map as outlined below at Figure 4.



**Figure 4 - Biodiversity Values Map**

Council's Environmental Assessment Officer has considered whether the development site would potentially provide suitable habitat for any threatened species and the test of significance and has concluded that the proposed development is not expected to likely significantly affect threatened species or ecological communities, or their habitats. The development proposed would not be considered a key threatening process. No trees are proposed for removal and the development would therefore not be considered to result in adverse impacts on biodiversity and is consistent with the provisions of the Biodiversity Conservation Act 2016.

### **3 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION**

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#### DESIGNATED DEVELOPMENT

Section 4.10 of the EP&A Act 1979 states that Designated Development is development that is declared to be Designated Development by an environmental planning instrument or the regulations. Section 10(2) of the SEPP (Coastal Management) 2018 outlines that any works within an area identified as Littoral Rainforest is considered Designated Development.

Section 4.13 of the Act sets out notification requirements for designated development which have been followed in assessment of the subject application. Section 77 of the Regulation states that the consent authority must give written notice of a development application for designated development to such public authorities (other than relevant concurrence authorities or approval bodies) as, in the opinion of the consent authority, may have an interest in the determination of that development application. The NSW Department of Planning, Industry & Environment, Sydney Trains and Transport for NSW were sent referrals for the proposed works.

Sections 78 to 80 of the Regulation include requirements for notification of designated development applications to relevant agencies and the general public. These requirements have been observed. Section 81 of the Regulation requires that the consent authority must, immediately after the relevant submission period, forward to the Director-General a copy of all submissions received in response to the public exhibition of a development application for designated development. In this instance two (2) submissions were received which were provided to the Department and referral agencies via the Planning Portal upload process.

Section 4.12 of the EP&A Act states that a development application for State significant development or designated development is to be accompanied by an environmental impact statement prepared by or on behalf of the applicant in the form prescribed by the regulations.

Schedule 2 of the EP&A Regulation relates to environmental impact statements whilst clause 6 & 7 relate to the form and content of the EIS. It is considered that the submitted EIS and supporting information accompanying the development application reasonably contains the form and content requirements as identified in clauses 6 and 7 of Schedule 2 of EP&A Regulation and the matters identified in the issued SEARs.

It is noted that the EIS accompanying the development application was lodged on 1 December 2020, prior to the expiry date of the issued SEARs.

#### **3.2SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT**

##### 3.2.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

###### 7 Contamination and remediation to be considered in determining development application

- (1) *A consent authority must not consent to the carrying out of any development on land unless—*
  - (a) *it has considered whether the land is contaminated, and*
  - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is—*
- (a) *land that is within an investigation area,*
  - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
  - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—*
    - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
    - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

The proposed area of works is wholly located within the road reserve of Lawrence Hargrave Drive. The Environmental Impact Assessment indicates that fill material comprising local soils was identified onsite. Council's Environment Officer has reviewed the application submission and is satisfied subject to conditions of consent. These conditions relate to disposal of excess excavated material and an unexpected finds protocol.

No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 7.

### 3.2.2 STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2020

The City of Wollongong is identified within Schedule 1 as land to which this Policy applies. Wollongong is located within the South Coast Koala Management Area.

Part of the subject site is mapped as being within the Site Investigation Area for Koala Plans of Management pursuant to the SEPP Maps. This mapping is provided as a tool for Council in developing Koala Plans of Management and does not apply to the development application process. Council does not have an approved Koala Plan of Management for the land at the time of preparing this report, and as such, no further consideration of this SEPP is required.

It is also noted that no tree removal is proposed as the construction works are located in cleared areas of the road reserve.

### 3.2.3 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Lawrence Hargrave Drive is a classified road and the proposed development has been assessed against the provisions of the State Environmental Planning Policy (Infrastructure) 2007. In particular, clause 101 - Development with frontage to classified road as outlined below:

(1) *The objectives of this clause are—*

- (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

(2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
  - (i) the design of the vehicular access to the land, or*
  - (ii) the emission of smoke or dust from the development, or*
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Council's Development Engineer has reviewed the application in relation to the proposed works within the road reserve and impacts on the road network and is satisfied subject to conditions. A referral has also been sent to TfNSW who was satisfied subject to conditions.

Overall, the application has been considered against the provisions of Clause 101 of the ISEPP and is considered consistent with the objectives of the control and that the development will maintain practicable and safe vehicle access and that safe and efficient ongoing operation of Lawrence Hargrave Drive will remain.

#### 3.2.4 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

##### 3 Aim of Policy

*The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:*

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

##### 5 Land to which Policy applies

*This Policy applies to land within the coastal zone.*

##### 7 Relationship with other environmental planning instruments

- (1) In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.*
- (2) This Policy does not apply to land within the Lease Area within the meaning of State Environmental Planning Policy (Three Ports) 2013.*

## **Part 2 Development controls for coastal management areas**

### Division 1 Coastal wetlands and littoral rainforests area

#### 10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) The following may be carried out on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*

- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
- (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
- (c) *the carrying out of any of the following:*
  - (i) *earthworks (including the depositing of material on land),*
  - (ii) *constructing a levee,*
  - (iii) *draining the land,*
  - (iv) *environmental protection works,*
- (d) *any other development.*

*Note. Clause 17 provides that, for the avoidance of doubt, nothing in this Part:*

- (a) *permits the carrying out of development that is prohibited development under another environmental planning instrument, or*
  - (b) *permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.*
- (2) *Development for which consent is required by subclause (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.***
- (3) *Despite subclause (1), development for the purpose of environmental protection works on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map may be carried out by or on behalf of a public authority without development consent if the development is identified in:*
    - (a) *the relevant certified coastal management program, or*
    - (b) *a plan of management prepared and adopted under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993, or*
    - (c) *a plan of management approved and in force under Division 6 of Part 5 of the Crown Lands Act 1989.*
  - (4) *A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.*
  - (5) *Nothing in this clause requires consent for the damage or removal of a priority weed within the meaning of clause 32 of Schedule 7 to the Biosecurity Act 2015.*
  - (6) *This clause does not apply to the carrying out of development on land reserved under the National Parks and Wildlife Act 1974 if the proposed development is consistent with a plan of management prepared under that Act for the land concerned.*

**Comment:**

The proposed works are located in areas identified as Littoral Rainforest and as such development consent is required in accordance with Clause 10(1). Additionally, as development consent is required Clause 10(2) outlines that development, other than environmental protection works, is declared designated development. Consequently, the application has been lodged as Designated Development and Secretary’s Environmental Assessment Requirements (SEARs) obtained and reviewed as part of the Environmental Impact Assessment (EIS) lodged.

The application has been assessed with regards to the aims of the SEPP and the provisions of Clause 10. Council's Environment Officer has also reviewed the application with regards to the SEPP and is satisfied subject to conditions. It is noted that ground truthing identifies that the site does not contain Littoral Rainforest, instead containing planted vegetation, both native and exotic.

Overall, the works proposed within the area identified as Littoral Rainforest are considered minor and will not have adverse impacts on the biophysical, hydrological and ecological integrity of the area.

#### 11 Development on land in proximity to coastal wetlands or littoral rainforest

*Note. The Coastal Wetlands and Littoral Rainforests Area Map identifies certain land that is inside the coastal wetlands and littoral rainforests area as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" or both.*

*(1) Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*

*(a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*

*(b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

*(2) This clause does not apply to land that is identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map.*

#### **Comment:**

Small portions of the works not located within the Littoral Rainforest area fall into the adjacent proximity area. The works proposed within these areas are minor and include a small portion of concrete footpath on the Moronga Park frontage. These minor works have been assessed against the provisions of Clause 11 and it is considered that the proposed development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent littoral rainforest or the quantity and quality of any water flows to and from the adjacent littoral rainforest area.

Council's Environment and Engineering Officer's have also reviewed the application and are satisfied subject to conditions outlined at Attachment 4.

#### 12 Development on land within the coastal vulnerability area

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

*(a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*

*(b) the proposed development:*

*(i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and*

*(ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*

*(iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*

- (c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.*

**Comment:**

The proposed works have been assessed against the provisions of Clause 12 and it is considered that they will be appropriately engineered to withstand current and projected coastal hazards, and will not alter coastal processes, impede public access to coastal features whilst ensuring appropriate measures are in place to respond and manage any anticipated future processes and coastal hazards. It is also noted that the design incorporates measures to manage risk to life and public safety related to coastal hazards. Overall, it is considered that the proposed works will act to enhance management of coastal hazards, public access and hazards.

**Division 3 Coastal environment area**

**13 Development on land within the coastal environment area**

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) coastal environmental values and natural coastal processes,*
  - (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (f) Aboriginal cultural heritage, practices and places,*
  - (g) the use of the surf zone.*
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
  - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

**Comment:**

All works are proposed within the Coastal Environment Area. The proposed works have been considered against the provisions of Clause 13 and are considered acceptable as no adverse impacts will result. The proposed works have also been assessed by Council's Environment Officer who is satisfied subject to conditions outlined at Attachment 4.

## **Division 4 Coastal use area**

### 14 Development on land within the coastal use area

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
    - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
    - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
    - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
    - (iv) *Aboriginal cultural heritage, practices and places,*
    - (v) *cultural and built environment heritage, and*
  - (b) *is satisfied that:*
    - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
    - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
    - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
  - (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*
- (2) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

### **Comment:**

All works are proposed within the Coastal Use Area. Due to the very minor nature of the works it is considered that no adverse impacts will result in relation to access, shadowing, view loss/amenity, heritage matters. The proposed works have also been assessed by Council's Environment Officer who is satisfied subject to conditions outlined at Attachment 4.

## **Division 5 General**

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

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

### 16 Development in coastal zone generally—coastal management programs to be considered

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

### 17 Other development controls not affected

*Subject to clause 7, for the avoidance of doubt, nothing in this Part:*

- (a) *permits the carrying out of development that is prohibited development under another environmental planning instrument, or*

- (b) *permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.*

#### 18 Hierarchy of development controls if overlapping

*If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:*

- (a) *the coastal wetlands and littoral rainforests area,*  
(b) *the coastal vulnerability area,*  
(c) *the coastal environment area,*  
(d) *the coastal use area.*

#### **Comment:**

The proposed works have been reviewed in relation to Clauses 15 to 18 above and is considered acceptable in this instance. It is noted that Clause 18 sets out the hierarchy of development controls when overlapping occurs which is the case in this instance. As a matter of completeness each of the controls above have been considered which are considered satisfactory.

#### **NSW Coastal Management Act 2016 and Wollongong Coastal Zone Management Plan**

On 30 October 2017, Council endorsed the final draft of the Wollongong Coastal Zone Management Plan for resubmission to the NSW Minister for Environment for certification. The draft Plan was certified on 20 December 2017.

At the Council meeting of 19 February 2018, Council resolved that the certified final draft be adopted. Council's Notice was published in the NSW Gazette No 25 of 9 March 2018 and a community briefing on the implications arising from Council adopting and gazetting the plan have been undertaken.

The NSW Coastal Management Act 2016 came into force on 3 April 2018. Under the Act any existing certified CZMP's continue in force until 31 December 2021.

A review of Council's associated CZMP coastal hazard mapping extents identifies that no specific actions within the plan relate to the proposal. The subject site maybe impacted by coastal geotechnical risk. During the preparation of the architectural and engineering design Council's Geotechnical Section has been consulted and advice considered. It is considered that the proposed development has adequately considered the geotechnical risk for the site and associated costal hazards.

The proposal is therefore considered satisfactory with regard to the aims outlined in clause 3 of this policy and the matters outlined for consideration.

#### **3.2.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009**

##### Clause 1.4 Definitions

**road** means a public road or a private road within the meaning of the [Roads Act 1993](#), and includes a classified road.

#### **Part 2 Permitted or prohibited development**

##### Clause 2.2 – zoning of land to which Plan applies

**All proposed works are located in the SP2 Infrastructure zone.** However, the lots which adjoin the two work areas and are formally linked to the proposed development are RE1 Public Recreation &

E2 Environmental Conservation in the north, and RE1 Public Recreation and E3 Environmental Management in the south.

### Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

#### **SP2 – Infrastructure**

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To provide for key transport corridors.*

#### **RE1 – Public Recreation**

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To cater for the development of a wide range of uses and facilities within open spaces for the benefit of the community.*

#### **E2 - Environmental Conservation**

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*
- *To retain and enhance the visual and scenic qualities of the Illawarra Escarpment.*
- *To maintain the quality of the water supply for Sydney and the Illawarra by protecting land forming part of the Sydney drinking water catchment (within the meaning of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011) to enable the management and appropriate use of the land by Water NSW.*

#### **E3 – Environmental Management**

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*

The proposal has been considered against the objectives of each zoning as outlined above and is satisfactory in this instance. The proposed works are located in the SP2 (Infrastructure) zone.

The SP2 land use table permits the following uses in the zone.

*Aquaculture; The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Advertising structures; Business identification signs; Centre-based child care facilities; Community facilities; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; **Roads***

The proposal is categorised as **roads** (road reserve works) as defined above and is permissible in the SP2 zone with development consent. No roads are proposed within the adjoining E2 zone.

## **Part 5 Miscellaneous provisions**

### Clause 5.10 Heritage Conservation

The northern extent of the proposed works is located on the frontage of Moronga Park & Cliff Vegetation (item no. 6347) and the Clifton School of Arts (item no. 6132) which are both listed as items of local heritage significance in Schedule 5 (Environmental heritage) of WLEP 2009. Council's Heritage Officer has reviewed the application submission and is satisfied that the works proposed as part of the development application are satisfactory. Council's Heritage Officer has also advised that an AHIMs search has been undertaken and no known Aboriginal Heritage sites are within the works area, and that the Illawarra Aboriginal Land Council was invited to comment on the proposed works through the engagement process outlined in the SEARs issued. No response was received.

Overall, based on the minor nature of the works proposed the development is considered appropriate with regards to the provisions of Clause 5.10 of WLEP 2009.

## **Part 7 Local provisions – general**

### Clause 7.2 Natural resource sensitivity – biodiversity

Council records indicate the area of proposed works is identified as being located within the Natural Resource Sensitivity – Biodiversity area which is consistent with the Coastal SEPP mapping addressed above for Littoral Rainforest.

The application was referred to Council's Environment Officer to assess likely impacts of the proposal and it was noted that the proposal is located primarily within the road reserve and that no trees are proposed for removal. Conditions of consent have been recommended as outlined in Attachment 4.

Overall, the provisions of Clause 7.2 are considered satisfied.

### Clause 7.5 Acid Sulfate Soils

The proposal is identified as being potentially affected by class 5 acid sulphate soils. However, due to the elevation of the area of proposed works it is unlikely that any acid sulphate soils will be encountered. Council's Environment Officer has reviewed the application submission and raised no concerns with regards to acid sulphate soils. The provisions of Clause 7.5 are considered satisfied in this instance.

### Clause 7.6 Earthworks

The proposal comprises minor earthworks associated with the widening of footpaths and construction of kerb and gutter, screw piles and resurfacing of the southbound travel lane. The earthworks are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features of the surrounding land. The provisions of Clause 7.6 are considered satisfied in this instance.

### Clause 7.7 Foreshore building line

The proposed works are not located within the foreshore building lines which are located on properties adjoining the area of works.

### Clause 7.8 Illawarra Escarpment area conservation

The proposed area of works is located directly adjoining Moronga Park which is identified as being located within the Illawarra Escarpment Area. However, as the proposed works are minor and are not located within the escarpment area the provisions of Clause 7.8 are not prejudiced in this instance.

### 3.3 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

None proposed.

### 3.4 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

#### 3.4.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

##### CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Development controls to improve the sustainability of development throughout Wollongong are integrated into the relevant chapters of this DCP.

Generally speaking, the proposal is considered to be consistent with the principles of Ecologically Sustainable Development.

##### CHAPTER D1 – CHARACTER STATEMENTS

###### Clifton

###### Existing Character

*Clifton is a compact seaside village situated upon a relatively narrow strip of coastal plain, between the coastal cliff line and the Illawarra Escarpment.*

*Clifton village is characterised by a very low residential density comprising predominantly of single storey detached weatherboard or brick wall detached dwelling-houses with pitched rooflines. The majority of the properties in Clifton have direct frontage to Lawrence Hargrave Drive as well as expansive coastal or escarpment views.*

*Clifton village also contains a number of heritage items namely, the Imperial Hotel, the School of Arts building, a former school residence at Clifton School and a stand of Norfolk Island Pines along Lawrence Hargrave Drive. Moronga Park and Rube Hargrave Park are also located in the village.*

###### Desired Future Character

*Clifton should retain its low density village character. Therefore, any alterations and additions to existing dwellings or the erection of new dwelling-houses must be sympathetic with the streetscape character of the village, especially neighbouring dwellings.*

*Any new dwelling should be individually designed with a coastal theme, typically with a weatherboard or rendered brick construction in off-white, beige, light to mid brown, light to mid blue or light grey coloured finishes.*

*The configuration of new dwellings on the eastern side of Lawrence Hargrave Drive should be designed to maximise view sharing opportunities for dwellings on the opposite western side of Lawrence Hargrave Drive. This may be achieved by way of staggering of the building form including the possible narrowing of first floor storeys and minimising the overall height of dwellings by incorporating sloping flat or gently pitched roofline forms, where necessary.*

*The use of lightly framed balconies and verandahs, rather than plain masonry balustrading is required. All balconies should be designed to minimise any potential amenity or privacy impacts upon the habitable rooms of the dwellings or private courtyard areas of adjoining properties.*

###### **Comment:**

The proposed works consistent of minor footpath and associated road reserve modifications to facilitate the expansion of the Grand Pacific Walk. As such, the proposal is considered to be consistent with the existing and desired future character for the locality.

##### CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

All footpath works are designed to satisfy the requirements of Chapter E1. A condition of consent requiring compliance with the Disability Discrimination Act is recommended at Attachment 4.

## **CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposed area of works has been assessed against the provisions of Chapter E2 and are considered satisfactory in this instance. The proposed works are of a minor nature and will facilitate the extension of the Grand Pacific Walk through the village of Clifton. The design will allow for designated footpaths to be located along the frontages of existing development throughout the area which will improve natural surveillance whilst also improve public safety and access.

## **CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT**

Council's Development Engineering Officer has reviewed the application submission and is satisfied with regards to the controls outlined in Chapter E3. The proposed works are minor and are included as part of the larger expansion of the Grand Pacific Walk through Clifton Village.

The proposed development has also been referred to Transport for NSW who have reviewed the application submission and are satisfied subject to conditions of consent as outlined below at Attachment 4.

## **CHAPTER E6: LANDSCAPING**

The proposed development has been reviewed by Council's Landscape Officer who is satisfied subject to conditions which are outlined at Attachment 4.

## **CHAPTER E7: WASTE MANAGEMENT**

A Site Waste Minimisation and Management Plan has been provided in accordance with this chapter.

## **CHAPTER E10 ABORIGINAL HERITAGE**

Council's Heritage Officer has reviewed the application with regard to Aboriginal Heritage matters and has identified that no known Aboriginal Heritage Sites are located within the vicinity of the proposed work areas. It has also been noted that the Illawarra Aboriginal Land Council have been invited to comment as part of the engagement process outlined in the issued SEARs.

## **CHAPTER E11 HERITAGE CONSERVATION**

The northern extent of the proposed works is located on the frontage of Moronga Park & Cliff Vegetation (item no. 6347) and the Clifton School of Arts (item no. 6132) which are both listed as items of local heritage significance in Schedule 5 (Environmental heritage) of WLEP 2009. Council's Heritage Officer has reviewed the application submission and is satisfied that the works proposed as part of the development application are satisfactory.

Overall, based on the minor nature of the works proposed the development is considered appropriate with regards to the controls outlined in Chapter E11 of WDCP 2009.

## **CHAPTER E12 GEOTECHNICAL ASSESSMENT**

The proposed works are located in a geotechnically unstable area. During the preparation of the architectural and engineering design Council's Geotechnical Section has been consulted and recommendations implemented. A geotechnical report has been provided as part of the application submission and the recommendations of this report have been included as conditions of consent outlined at Attachment 4.

## **CHAPTER E14 STORMWATER MANAGEMENT**

Council's Development Engineering Officer has reviewed the application submission with regards to Chapter E14 and is satisfied subject to conditions of consent as outlined at Attachment 4.

## **CHAPTER E17 PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION**

The application has been assessed with regards to trees located within proximity of the development area. All trees are proposed for retention as part of the application and an Arborist

Report has been submitted. The application has also been assessed by Council's Landscape Officer who is satisfied subject to conditions outlined at Attachment 4.

#### **CHAPTER E18 THREATENED SPECIES**

The application submission has been assessed by Council's Environment Officer in relation to Chapter E18 of WDCP 2009. It was noted that the site is mapped as endangered Littoral Rainforest. However, ground truthing has shown that the site does not contain Littoral Rainforest, instead containing planted vegetation, both native and exotic. This is confirmed by the *Ecological assessment for the Grand Pacific Walk project, Clifton* (SMEC, 10 July, 2020). The report found that the overall exotic vegetation cover at the site was greater than 90%.

The proposal is primarily located within the existing road verge and all trees are to be retained. The proposal is also not expected to significantly impact upon any threatened species or native vegetation.

Council's Environment Officer has also confirmed that the site is identified on the Biodiversity Values Map due to being mapped as Littoral Rainforest under the Coastal Management SEPP, however no vegetation is proposed to be removed and as such the proposal does not trigger entry into the Biodiversity Offsets Scheme (BOS).

#### **CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)**

The proposal comprises minor earthworks associated with the widening of footpaths and construction of kerb and gutter, screw piles and resurfacing of the southbound travel lane. The earthworks are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features of the surrounding land. As such, the controls outlined in Chapter E19 of WDCP 2009 are considered satisfied in this instance.

#### **CHAPTER E20 CONTAMINATED LAND MANAGEMENT**

See Section 3.2.1 above for details.

#### **CHAPTER E21 DEMOLITION AND HAZARDOUS BUILDING MATERIALS MANAGEMENT**

Council's Environment Officer has reviewed the application submission in relation to Chapter E21 and is satisfied subject to conditions outlined at Attachment 4. These recommended conditions include the requirement for waste classification of any excess excavated material and unexpected find protocol relating to works within the road reserve.

#### **CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL**

Conditions of consent are recommended at Attachment 4 in regard to appropriate sediment and erosion control measures to be in place during works.

#### **3.4.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2020**

The submitted EIS includes a request for an exemption under section 3.4.1 of the plan. Council's Development Contributions Officer has reviewed this exemption request and has advised that the proposed development meets the requirements to obtain an exemption from development contributions. As such, no contributions will be imposed on this application.

#### **3.5 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4**

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

### **3.6 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)**

92 What additional matters must a consent authority take into consideration in determining a development application?

Appropriate conditions with regards to demolition have been included at Attachment 4.

93 Fire safety and other considerations

Not applicable.

94 Consent authority may require buildings to be upgraded

Not applicable.

### **3.7SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT**

#### Context and Setting:

The proposed development is located within the road reserve of Lawrence Hargrave Drive toward either end of the village and consists of the construction of new footpaths and associated infrastructure works to facilitate the expansion of the Grand Pacific Walk. The northern extent of the works is adjacent to Moronga Park which is a public open space allowing views toward Sea Cliff Bridge and associated coastal environments. The southern proposed works are located adjoining a vegetated lot owned by Council and a dwelling house located at no. 347 Lawrence Hargrave Drive.

The proposed works are considered minor as they relate to upgrades to the footpaths along Lawrence Hargrave Drive and raised decking pathways. Due to the minor nature of the proposed works they will have no adverse impact on the surrounding context and setting of the area.

#### Access, Transport and Traffic:

Council's Development Engineering Officer has reviewed the application submission and is satisfied that no adverse impacts will result to the access, transport and traffic of the surrounding area. The proposed works are minor and are included as part of the larger expansion of the Grand Pacific Walk through Clifton Village.

The proposed development has also been referred to Transport for NSW who have reviewed the application submission and are satisfied subject to conditions of consent.

#### Public Domain:

There will be no adverse impacts on the public domain as a result of the proposed development.

#### Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply.

#### Heritage:

The northern extent of the proposed works is located on the frontage of Moronga Park & Cliff Vegetation (item no. 6347) and the Clifton School of Arts (item no. 6132) which are both listed as items of local heritage significance in Schedule 5 (Environmental heritage) of WLEP 2009. Council's Heritage Officer has reviewed the application submission and is satisfied that the works proposed as part of the development application are satisfactory. Council's Heritage Officer has also advised that an AHIMs search has been undertaken and no known Aboriginal Heritage sites are within the works area, and that the Illawarra Aboriginal Land Council was invited to comment on the proposed works through the engagement process outlined in the SEARs issued. No response was received.

Overall, based on the minor nature of the works proposed the development is considered appropriate and no adverse impact will result to the heritage of the surrounding area.

Other land resources:

The proposal is considered to contribute to orderly development of the site and is not envisaged to impact upon any valuable land resources.

Water:

The proposal is not envisaged to have unreasonable water consumption.

Soils:

There will be no adverse impact to the soils of the proposed works area or the surrounding sites as a result of the proposed development.

Air and Microclimate:

The proposal is not expected to have negative impact on air or microclimate.

Flora and Fauna:

There is no vegetation removal proposed.

Waste:

A condition will be attached to any consent granted that an appropriate receptacle be in place for any waste generated during the construction.

Energy:

The proposal is not envisaged to have unreasonable energy consumption.

Noise and vibration:

A condition will be attached to any consent granted that nuisance be minimised during any construction, demolition, or works.

Natural hazards:

Council records list the site as bushfire affected. However, based on the minor nature and classification of the works no adverse impact will result. It is also noted that consultation with the NSW RFS was carried out and no matters were raised.

Technological hazards:

A review of Council records lists the site as unstable land affected and acid sulphate soil affected. These matters have been considered by Council's Geotechnical Engineer and Environment Officer who are satisfied that no adverse impact will result.

Safety, Security and Crime Prevention:

This application does not result in opportunities for criminal or antisocial behaviour.

Social Impact:

The proposal is not expected to have adverse social impacts.

Economic Impact:

The proposal is not expected to create negative economic impact.

Site Design and Internal Design:

The application does not result in departures from development standards or variations to Council's development control plans as outlined above.

Construction:

Conditions of consent are recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding.

A condition will be attached to any consent granted that all works are to be in compliance with the Building Code of Australia.

Cumulative Impacts:

The proposal is not expected to have negative cumulative impacts.

### **3.8 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

### **3.9 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS**

See Section 1.3 above.

### **3.10 SECTION 4.15(1)(E) THE PUBLIC INTEREST**

The application is not expected to have unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area is satisfactory with regard to the applicable planning controls. The submissions raised following notification do not warrant any redesign and internal and external referrals are satisfactory subject to appropriate conditions of consent. The proposal is considered to be in the public interest.

As no works are proposed within the Council owned lots adjoining the proposed work areas the prevailing Plan of Management for each lot is not prejudiced.

## **4 CONCLUSION**

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The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979, the provisions of the SEPP (Coastal Management) 2018, Wollongong Local Environmental Plan 2009, and all relevant Council DCPs, Codes and Policies and found to be satisfactory.

The proposed works relate to the existing road reserve of Lawrence Hargrave Drive and would not be considered inconsistent with the objectives of the SP2 Infrastructure zone.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development. Despite the works being located within the mapped littoral rainforest area, the mapping is inaccurate as it overlays modified land containing a road reserve and disturbed land.

## **5 RECOMMENDATION**

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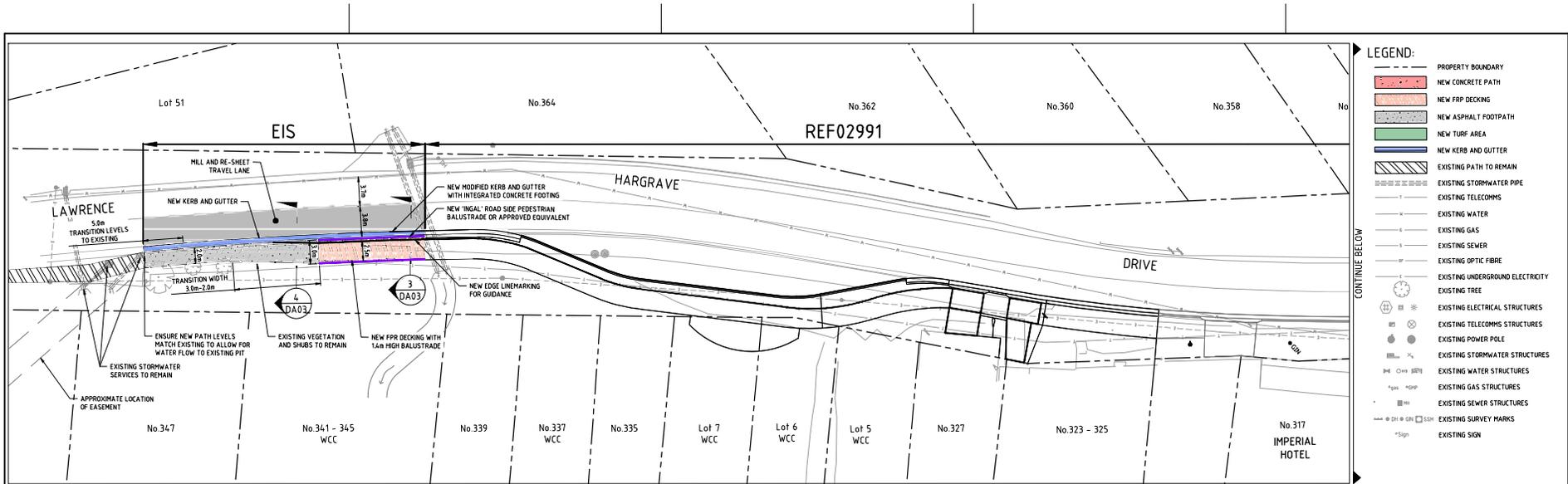
Development Application DA-2020/1374 be approved, subject to the conditions contained in Attachment 4.

## **6 ATTACHMENTS**

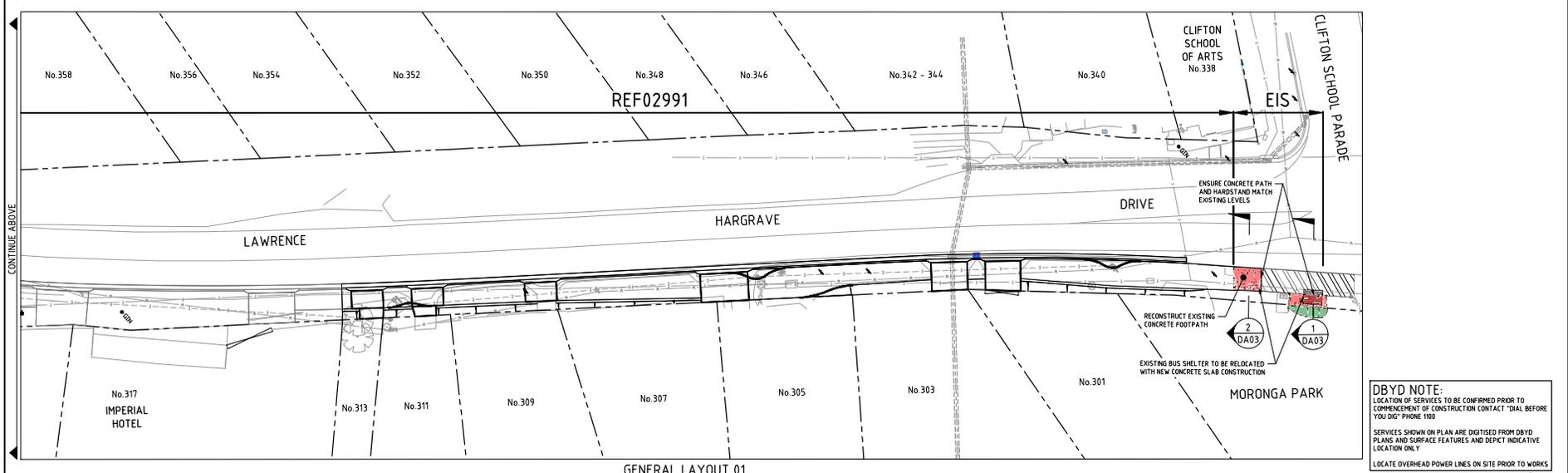
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- 1 Architectural Plans
- 2 Secretary's Environmental Assessment Requirements (SEARs)
- 3 Environmental Impact Assessment Executive Summary
- 4 Conditions of Consent





GENERAL LAYOUT 02  
SCALE 1:250



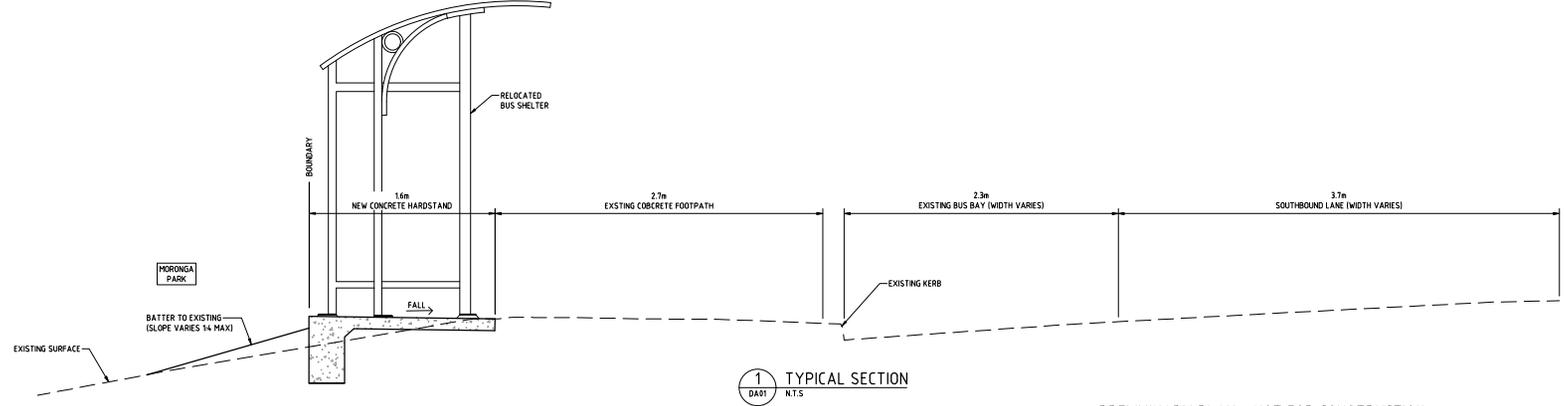
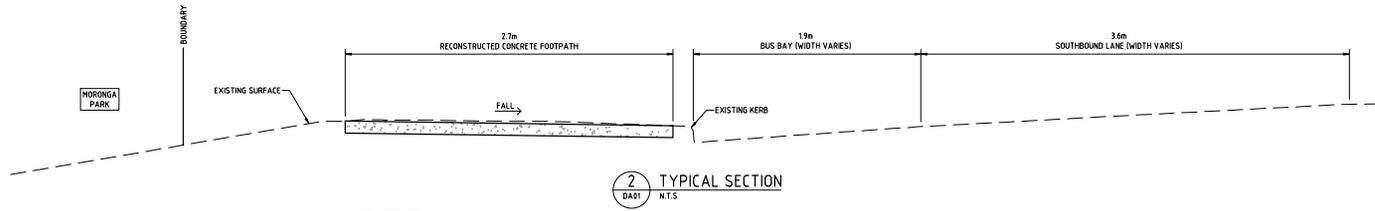
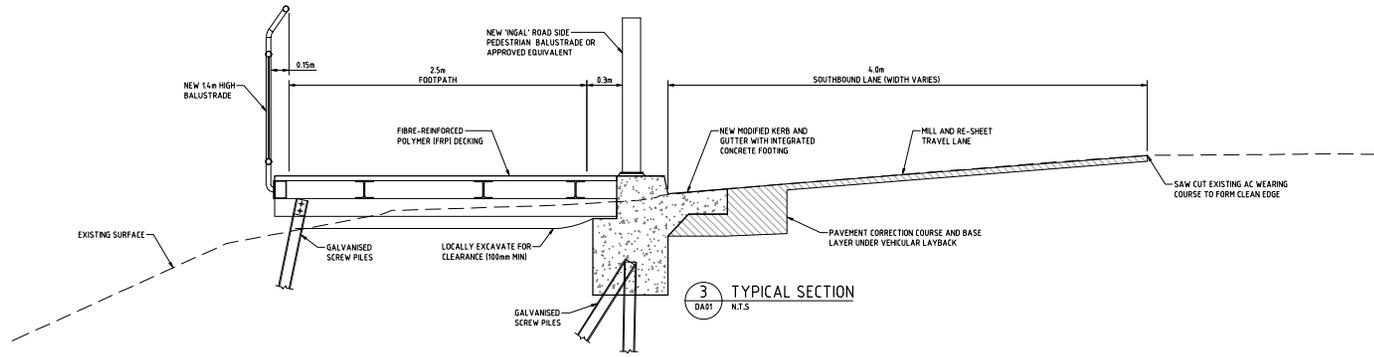
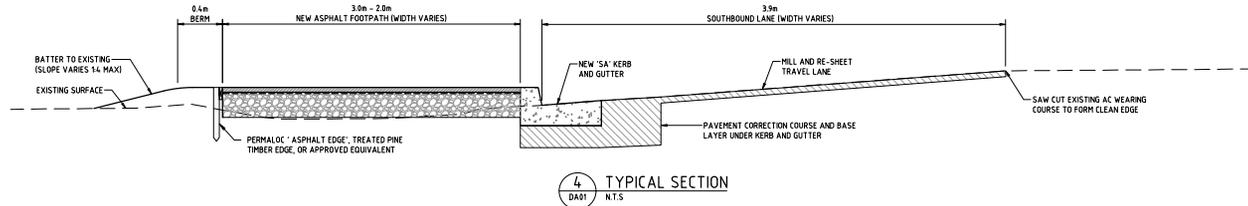
GENERAL LAYOUT 01  
SCALE 1:250

- LEGEND:**
- PROPERTY BOUNDARY
  - NEW CONCRETE PATH
  - NEW FRP DECKING
  - NEW ASPHALT FOOTPATH
  - NEW TURF AREA
  - NEW KERB AND GUTTER
  - EXISTING PATH TO REMAIN
  - EXISTING STORMWATER PIPE
  - EXISTING TELECOMMS
  - EXISTING WATER
  - EXISTING GAS
  - EXISTING SEWER
  - EXISTING OPTIC FIBRE
  - EXISTING UNDERGROUND ELECTRICITY
  - EXISTING TREE
  - EXISTING ELECTRICAL STRUCTURES
  - EXISTING TELECOMMS STRUCTURES
  - EXISTING POWER POLE
  - EXISTING STORMWATER STRUCTURES
  - EXISTING WATER STRUCTURES
  - EXISTING GAS STRUCTURES
  - EXISTING SEWER STRUCTURES
  - EXISTING SURVEY MARKS
  - EXISTING SIGN

**DBYD NOTE:**  
 LOCATION OF SERVICES TO BE CONFIRMED PRIOR TO COMMENCEMENT OF CONSTRUCTION CONTACT 'DIAL BEFORE YOU DIG' PHONE 1100  
 SERVICES SHOWN ON PLAN ARE DIGITISED FROM DBYD PLANS AND SURFACE FEATURES AND DEPICT INDICATIVE LOCATION ONLY  
 LOCATE OVERHEAD POWER LINES ON SITE PRIOR TO WORKS



				DATUM AZIMUTH MGA	SURVEYOR MK FIELD BOOK	DRAWN KG	DATE 10/20	APPROVED (FOR COUNCIL USE ONLY) SENIOR DESIGN ENGINEER - CIVIL 6634_DA02_1	SCALES 1:250	NORTH POINT 	PRELIMINARY PLAN - NOT FOR CONSTRUCTION <b>CITY OF WOLLONGONG</b> NEW FOOTPATH - GRAND PACIFIC WALK LAWRENCE HARGRAVE DRIVE CLIFTON GENERAL ARRANGEMENT PLAN		PJ or TR No. DRAWING No. 6634	PJ-3653 SHEET 2 OF 3 SHEET No. DA02	A1 ORIGINAL ISSUE 1
1	ISSUED FOR DA APPROVAL	KG	SN	11/20	RELATED PLANS	CHECKED SN	DATE 10/20	DATE				DESIGN & TECHNICAL SERVICES PH 02 42271111			



PRELIMINARY PLAN - NOT FOR CONSTRUCTION

CITY OF WOLLONGONG  
NEW FOOTPATH - GRAND PACIFIC WALK  
LAWRENCE HARGRAVE DRIVE  
CLIFTON  
TYPICAL SECTIONS

		PJ or TR No. PJ-3653 SHEET 3 OF 3 SHEETS DRAWING No. 6634 SHEET No. DA03 ISSUE 1	A1 ORIGINAL
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DATUM AHD SURVEYOR MK DRAWN KG DATE 10/20 APPROVED (FOR COUNCIL USE ONLY) SENIOR DESIGN ENGINEER - CIVIL 6634_DA03_1 DATE 10/20	AZIMUTH NICA FIELD BOOK DESIGNED RG DATE 10/20 CHECKED SN DATE 10/20	RELATED PLANS SCALE DATE	SCALES AS NOTED NORTH POINT 
1 ISSUED FOR DA APPROVAL DESCRIPTION DRAWN APP'D DATE	KG SN 11/20	DATE	DATE





LANDSCAPE PLAN  
NOT TO SCALE

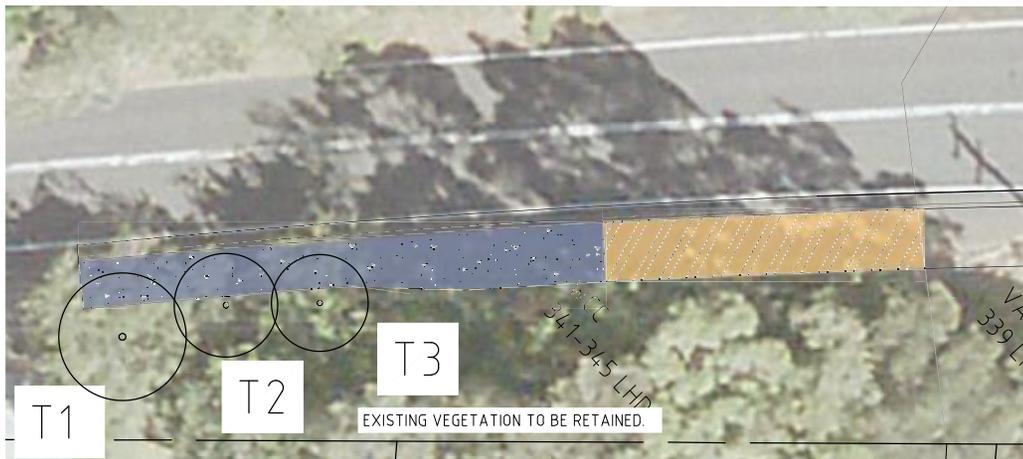
LEGEND

- EXISTING TREE TO BE RETAINED
- LITTORAL RAINFOREST MAPPING - SUBJECT TO DA APPROVAL
- AREA OF FOOTPATH UPGRADE SUBJECT TO REVIEW OF ENVIRONMENTAL FACTORS, ASSESSED UNDER SEPP (INFRASTRUCTURE) 2007

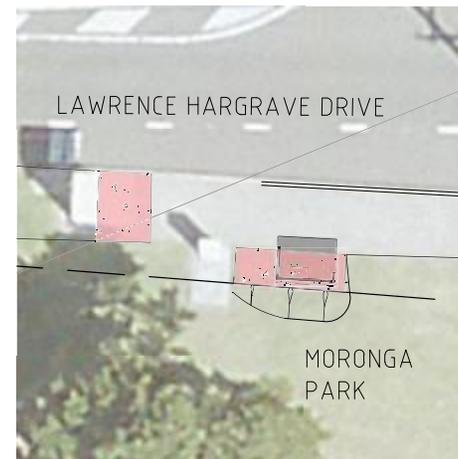
EXISTING TREE SCHEDULE

ID	TREE SPECIES	ACTION
1	AGONIS FLEXUOSA	RETAIN
2	HAKEA SALICIFOLIA	RETAIN
3	AGONIS FLEXUOSA	RETAIN
4	MELALEUCA QUINQUENERVIA	RETAIN
5	ROBINIA PSEUDOACACIA 'FRISIA'	RETAIN
6	MELALEUCA DECORA	RETAIN

REFER ARBORICULTURE ASSESSMENT REPORT BY MOORE TREES DATED DECEMBER 2019.



INSET 1  
1:100@A1 / 1:200@A3



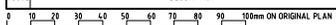
INSET 2  
1:100@A1 / 1:200@A3

LEGEND

- SELECTED CONCRETE FOOTPATH SURFACE - REFER CIVIL PLANS FOR ADDITIONAL DETAIL
- SELECTED ASPHALT FOOTPATH SURFACE - REFER CIVIL PLANS FOR ADDITIONAL DETAIL
- NEW FIBRE REINFORCED PLASTIC (FRP) DECKING - REFER CIVIL PLANS FOR ADDITIONAL DETAIL

PRELIMINARY PLAN - NOT FOR CONSTRUCTION

DATE		SURVEYOR		DRAWN		DATE		APPROVED		SCALES		NORTH POINT		CITY OF WOLLONGONG		PJ or TR No.		PJ-3653		A1
AZIMUTH		FIELD BOOK		NDR		19/19		19/19		1:250@A1				NEW FOOTPATH - GRAND PACIFIC WALK LAWRENCE HARGRAVE DRIVE CLIFTON LANDSCAPE PLAN		SHEET OF		SHEETS		ORIGINAL
1		ISSUED FOR DA APPROVAL		NDR		AG		11/20								DRAWING No.		SHEET No.		ISSUE
ISSUE		DESCRIPTION		DRAWN		APPR'D		DATE								6634		DA04		1



DRAWING No.		SHEET No.		ISSUE
6634		DA04		1

**APPENDIX B: SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS – 1452**



**Planning,  
Industry &  
Environment**

30 April 2020

Mr Greg Doyle  
General Manager,  
Wollongong City Council  
Locked Bag 8821  
WOLLONGONG NSW 2500

20/20622  
SEAR 1452

Dear Mr Doyle

**Pedestrian path and landscaping in mapped Littoral Rainforest Area  
Lawrence Hargrave Drive, Clifton  
Planning Secretary's Environmental Assessment Requirements (SEAR) 1452**

For your information, I have attached a copy of the Planning Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the above proposal, which have been provided to the Applicant.

Following the exhibition period, Council must send the Department a copy of all the submissions it has received, in accordance with Clause 81 of the Environmental Planning and Assessment Regulation 2000. If the Department does not respond within 21 days, Council may proceed to determine the application.

In addition, it would be appreciated if Council would forward the Department a copy of the determination of the DA.

Should you have any enquiries, please contact me on (02) 9995 6430 or via email at [zoe.halpin@planning.nsw.gov.au](mailto:zoe.halpin@planning.nsw.gov.au)

Yours sincerely

A handwritten signature in black ink, appearing to read "Zoe".

Zoe Halpin  
Student Planner  
Industry Assessments



Ms Louise Upton  
41 Burelli Street  
WOLLONGONG NSW 2500

EF20/20622  
SEAR 1452

Dear Ms Upton

**Pedestrian path and landscaping in mapped Littoral Rainforest Area  
Lawrence Hargrave Drive, Clifton  
Planning Secretary's Environmental Assessment Requirements (SEAR) 1452**

Thank you for your request for the Planning Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the above development proposal. I have attached a copy of these requirements.

In support of your application, you indicated that your proposal is both designated and integrated development under Part 4 of the *Environmental Planning and Assessment Act 1979* and requires an approval under the *Roads Act 1993*. In preparing the SEARs, the Department of Planning, Industry and Environment (the Department) has consulted with Transport for NSW. A copy of their requirements is attached.

The Department has also consulted with the Rural Fire Service. A copy of their additional requirements for the EIS are attached.

If other integrated approvals are identified before the Development Application (DA) is lodged, you must undertake direct consultation with the relevant agencies, and address their requirements in the EIS.

If your proposal contains any actions that could have a significant impact on matters of National Environmental Significance, then it will require an additional approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This approval is in addition to any approvals required under NSW legislation. If you have any questions about the application of the EPBC Act to your proposal, you should contact the Commonwealth Department of Agriculture, Water and the Environment on (02) 6274 1111.

Should you have any further enquiries, please contact Zoe Halpin, Planning and Assessment, at the Department on (02) 9995 6430 or via email at [zoe.halpin@planning.nsw.gov.au](mailto:zoe.halpin@planning.nsw.gov.au).

Yours sincerely

Chris Ritchie  
Director  
Industry Assessments  
*as delegate of the Planning Secretary*

# Planning Secretary's Environmental Assessment Requirements

Section 4.12(8) of the *Environmental Planning and Assessment Act 1979*.  
Schedule 3 of the *Environmental Planning and Assessment Regulation 2000*.

## Designated Development

SEAR Number	1452
Proposal	Construction of a pedestrian path and associated landscaping, including a viewing platform.
Location	Lawrence Hargrave Drive, Clifton in the Wollongong Local Government Area
Applicant	Wollongong City Council
Date of Issue	30 April 2020
General Requirements	The Environmental Impact Statement (EIS) must meet the minimum form and content requirements in clauses 6 and 7 of Schedule 2 of the Environmental Planning and Assessment Regulation 2000.
Key Issues	<p>The EIS must include an assessment of all potential impacts of the proposed development on the existing environment (including cumulative impacts if necessary) and develop appropriate measures to avoid, minimise, mitigate and/or manage these potential impacts. As part of the EIS assessment, the following matters must also be addressed:</p> <ul style="list-style-type: none"> <li>• <b>strategic and statutory context</b> – including: <ul style="list-style-type: none"> <li>- a detailed justification for the proposal and suitability of the site for the development</li> <li>- a demonstration that the proposal is consistent with all relevant planning strategies, environmental planning instruments, development control plans (DCPs), or justification for any inconsistencies</li> <li>- a list of any approvals that must be obtained under any other Act or law before the development may lawfully be carried out.</li> </ul> </li> <li>• <b>noise</b> – including: <ul style="list-style-type: none"> <li>- a description of all potential noise and vibration sources during construction</li> </ul> </li> <li>• <b>soil and water</b> – including: <ul style="list-style-type: none"> <li>- a description of local soils, topography, drainage and landscapes</li> <li>- an assessment of potential impacts on floodplain and stormwater management and any impact to flooding in the catchment</li> <li>- details of sediment and erosion controls</li> <li>- an assessment in accordance with ASSMAC Guidelines for the presence and extent of acid sulfate soils (ASS) and potential acid sulfate soils (PASS) on the site and, where relevant, appropriate mitigation measures</li> </ul> </li> <li>• <b>traffic and transport</b> – including: <ul style="list-style-type: none"> <li>- an assessment of impacts to the safety and function of the road network during construction and the details of any road upgrades required.</li> </ul> </li> <li>• <b>biodiversity</b> – including: <ul style="list-style-type: none"> <li>- accurate predictions of any vegetation clearing required for the development</li> <li>- details of weed management in accordance with existing State, regional or local weed management plans or strategies</li> <li>- details of landscaping proposed for the development;</li> <li>- a detailed description of the measures to avoid, minimise, mitigate and/or offset biodiversity impacts.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• <b>community and stakeholder engagement</b> – including: <ul style="list-style-type: none"> <li>- details of how issues raised during community and stakeholder consultation have been addressed and whether they have resulted in changes to the proposal</li> </ul> </li> <li>• <b>heritage</b> – including Aboriginal and non-Aboriginal cultural heritage.</li> </ul>
<b>Environmental Planning Instruments and other policies</b>	<p>The EIS must assess the proposal against the relevant environmental planning instruments, including but not limited to:</p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>• State Environmental Planning Policy (Coastal Management) 2018</li> <li>• State Environmental Planning Policy (Aboriginal Land) 2019</li> <li>• State Environmental Planning Policy (Koala Habitat Protection) 2019</li> <li>• Wollongong Local Environmental Plan 2009</li> <li>• relevant development control plans and section 7.11 plans.</li> </ul>
<b>Guidelines</b>	<p>During the preparation of the EIS you should consult the Department's Register of Development Assessment Guidelines which is available on the Department's website at <a href="https://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Industries">https://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Industries</a>. Whilst not exhaustive, this Register contains some of the guidelines, policies, and plans that must be taken into account in the environmental assessment of the proposed development.</p>
<b>Consultation</b>	<p>During the preparation of the EIS, you must consult the relevant local, State and Commonwealth government authorities, service providers and community groups, and address any issues they may raise in the EIS. In particular, you should consult with the:</p> <ul style="list-style-type: none"> <li>• Transport for NSW</li> <li>• Premier Charters Illawarra bus service provider</li> <li>• Subsidence Advisory NSW</li> <li>• Illawarra Local Aboriginal Land Council</li> <li>• Wollongong City Council</li> <li>• the surrounding landowners and occupiers that are likely to be impacted by the proposal.</li> </ul> <p>Details of the consultation carried out and issues raised must be included in the EIS.</p>
<b>Further consultation after 2 years</b>	<p>If you do not lodge an application under Section 4.12(8) of the <i>Environmental Planning and Assessment Act 1979</i> within 2 years of the issue date of these SEARs, you must consult with the Planning Secretary in relation to any further requirements for lodgement.</p>

## EXECUTIVE SUMMARY

### Purpose of this Report

This Environmental Impact Statement (EIS) has been prepared by Wollongong City Council for upgrades and additions to sections of the Grand Pacific Walk Clifton. This EIS should be read in conjunction with the Secretary's Environmental Assessment Requirements (SEARs) dated 30 April 2020 and the supporting documentation provided as Appendix A-K.

### The Site

The site is known as Grand Pacific Walk and is legally identified as:

- Road Reserve extending from Lot 11 Lawrence Hargrave Drive Clifton (Lot 11 DP1137408) in the north to 347 Lawrence Hargrave Drive Clifton (Lot 1 DP1173706) in the south
- Lot 6 Lawrence Hargrave Drive Clifton (Lot 6 Sec 1 DP2281)
- Lot 7 Lawrence Hargrave Drive Clifton (Lot 7 Sec 1 DP2281)

This EIS refers to the following portions of the site.

- Road Reserve in front of Lot 11 Lawrence Hargrave Drive (Lot 11 DP 1137408) (Northern end).
- Road Reserve extending from 341-345 Lawrence Hargrave Drive Clifton (Lot 1 DP 948600) to 349 Lawrence Hargrave Drive Clifton (Lot 2 DP 1173706) (Southern end).
- Only in these locations is there mapped Littoral Rainforest under SEPP (Coastal Management) 2018.

Refer to following aerial.



For the middle portion the environmental impacts of the proposed footpath construction will be considered in accordance with the requirements of Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Refer to REF02991.

## **The Proposal**

Currently there is no formal pathway or connectivity to upgraded sections of the Grand Pacific Walk (GPW). The proposal will provide a safe pathway for local residents and tourists to use between the Royal National Park and Lake Illawarra.

The development to be undertaken will cover an area of approximately 1605 square metres (includes area subject to this EIS and REF02991), allowing for a pathway, viewing platform, associated landscaping and parking. The proposal also includes moving a bus shelter to a more accessible position.

## **Planning context**

The project will be undertaken on land which, **in part**, is mapped as “littoral rainforest area” and “littoral rainforest proximity area” under State Environmental Planning Policy (Coastal Management) 2018 (‘Coastal Management SEPP’). It is this portion that is the subject of this EIS.

Pursuant to clause 10(2) of the Coastal Management SEPP, development other than development for the purpose of environmental protection works, is declared designated development for the purposes of the *Environmental Planning & Assessment Act 1979* (EP&A Act). Section 4.12(8) of the EP&A Act provides that a development application for designated development is to be accompanied by an EIS.

## **Assessment of impacts and mitigation measures**

There will be no removal of native vegetation or impacts to European or Aboriginal Cultural Heritage. Mitigation and management measures have been developed for the project, these will be detailed in a Construction Environmental Management Plan prior to the project beginning. All potential impacts of the project on the environment have been adequately assessed and addressed in this report.

## **Community consultation**

Community consultation was undertaken as part of this project between the 20th July to the 17th August 2020 using a variety of engagement methods and activities. A total of 7 submissions, 3 email forms and 4 online forms were received and information contained therein formed an integral influencing factor in the final design of the project.

The predominant opinion received on the project was that the plan was supported as it addresses the major safety concern of pedestrians, cyclists and road user safety.

## **Conclusion and justification**

This EIS demonstrates that all relevant potential impacts of the proposal on the environment have been adequately assessed, and that there are sufficient avoidance and mitigation measures in place for the project to be undertaken with negligible predicted residual impact.

## **ATTACHMENT 4 CONDITIONS: DA-2020/1374**

### **Approved Plans and Specifications**

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Drawing Plan No 6634 sheet DA01-1 to DA04-1 dated November 2020 prepared by Wollongong City Council and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

### **General Matters**

#### **2 Geotechnical**

All work is to be in accordance with the geotechnical recommendations contained in the report dated 11 November 2020 prepared by Council's Geotechnical Division – Project Delivery Division and any subsequent geotechnical report required to address unanticipated conditions encountered during construction.

#### **3 Transport for New South Wales (TfNSW)**

Requirements issued by TfNSW dated 3 March 2021 as attached shall form part of this Notice of Determination.

#### **4 Building Work - Compliance with the Building Code of Australia**

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

#### **5 Construction Certificate**

A Construction Certificate must be obtained from Council or a Registered Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Clauses 139-147 of the Environmental Planning and Assessment Regulation 2000 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

**Note:** The Certifier must cause notice of its determination to be given to the consent authority, and to the Council, by forwarding to it, within two (2) days after the date of the determination, the plans and documentation referred to in clause 142 (2) of the Environmental Planning and Assessment Regulation 2000.

#### **6 Disability Discrimination Act 1992**

This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS 1428.1 (2009) – Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons within the building.

#### **7 Occupation Certificate**

An Occupation Certificate must be issued by the Principal Certifier (PC) prior to occupation or use of the development. In issuing an Occupation Certificate, the PC must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

#### **8 Tree Management**

The developer shall retain existing trees indicated on Concept Landscape Plan by WCC Dwg. No. 6634 DA04 Issue 1 dated November 2020 consisting of tree numbered 1, 2, 3, 4, 5 and 6. Total number: six (6 No.).

Any branch or root pruning which has been given approval, must be carried out by a qualified arborist in accordance with Australian Standard AS 4373 (2007).

All tree protection measures are to be installed in accordance with Australian standard AS 4970-2009 Protection of Trees on development Sites.

Recommendations in arborist's report dated December 2019 by Moore Trees Consultant Arborist Author Paul Vezgoff to be implemented including and not restricted to: reduction and crown lifting to trees 1 -3, root pruning to tree 4, establishing Tree Protection Zones (TPZs), project arborist being present during work within Structural Root Zones (SRZs) and supervising work within TPZs, site induction with reference to tree protection, referring matters to project arborist, re routing of sub surface utilities to avoid TPZs, hand excavation within TPZ near tree roots, remedial tree pruning, deadwooding, fencing and signage, sediment buffer, stem protection, mulching and watering and root hormone application if required. Soil levels within the TPZ must remain the same.

In addition Tecomaria & Passionfruit hedge to be cut back, Crassula ovata Jade Bush to be removed, Triadica sebifera (Syn. Sapium) overhanging to be cut back.

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

#### **9 Driveway Longsection**

To verify that vehicular access will comply with Council's requirements, a scaled long section of the proposed driveway, from kerb and gutter at the point of access to the proposed garage floor level must be submitted with the Construction Certificate and shall include:

- a existing natural surface levels,
- b proposed grades and finished surface levels of the driveway,
- c preliminary details of the method of treatment of any fill/retaining wall which may be required in conjunction with the proposed driveway.

Driveway grades must be in accordance with AS 2890.1. As such, the long section shall be taken along the critical path, i.e. the side of the driveway that will have the steepest grades.

#### **10 Present Plans to Sydney Water**

Approved plans must be submitted online using Sydney Water Tap, available through [www.sydneywater.com.au](http://www.sydneywater.com.au) to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The PC must ensure that Sydney Water has issued an approval receipt prior to the issue of a Construction Certificate.

Visit [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92 for further information.

#### **11 Gradients of Ramps and Driveways as per AS 2890.1**

All driveways shall be constructed with a maximum vertical alignment as per AS 2890.1. This requirement shall be reflected on the Construction Certificate plans and any supporting documentation.

Gradients of ramps and access driveways within the site must be provided in accordance with the current relevant Australian Standard AS 2890.1 - Off Street Car Parking. Details of the method of treatment of any fill/retaining wall which may be required in conjunction with the proposed driveway. This requirement must be reflected on the Construction Certificate plans.

- 12 The depth and location of all services (ie gas, water, sewer, electricity, telephone, traffic lights, etc) must be ascertained and reflected on the Construction Certificate plans and supporting documentation.

#### **13 Landscaping**

The submission of a final Landscape Plan to the PC, prior to the release of the Construction Certificate. The final Landscape Plan shall address the following requirements:

- a planting of indigenous plant species typical of the Illawarra Region such as: *Syzygium smithii* (formerly *Acmena smithii*) Lilly pilly, *Archontophoenix cunninghamiana* Bangalow palm, *Backbousia myrtifolia* Grey myrtle, *Elaeocarpus reticulatus* Blueberry ash, *Glochidion ferdinandii* Cheese tree, *Livistona australis* Cabbage palm tree, *Brachychiton acerifolius* Illawarra Flame

- Tree. A further list of suitable suggested species for the Clifton area may be found in Wollongong Development Control Plan 2009 – Chapter E6: Landscaping;
- b a schedule of proposed planting, including botanic name, common name, expected mature height and staking requirements as well as number of plants and pot sizes;
  - c the location of all proposed and existing overhead and underground service lines. The location of such service lines shall be clear of the dripline of existing and proposed trees;
  - d any proposed hard surface under the canopy of an existing trees shall be permeable and must be laid such that the finished surface levels match the existing level. Permeable paving is to be installed in accordance with the manufacturer’s recommendations;
  - e The developer shall ensure that proposed planting is child friendly and must **not** include any of the types of plants listed below: **i)** plants known to produce toxins; **ii)** plant with high allergen properties; **vi)** any weed or potential weed species;
  - f RMS to confirm extent of hardstand;
  - g indicate NBN cabinet adjacent to Bus Stop and adjust grading to suit; and;
  - h any fill material should not cover topsoil. Topsoil shall be removed, stockpiled, ameliorated and replaced over any fill material to a minimum depth of 100mm.

The completion of the landscaping works as per the final approved Landscape Plan is required, prior to the issue of Occupation Certificate or commencement of the development.

- 14 The submission of certification from a suitably qualified and experienced landscape designer and drainage consultant to the PC prior to the release of the Construction Certificate, confirming that the landscape plan and the drainage plan are compatible.

- 15 The implementation of a landscape maintenance program in accordance with the approved Landscape Plan for a minimum period of 12 months to ensure that all landscape work becomes well established by regular maintenance. Details of the program must be submitted with the Landscape Plan to the PC prior to release of the Construction Certificate.

16 **Tree Protection Measures**

The existing trees are to be retained upon the subject property and any trees on adjoining properties shall not be impacted upon during the excavation or construction phases of the development. This will require the installation and maintenance of appropriate tree protection measures, including (but not necessarily limited to) the following:

- a Installation of Tree Protection Fencing - Protective fencing shall be 1.8 metre cyclone chainmesh fence, with posts and portable concrete footings. Details and location of protective fencing must be indicated on the architectural and engineering plans to be submitted to the PC prior to release of the Construction Certificate.
- b Mulch Tree Protection Zone: Areas within a Tree Protection Zone are to be mulched with minimum 75 mm thick 100% recycled hardwood chip/leaf litter mulch.
- c Irrigate: Areas within the Tree Protection Zone are to be regularly watered in accordance with the arborist’s recommendations.

The submission of a final Site Plan to the PC indicating required tree protection fencing is required, prior to the release of the Construction Certificate.

17 **Engineering Plans and Specifications - Retaining Wall Structures Greater than One (1) Metre**

The submission of engineering plans and supporting documentation of all proposed retaining walls greater than one (1) metre to the PC for approval prior to the issue of the Construction Certificate. The retaining walls shall be designed by a suitably qualified and experienced civil and/or structural engineer. The required engineering plans and supporting documentation shall include the following:

- a A plan of the wall showing location and proximity to property boundaries;
- b An elevation of the wall showing ground levels, maximum height of the wall, materials to be used and details of the footing design and longitudinal steps that may be required along the length of the wall;
- c Details of fencing or handrails to be erected on top of the wall;

- d Sections of the wall showing wall and footing design, property boundaries, subsoil drainage and backfill material. Sections shall be provided at sufficient intervals to determine the impact of the wall on existing ground levels. The developer shall note that the retaining wall, subsoil drainage and footing structure must be contained wholly within the subject property;
- e The proposed method of subsurface and surface drainage, including water disposal. This is to include subsoil drainage connections to an inter-allotment drainage line or junction pit that discharges to the appropriate receiving system;
- f The assumed loading used by the engineer for the wall design.
- g Flows from adjoining properties shall be accepted and catered for within the site. Finished ground and top of retaining wall levels on the boundary shall be no higher than the existing upslope adjacent ground levels.

18 **Signs and Linemarking**

A sign and linemarking diagram must be endorsed by the Local Traffic Committee and approved by Council prior to the issue of the Construction Certificate.

19 **No Adverse Run-off Impacts on Adjoining Properties**

The design of the development shall ensure there are no adverse effects to adjoining properties or upon the land as a result of flood or stormwater run-off.

**Prior to the Commencement of Works**

20 **Appointment of PC**

Prior to commencement of work, the person having the benefit of the Development Consent and a Construction Certificate must:

- a Appoint a PC and notify Council in writing of the appointment irrespective of whether Council or a Registered Certifier is appointed; and
- b notify Council in writing of their intention to commence work (at least two days notice is required).

The PC must determine when inspections and compliance certificates are required.

21 **Sign – Supervisor Contact Details**

Before commencement of any work, a sign must be erected in a prominent, visible position:

- a stating that unauthorised entry to the work site is not permitted;
- b showing the name, address and telephone number of the PC for the work; and
- c showing the name and address of the principal contractor in charge of the work site and a telephone number at which that person can be contacted at any time for business purposes.

This sign shall be maintained while the work is being carried out and removed upon the completion of the construction works.

22 **Temporary Toilet/Closet Facilities**

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be:

- a a standard flushing toilet; and
- b connected to either:
  - i the Sydney Water Corporation Ltd sewerage system or
  - ii an accredited sewage management facility or
  - iii an approved chemical closet.

The toilet facilities shall be provided on-site, prior to the commencement of any works.

23 **Enclosure of the Site**

The site must be enclosed with a suitable security fence to prohibit unauthorised access, to be approved by the PC. No building work is to commence until the fence is erected.

- 24 **Demolition Works**  
Any demolition works shall be carried out in accordance with Australian Standard AS 2601 (2001): The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of the SafeWork NSW.  
No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the PC. In the event that the demolition works may involve the obstruction of any road reserve/footpath or other Council owned land, a separate application shall be made to Council to enclose the public place with a hoarding or fence over the footpath or other Council owned land.
- 25 **Notification to SafeWork NSW**  
The demolition licence holder who proposes demolition of a structure or part of a structure that is loadbearing or otherwise related to the physical integrity of the structure that is at least six metres in height, involving load shifting machinery on a suspended floor, or involving the use of explosives must notify SafeWork NSW in writing at least five (5) calendar days before the work commences.
- 26 **Waste Management**  
The developer must provide an adequate receptacle to store all waste generated by the development pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and reusable materials.
- 27 **Sediment Control Measures**  
The developer must ensure that sediment-laden runoff from the site is controlled at all times subsequent to commencement of construction works. Sediment control measures must be maintained at all times and checked for adequacy at the conclusion of each day's work.
- 28 **Tree Protection Implementation**  
The existing trees are to be retained upon the subject property and any trees on adjoining properties shall not be impacted upon during the excavation or construction phases of the development. This will require the installation and maintenance of appropriate tree protection measures, including (but not necessarily limited to) the following:  
a installation of Tree Protection Fencing - Protective fencing shall be 1.8 m cyclone chainmesh fence, with posts and portable concrete footings;  
b mulch Tree Protection Zone: Areas within a Tree Protection Zone are to be mulched with minimum 75 mm thick 100% recycled hardwood chip/leaf litter mulch;  
c irrigate: Areas within the Tree Protection Zone are to be regularly watered in accordance with the arborist's recommendations.  
The tree protection fencing shall be installed prior to the commencement of any demolition, excavation or construction works and shall be maintained throughout the entire construction phases of the development.
- 29 **Supervising Arborist – Tree Inspection and Installation of Tree Protection Measures**  
Prior to the commencement of any demolition, excavation or construction works, the supervising arborist must certify in writing that tree protection measures have been inspected and installed in accordance with the arborist's recommendations and relevant conditions of this consent.
- 30 **Notification to Council of any Damage to Council's Infrastructure**  
Council must be notified in the event of any existing damage to any of Council's infrastructure including, but not limited to the road, kerb and gutter, road shoulder, footpath, drainage structures and street trees fronting the development prior to the commencement of work. Adequate protection must be provided to Council infrastructure prior to work commencing and during the construction period. Any damage to Council's assets shall be restored in a satisfactory manner prior to the issue of the Occupation Certificate.

31 **Road Occupancy Licence from Transport for NSW (TfNSW)**

Prior to any works commencing, the applicant shall obtain a road occupancy licence from the TfNSW in conjunction with Council's permit under Section 138 of the Roads Act 1993.

The developer shall apply for a Road Occupancy Licence (ROL) from the TfNSW Traffic Operations Unit (TOU) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TOU. Please allow two (2) weeks prior to commencement of work to process the ROL.

Note: An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by the TfNSW Project Manager.

32 **Works in Road Reserve – Major Works**

Any occupation, use, disturbance or work on the footpath or road reserve for construction purposes, which is likely to cause an interruption to existing pedestrian and/or vehicular traffic flows requires Council consent under Section 138 of the Roads Act 1993.

The application form for Works within the Road Reserve – Section 138 Roads Act can be found on Council's website. The form outlines the requirements to be submitted with the application, to give approval to commence works under the roads act. It is advised that all applications are submitted and fees paid, five (5) days prior to the works within the road reserve are intended to commence. An application must be submitted must be obtained from Wollongong City Council's Development Engineering Team prior to any works commencing where it is proposed to carry out activities such as, but not limited to, the following:

- a Digging or disruption to footpath/road reserve surface;
- b Loading or unloading machinery/equipment/deliveries;
- c Installation of a fence or hoarding;
- d Stand mobile crane/plant/concrete pump/materials/waste storage containers;
- e Pumping stormwater from the site to Council's stormwater drains;
- f Installation of services, including water, sewer, gas, stormwater, telecommunications and power;
- g Construction of new vehicular crossings or footpaths;
- h Removal of street trees;
- i Carrying out demolition works.

Restoration must be in accordance with the following requirements:

- a All restorations are at the cost of the Applicant and must be undertaken in accordance with Council's standard document, "Specification for work within Council's Road reserve".
- b Any existing damage within the immediate work area or caused as a result of the work/occupation, must also be restored with the final works.

33 **Protection of Public Infrastructure**

Council must be notified in the event of any existing damage to any of its infrastructure such as the road, kerb and gutter, road shoulder, footpath, drainage structures and street trees fronting the development site, prior to commencement of any work.

Adequate protection must be provided for Council infrastructure prior to work commencing and during building operations.

Any damage to Council's assets shall be made good, prior to the issue of any Occupation Certificate or commencement of the operation.

34 **Tree Protection**

Prior to commencement of any work on the site, including any demolition, all trees not approved for removal as part of this consent that may be subjected to impacts of this approved development must be protected in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970-2009).

Tree protection zones must be established prior to the commencement of any work associated with this approved development.

No excavation, construction activity, grade changes, storage of materials stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones.

### **During Demolition, Excavation or Construction**

#### **35 Erosion and Sediment Control Measures**

All erosion and sediment control measures are to be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as the ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as source of sediment.

#### **36 New Information/Unexpected Finds**

In the event that demolition and/or construction works cause the generation of odours or the uncovering of previously unidentified contaminants or hazardous materials, works must immediately cease and the Principal Certifier and Council (in the event that Council is not the PC) must be notified in writing within seven (7) days and an appropriately qualified environmental consultant appointed to undertake an assessment of the potential contaminant and works required to make the site safe from potential human health and environmental harm.

#### **37 No Adverse Run-off Impacts on Adjoining Properties**

The design and construction of the development shall ensure there are no adverse effects to adjoining properties, as a result of flood or stormwater run-off. Attention must be paid to ensure adequate protection for buildings against the ingress of surface run-off.

Allowance must be made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other property.

#### **38 Protection of Public Places**

If the work involved in the erection or demolition of a building involves the enclosure of a public place or is likely to cause pedestrian/vehicular traffic in a public place to be obstructed or rendered inconvenient, or have the potential for conflict between pedestrians and vehicles:

- a A hoarding or fence must be erected between the work site and the public place;
- b an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place;
- c the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in a public place;
- d safe pedestrian access must be maintained at all times;
- e any such hoarding, fence or awning is to be removed when the work has been completed.

#### **39 Restricted Hours of Construction Work**

The developer must not carry out any work, other than emergency procedures, to control dust or sediment laden runoff outside the normal working hours, namely, 7.00 am to 5.00 pm, Monday to Saturday, without the prior written consent of the PC and Council. No work is permitted on public holidays or Sundays.

Allowable construction activity noise levels must be within the limits identified in the NSW EPA Interim Construction Noise Guidelines (ICNG) July 2009. ICNG are also applied for blasting, rock hammer and drilling, external plant and equipment.

<https://www.environment.nsw.gov.au/resources/noise/09265cng.pdf>

Any request to vary these hours shall be submitted to the **Council** in writing detailing:

- a the variation in hours required (length of duration);
- b the reason for that variation (scope of works);
- c the type of work and machinery to be used;
- d method of neighbour notification;
- e supervisor contact number;
- f any proposed measures required to mitigate the impacts of the works.

Note: The developer is advised that other legislation may control the activities for which Council has granted consent, including but not limited to, the Protection of the Environment Operations Act 1997.

40 The lighting of the premises must be directed so as not to cause nuisance to the owners or occupiers of adjoining premises or to motorists on adjoining or nearby roads.

41 **Site Management**

Stockpiles of sand, gravel, soil and the like must be located to ensure that the material:

- a Does not spill onto the road pavement and
- b is not placed in drainage lines or watercourses and cannot be washed into these areas.

42 Should during construction any waste material or construction material be accidentally or otherwise spilled, tracked or placed on the road or footpath area without the prior approval of Council's Works Division this shall be removed immediately. Evidence that any approval to place material on the road or road reserve shall be available for inspection by Council officers on site at any time.

43 **Provision of Waste Receptacle**

The developer must provide an adequate receptacle to store all waste generated by the development, pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and re-usable materials.

44 **Excess Excavated Material – Disposal**

Excess excavated material shall be classified according to the NSW Environment Protection Authority's Waste Classification Guidelines – Part 1: Classifying Waste (2014) prior to being transported from the site and shall be disposed of only at a location that may lawfully receive that waste.

**Prior to the Issue of the Occupation Certificate**

45 **Retaining Wall Certification**

The submission of a certificate from a suitably qualified and experienced structural engineer or civil engineer to the PC is required, prior to the issue of the Occupation Certificate or commencement of the use. This certification is required to verify the structural adequacy of the retaining walls and that the retaining walls have been constructed in accordance with plans approved by the PC.

46 **Occupation Certificate**

An Occupation Certificate must be issued by the PC prior to occupation or use of the development. In issuing an Occupation Certificate, the PC must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

**Operational Phases of the Development/Use of the Site**

47 **Loading/Unloading Operations/Activities**

All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.



3 March 2021

Andrew Kite  
Wollongong City Council  
BY EMAIL: [records@wollongong.nsw.gov.au](mailto:records@wollongong.nsw.gov.au)

**DEVELOPMENT APPLICATION 2020/1374 (CNR-16745) – LAWRENCE HARGRAVE DRIVE, CLIFTON – TWO AREAS OF SHARED FOOTPATH RELATED TO THE GRAND PACIFIC WALK PROJECT**

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Dear Andrew,

Transport for NSW (TfNSW) refers to the notification it received on 18 February 2021 regarding the above development application (DA).

TfNSW has reviewed the information provided while focussing on the impact to the state road network. TfNSW notes for this DA:

- The key state road is Lawrence Hargrave Drive;
- Council is proposing to improve pathway infrastructure for pedestrians and cyclists along Lawrence Hargrave Drive as part of the Grand Pacific Walk Project;
- The works to which this advice relates are identified in **Attachment 1** (i.e. areas within 'Insert 1' and 'Insert 2'); and
- TfNSW concurrence under Section 138 of the *Roads Act 1993* is required for the proposed works within the Lawrence Hargrave Drive road reserve.

Having regard to the above, TfNSW will not object to the DA subject to the requirements outlined in **Attachment 2** being included in the conditions of any development consent issued.

TfNSW highlights that in determining the DA under Part 4 of the *Environmental Planning and Assessment Act 1979*, it is the consent authority's responsibility to consider the environmental impacts of any road works which are ancillary to the development. This includes any works which form part of the proposal and/or any works which are deemed necessary to include as requirements in the conditions of development consent. Depending on the level of environmental assessment undertaken to date and the nature of the works, the consent authority may require the developer to undertake further environmental assessment for any ancillary road works.

Upon determination of this matter, it would be appreciated if the Council could send a copy of the Notice of Determination to '[development.southern@rms.nsw.gov.au](mailto:development.southern@rms.nsw.gov.au)'.

If you have any questions, please contact Andrew Lissenden on 0418 962 703.

Yours faithfully

Maurice Morgan  
A/Manager Development Services South  
Development Services South/Regional and Outer Metropolitan

Cc: [akite@wollongong.nsw.gov.au](mailto:akite@wollongong.nsw.gov.au)



**1. Prior to the issuing of the Construction Certificate, the developer must:**

- a) Enter into a Works Authorisation Deed (WAD) with the TfNSW, or other suitable arrangement as agreed to by TfNSW, for all works on Lawrence Hargrave Drive as approved under DA2020/1374.

*Notes:*

- A WAD is a legally binding contract between TfNSW and Council, authorising Council to undertake works on a state road.
- Council can initiate the WAD by sending an email request to [development.southern@rms.nsw.gov.au](mailto:development.southern@rms.nsw.gov.au). TfNSW will then appoint a project manager who will coordinate TfNSW's involvement in the delivery of the works.
- All roadworks and traffic control facilities must be undertaken by a pre-qualified contractor. A copy of pre-qualified contractors can be found on the RMS website at: [www.rms.nsw.gov.au/business-industry/partners-suppliers/tenders-contracts/prequalified-contractors.html](http://www.rms.nsw.gov.au/business-industry/partners-suppliers/tenders-contracts/prequalified-contractors.html)
- Any new services or modifications to existing services associated with this development application that involve works on, over or under Lawrence Hargrave Drive (as defined the area from kerb to kerb) must be incorporated into, and managed under, the Works Authorisation Deed for the project. Note: It is the developer's responsibility to identify these works to the TfNSW project manager.
- More information on WADs can be found at: [www.rms.nsw.gov.au/documents/projects/factsheet-development-process.pdf](http://www.rms.nsw.gov.au/documents/projects/factsheet-development-process.pdf)

- b) Update the concept designs with reference Drawing No. 6634, Sheet No. DA01 to DA04, Issue 1, dated 11/20 to ensure they address the comments detailed in Attachment 3.

**2. Prior to commencing works within the Lawrence Hargrave Drive road reserve, the developer must:**

- a) Obtain Section 138 consent under the *Roads Act 1993* for the works associated with the WAD.

*Notes:*

- TfNSW will be exercising its powers under Section 64 of the *Roads Act, 1993* to become the roads authority for works associated with the WAD and therefore responsible for issuing the Section 138 consent for those specific works.

- b) Develop and implement a community information strategy in relation to the works, in consultation with, and to the satisfaction of TfNSW.

- c) Apply for, and obtain a Road Occupancy Licence (ROL) from the TfNSW Traffic Operations Unit (TOU) prior to commencing roadworks on a state road (i.e. Lawrence Hargrave Drive) or any other works that impact a travel lane of a state road.

*Notes:*

- For information on the ROL process and to lodge an ROL application, please visit <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
- The applicant will need to create an account (this may take a few days to register), prior to submitting the ROL application. The applicant must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependent upon TfNSW receiving an accurate and compliant TMP.
- The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU.
- An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by TfNSW Project Manager.

3. Prior to the issuing of the Occupation Certificate/use of the new works by members of the public, the developer must:

- a) Have completed the works to the satisfaction of TfNSW, generally in accordance with the plans approved as part of the Section 138 Consent issued, Austroads Guide to Road Design and other relevant standards.

*Notes:*

- *The pavement design on Lawrence Hargrave Drive must be in accordance with Austroads/TfNSW standards.*
- *Where required, the developer must upgrade/provide lighting in accordance with Australian Standard AS/NZS1158.*
- *All works need to be completed at no cost to TfNSW.*

### Attachment 3

1. The northern end of the fibre reinforced plastic (FRP) decking is located close to the existing drainage infrastructure within the Lawrence Hargrave Drive road reserve. Design details that have been prepared by a suitably qualified person, are required to show the footings for the northern part of the FRP decking will not impact upon/damage existing drainage infrastructure (i.e. stormwater pipe under the road). The works must not impact the existing drainage infrastructure within the Lawrence Hargrave Drive road reserve.
2. Where it is proposed to re-sheet the travel lanes of Lawrence Hargrave Drive, the asphalt will need to be to TfNSW standards.