

**5.1** **Category 3 Determination: Por 1085 Oxford Falls Road, Oxford Falls - Use of premises as an art studio and gallery**

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**EXECUTIVE SUMMARY**

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**DA2015/1006**

**Purpose**

To gain Council determination of a Category 3 development application referred from the Group Manager Development and Compliance Services and the Warringah Development Assessment Panel (WDAP).

**Summary**

The above Development Application was detailed in the report of the Group Manager Development and Compliance Services and was referred to the Warringah Development Assessment Panel (WDAP) Meeting on 13 April 2016 as the proposal is a Category 3 development in the B2 Oxford Falls Valley Locality and is required to be the subject of an independent public hearing pursuant to Clause 15 of WLEP 2000. The WDAP Minutes and the report of the Manager Development and Compliance Services to the WDAP Meeting are attached as Attachment's 'A' and 'B' respectively.

The Panel concurred with the recommendation of the Group Manager Development and Compliance Services that this application be approved subject to the addition of a new condition (No. 22) requiring a landscape plan to ensure a visual buffer is provided to screen the car park from Oxford Falls Road.

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**RECOMMENDATION OF THE DEPUTY GENERAL MANAGER - ENVIRONMENT**

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That the General Manager grant Development Consent to Development Application No. DA2015/1006 for use of premises as an art studio and gallery at Lot B DP 355833, Por 1085 Oxford Falls Road, Oxford Falls for the reasons outlined in the recommendation of the report to the Warringah Development Assessment Panel, dated 13 April 2016 subject to the conditions No's. 1 – 21 contained in the assessment report and including the following new condition:

**22. Landscape plan**

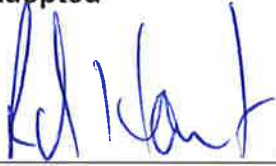
The area between the front boundary and the proposed car park is to be landscaped to provide a visual buffer to screen the car park, using native species endemic to the local area and which will achieve a minimum height of 3 m at maturity. A plan depicting the landscaped buffer is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** To minimise the visual impact of the car park.

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Adopted



Rik Hart  
General Manager

21/4/2016

Date



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## ATTACHMENT A

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### Minutes of Warringah Development Assessment Panel Meeting held on 13 April 2016

5.1	Por 1085 Oxford Falls Road OXFORD FALLS - Use of premises as an art studio and gallery
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#### Panel Member

**Lesley Finn**, Chair (Environmental Law)

**Steve Kennedy**, Urban Design Expert

**Marcus Sainsbury**, Environmental Expert

**Lloyd Graham**, Community Representative

**DA2015/1006**

#### PROCEEDINGS IN BRIEF

**This is an application for change of use of structures currently used as sheds to be converted to art studios.**

The applicant proposes the following changes:

1. The use of three disused stable buildings to an art gallery and art studio/workshop space as an ancillary use to the residential dwelling existing on the property.
2. To hold one to two workshops per month with up to 12 artists in attendance on the site.
3. The holding of exhibitions on a monthly basis (1 to 2 per month) to be by invitation only.
4. The art gallery is to be available for viewings between 10am and 4pm Thursday to Sunday by invitation only.
5. The works displayed in the gallery are to be available for sale.
6. The disused tennis court is to be used for formal parking providing 16 parking spaces marked out and two disabled spaces.

The Panel took a view of the subject property and was provided with the relevant Council Officers Report recommending approval subject to conditions. There were no objections to the proposal.

At the public meeting there were no persons speaking either for or against the development.

The Panel, having regard to the fact that there were no building works proposed but rather a reuse of the internal spaces of existing buildings and that the proposed use was of low intensity and low impact, in that it would not result in any unacceptable increase in traffic in the area, was satisfied that the proposal is consistent with the Desired Future Character Statement in the B2 Oxford Falls Valley Locality Statement.



The recommendation of the Panel was that the application should be approved subject to the conditions contained in the Council Report and including the following condition in relation to landscaping.

- The area between the front boundary of the property and the proposed car park is to be landscaped so as to provide a visual buffer to screen the car park, using native species endemic to the local area and which will achieve a minimum height of 3 m at maturity. A plan depicting the landscaped buffer is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Voting** 4/0

**RECOMMENDATION OF WARRINGAH DEVELOPMENT ASSESSMENT PANEL**

THAT the Warringah Development Assessment Panel recommends the General Manager grant Development Consent to DA2015/1006 for the use of the premises as an art studio and gallery on land at Por 1085/ Oxford Falls Road OXFORD FALLS subject with the addition condition:

**22. Landscape plan**

The area between the front boundary and the proposed car park is to be landscaped to provide a visual buffer to screen the car park, using native species endemic to the local area and which will achieve a minimum height of 3 m at maturity. A plan depicting the landscaped buffer is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** To minimise the visual impact of the car park.



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**ATTACHMENT B**

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**Report to Warringah Development Assessment Panel Meeting on 13 April 2016**

**DEVELOPMENT ASSESSMENT REPORT**

<b>Planner:</b>	Daniel Milliken
<b>Address / Property Description:</b>	Lot B DP 355833 Por 1085/ Oxford Falls Road OXFORD FALLS Use of premises as an art studio and gallery
<b>Development Application No:</b>	DA2015/1006
<b>Application Lodged:</b>	19/10/2015
<b>Plans Reference:</b>	79815.01 Issue A dated 30.09.2015 prepared by HSA Architects
<b>Applicant:</b>	BBF Town Planners
<b>Owner:</b>	R C Smith, E A Yaffe
<b>Locality:</b>	B2 - Oxford Falls Valley
<b>Category:</b>	Category 3 (Entertainment Facility)
<b>Variations to Controls (CI.20/CI.18(3)):</b>	Front Building Setback Side Building Setback
<b>Referred to ADP:</b>	No
<b>Referred to WDAP:</b>	Yes
<b>Land and Environment Court Action:</b>	No
<b>SUMMARY</b>	
<b>Submissions:</b>	Nil
<b>Submission Issues:</b>	Nil
<b>Assessment Issues:</b>	Front Building Setback Side Building Setback
<b>Recommendation:</b>	Approval
<b>Attachments:</b>	Draft Conditions of Consent

## LOCALITY PLAN (not to scale)



## SITE DESCRIPTION

The subject site consists of two adjoining lots, both known as Portion 1085 Oxford Falls Road. The two lots are Lot B DP 355833 and Lot C DP 355833 and are located on the eastern side of Oxford Falls Road.

The site slopes down towards the west and has a combined area of approximately 2.3ha.

Existing on the site is a single storey residential dwelling and detached garage, horse stables and sheds, a disused tennis court (that is currently used as an informal parking area), an external toilet and horse paddocks now used for the purposes of horse agistment.

Driveway access is via Oxford Falls Road. The eastern portion of the site is heavily vegetated as it rises up the slope.

The surrounding development consists of similar semi-rural properties as well as bushland. There is a smaller lot containing a detached residential dwelling adjoining the north-west corner of the site.

## SITE HISTORY

A fibro dwelling was built on the site in 1948.

**Consent No. 571/86** – for a sunroom on the fibro dwelling was approved in 1986.



**DA2006/1154** – for a boundary adjustment was approved on 9 July 2007.

**PLM2015/0078** – A Prelodgement Meeting was held with the applicant to discuss the current proposal. The notes from the prelodgement meeting indicated that Council was supportive of the concept but that the application, given the use is classified as Category 3 development, would have to be determined by the Warringah Development Assessment Panel (WDAP).

After a full search of Council's records, no other specific consents for the other structures on the subject sites can be found. The applicant has not provided any evidence of their approvals.

## **PROPOSED DEVELOPMENT**

The applicant proposes the following:

- A change of use of three existing disused stable buildings to an art gallery and art studios (workshop space) as an ancillary use to the residential dwelling
- It is proposed to hold one to two workshops per month with up to 12 artists in attendance on the site
- Exhibitions will also be held on a monthly basis (one to two per month) by invitation only
- The art gallery will also be available for viewings between the hours of 10am and 4pm Thursday to Sunday, also by invitation only
- The works displayed in the gallery will be available for sale
- The disused tennis court will be set aside for formal parking. 16 parking spaces as well as two disabled parking spaces will be marked out.

**Note:** No advertising signage is proposed

## **PUBLIC EXHIBITION**

The subject application was publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to six (6) adjoining land owners and occupiers for a period of 14 calendar days commencing on 27 October 2015 and being finalised on 11 November 2015.

No submissions were received.

## **REFERRALS**

### **External Referrals**

#### **Referral body**

Ausgrid

#### **Comments**

The proposal was referred to Ausgrid. No



response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## **Internal Referrals**

### **Referral body**

### **Comments**

Building Assessment

No objections to the proposal, subject to conditions.

Natural Environment - Biodiversity

The development proposal is for change of use of structures currently used as sheds to be converted to art studios.

The Bushfire Hazard Assessment Report (11 May 2015) states, "available Asset Protection Zones exceed the minimum requirements".

The application is supported providing that no native vegetation or trees are cleared or removed, other than maintenance of current cleared areas.

Development Engineering

No Development Engineers objection is raised to the proposed development subject to conditions.

Traffic Engineering

The proposed art studio and art gallery has proposed providing 16 parking spaces plus two disabled parking spaces adjacent to the building.

The disabled parking spaces as shown on the plans do not currently comply with the Australian Standard. These spaces are required to be 7.8m in length and 3.2m in width with an adjacent area on the same level and on the non-trafficable side of the space 1.66m in width. A suitable turning area needs to be identified for those vehicles that will be using the disabled parking spaces to exit the property.

The last parallel parking space in the proposed parking area will have a restricted entry/exit if a vehicle is parked in the adjacent parallel parking space.

Entering vehicles are to be given right of way to ensure that queuing of vehicles does not occur on Oxford Falls Road. In this regard, a waiting area and suitable





signposting is to be provided for vehicles exiting the car park.

Landscape Officer

No objections to approval, subject to conditions as recommended.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
<b>Section 79C (1) (a)(i) – Provisions of any environmental planning instrument</b>	See discussion on "Environmental Planning Instruments" in this report.
<b>Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument</b>	See discussion on "Draft Environmental Planning Instruments" in this report.
<b>Section 79C (1) (a)(iii) – Provisions of any development control plan</b>	Warringah Development Control Plan applies to this proposal.
<b>Section 79C (1) (a)(iiia) – Provisions of any planning agreement</b>	None applicable.
<b>Section 79C (1) (a)(iv) – Provisions of the regulations</b>	<p>The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter has been address via a condition of consent.</p> <p>Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter has been address via a condition of consent.</p> <p>Clause 93 of the EPA Regulation 2000 requires the consent authority to consider the fire safety upgrade of development. This matter has been address via a condition of consent.</p>
<b>Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</b>	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the</p>



Section 79C 'Matters for Consideration'	Comments
	locality considering the character of the proposal.  (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
<b>Section 79C (1) (c) – the suitability of the site for the development</b>	The site is considered suitable for the proposed development.
<b>Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</b>	See discussion on “Public Exhibition” in this report.
<b>Section 79C (1) (e) – the public interest</b>	The proposed art studio and gallery is a “not-for-profit” enterprise that will provide a service to the community.  No matters have arisen that would justify the refusal of the application in the public interest.

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)**

### **State Environmental Planning Policies (SEPPs)**

#### **State Environmental Planning Policy No 55 – Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for semi-rural purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the proposed land use.

#### **State Environmental Planning Policy - Infrastructure**

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line



- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## **Local Environment Plans (LEPs)**

### ***Warringah Local Environment Plan 2000 (WLEP 2000)***

#### **Desired Future Character (DFC)**

The subject site is located in the B2 Oxford Falls Valley Locality under Warringah Local Environmental Plan 2000.

The Desired Future Character Statement for this locality is as follows:

*"The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.*

*Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.*

*The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.*

*A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.*

*Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained."*

The proposed development is defined as an "entertainment facility" under the WLEP 2000 dictionary.

***Entertainment facility*** means a building or place used for the purpose of sport, entertainment, exhibitions, displays or cultural events, and includes:

- (a) Sports stadiums, showgrounds, racecourses and the like, and
- (b) Theatres, cinemas, music halls, concert halls, open air theatres, drive-in theatres and the like.



An "entertainment facility" is identified as Category 3 development in this locality.

### **CATEGORY 3 DEVELOPMENT**

Clause 12(3)(a) of WLEP 2000 requires the consent authority to be satisfied that the proposed development is consistent with the Locality's DFC statement.

Accordingly, an assessment of consistency of the proposed development against the locality's DFC is provided hereunder:

***Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.***

Comment:

The proposal is for a change of use, with no new structures or dwellings forming part of this development.

An objective interpretation of what constitutes low intensity, low impact uses was used in the Land and Environment Court judgement *Vigor Master Pty Ltd v Warringah Shire Council* [2008] NSWLEC 1128. The interpretation within the judgement is provided as follows:

***"Intensity - is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore "low intensity" would constitute a development which has a low level of activities associated with it."***

**AND**

***Impact - is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore 'low impact' would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality."***

### **Intensity Assessment**

Comment:

If intensity is best measured by the activities associated with a development, then the key measure for the proposal is the number of traffic movements generated by the operation of the premises as an entertainment facility.

The use includes the following:

- One to two workshops per month with up to 12 artists in attendance.
- One to two exhibitions per month.
- The art gallery open between the hours of 10am and 4pm Thursday to Sunday only.



Given the limited nature of the use and the relatively low numbers intended, the proposal is considered to be of a low intensity. In addition, Council's Traffic Engineer raised no objections to the proposal.

### **Impact Assessment**

The potential impacts of the proposed use as an entertainment facility are related to noise, traffic and parking. An assessment of each of these impacts is provided below.

#### **(a) Noise:**

The art gallery and studio will produce very low noise levels that will not cause unreasonable amenity impacts on surrounding properties.

#### **(b) Traffic:**

The number of vehicle trips from the relatively minimal level of use will have a minor impact on the surrounding road network. The traffic impact is considered to be low.

#### **(c) Parking:**

As mentioned previously, parking is provided in the form of 16 standard spaces and two disabled spaces on the disused tennis court at the front of the site. This number of spaces will adequately cater for the proposed use.

On balance, subject to conditions of consent relating to the hours of operation, the number of workshops and the maximum patron numbers, the development is considered to be a low intensity, low impact use that would maintain the existing character of the locality.

***The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.***

#### Comment:

As the proposal is for a change of use, the natural environment, in particular the heavily vegetated portions of the site, will be maintained. The existing buildings will remain grouped in the already cleared portions of the site and no additional loss of vegetation will occur.

***A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.***

***Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.***

#### Comment:



The sites are not located on Forest Way or Wakehurst Parkway and will not create siltation or pollution of Narrabeen Lagoon.

As detailed above, the proposed development is considered to be consistent with the Locality's DFC statement.

### **Built Form Controls (Development Standards)**

The following table outlines compliance with the Built Form Controls of the above locality statement:

<b>Built Form Compliance Table - B2 - Oxford Falls Valley</b>			
<b>Built Form Standard</b>	<b>Required</b>	<b>Proposed</b>	<b>Compliance</b>
Housing Density	1 dwelling per 20 ha	No new dwellings	Yes (no change)
Building Height	8.5m	Change of use, no above ground structures proposed.	Yes
Front Building Setback	20m	Car parking areas (formalised) – 5.0m Art buildings – 41.5m	<b>No</b> Yes
Rear Building Setbacks	10m	Art buildings – Approximately 153m	Yes
Side Building Setbacks	10m	Car parking areas (formalised) – 4.2m Art buildings – 23.5m	<b>No</b> Yes
Landscaped Open Space	30%	>30% (No change to the existing LOS on site)	Yes

The proposed development fails to satisfy the Locality's Front Building Setback and Side Building Setback Built Form Controls, accordingly, further assessment is provided against the provisions of Clause 20(1) hereunder.

### **Clause 20(1) stipulates:**

*“Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.”*

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

### **(i) General Principles of Development Control**

The proposal is consistent with the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards,



under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

**(ii) Desired Future Character of the Locality**

The proposal is consistent with the Locality's Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See earlier discussion on “Desired Future Character” in this report for a detailed assessment of consistency).

**(iii) Relevant State Environmental Planning Policies**

The proposal has been considered consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under ‘State Environmental Planning Policies’). Accordingly, the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

**Description of variations sought and reasons provided:**

**FRONT BUILDING SETBACK:**

Required: 20m

Proposed: Car parking areas – 5.0m

In assessing this non-compliant element of the proposal, it is necessary to consider the objectives of the Front Building Setback Built Form Control. Accordingly, the objectives are addressed below:

***(a) Create a sense of openness***

Comment:

The existing disused tennis court that is currently being used as an informal parking area will be upgraded (line marking only, no new resurfacing) as part of this proposal. No new above ground structures are proposed and the existing landscaping will be maintained. All existing above ground structures are set back more than 20m from the front boundary. On this basis, a sense of openness will be maintained.

***(b) Provide opportunities for landscaping***

Comment:

All existing vegetation will remain. As discussed above, the current informal parking area will be upgraded with no loss of landscaped open space. The development will maintain a landscaped setting and will not adversely affect the amenity of the existing streetscape.

***(c) Minimise the impact of development on the streetscape***

Comment:



The upgrading of the existing informal car park and the maintaining of the existing landscaping along the front boundary will minimise the impact of the development on the streetscape.

***(d) Maintain the visual continuity and pattern of buildings, front gardens and landscape elements***

Comment:

As discussed above, the proposal includes a change of use to existing buildings and the upgrading of the current informal parking area. No changes will be readily visible from the street and therefore, the development will maintain the current visual continuity and pattern of buildings, front gardens and landscape elements.

***(e) The provision for corner allotments relates to street corners***

Comment:

The sites are not corner allotments.

**Clause 20 Variation to the Front building setback Built Form Control – Supported**

As detailed above, the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1). In addition, the proposal is considered to be consistent with the underlying objectives of the Front Building Setback Built Form Control. It is for these reasons that the variation to the Front Building Setback Built Form Control (Development Standard) pursuant to Clause 20(1) is supported.

**SIDE BUILDING SETBACK**

Required: 10m

Proposed: Carparking Area – 4.2m

In assessing this non-compliant element of the proposal, it is necessary to consider the objectives of the Side building setback Built Form Control. Accordingly, the objectives are addressed below:

***(a) Ensure the development does not become visually dominant by virtue of its height and bulk.***

Comment:

The proposal includes a change of use of existing buildings and the upgrading of the current informal parking area (the disused tennis court). No new above ground structures are proposed and the existing landscaping will be maintained. The development will not become visually dominant by virtue of its height and bulk.

***(b) Preserve the amenity of the surrounding land***

Comment:

All existing vegetation will remain. As discussed above, the current informal parking area will be upgraded with no loss of landscaped open space. The development will maintain a landscaped setting and not adversely affect the amenity of surrounding land.





**(c) Ensure that development responds to site topography**

Comment:

No new structures are proposed. The current informal parking area will be retained and upgraded. The development responds appropriately to the site topography.

**(d) Provide separation between buildings**

Comment:

The existing buildings are adequately setback from the side boundaries and currently provide a reasonable separation between buildings. No new above ground structures are proposed.

**(e) Provide opportunities for landscaping**

Comment:

All existing vegetation will remain. As discussed above, the current informal parking area will be upgraded with no loss of landscaped open space. The development will maintain a landscaped setting and will not adversely affect the amenity of the streetscape.

**(f) Create a sense of openness**

Comment:

The existing informal parking and driveway area will be upgraded as part of this proposal. No new above ground structures are proposed and the existing landscaping will be maintained. All existing above ground structures are set back more than 10m from the side boundaries. On this basis, a sense of openness will be maintained.

**Clause 20 Variation to the Side building setback Built Form Control – Supported**

As detailed above, the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1). In addition, the proposal is considered to be consistent with the underlying objectives of the Side Building Setback Built Form Control. It is for these reasons that the variation to the Side Building Setback Built Form Control (Development Standard) pursuant to Clause 20(1) is supported.

**1 General Principles of Development Control**

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	Yes	The proposal will not result in unreasonable glare and reflection.	Yes
CL39 Local retail centres	No		N/A



<b>General Principles</b>	<b>Applies</b>	<b>Comments</b>	<b>Complies</b>
<b>CL40 Housing for Older People and People with Disabilities</b>	No		N/A
<b>CL41 Brothels</b>	No		N/A
<b>CL42 Construction Sites</b>	No		N/A
<b>CL43 Noise</b>	Yes	The proposed art studio and gallery are not expected to generate unreasonable noise levels for nearby residential uses.	Yes
<b>CL44 Pollutants</b>	No		N/A
<b>CL45 Hazardous Uses</b>	No		N/A
<b>CL46 Radiation Emission Levels</b>	No		N/A
<b>CL47 Flood Affected Land</b>	No		N/A
<b>CL48 Potentially Contaminated Land</b>	No		N/A
<b>CL49 Remediation of Contaminated Land</b>	No		N/A
<b>CL49a Acid Sulfate Soils</b>	No		N/A
<b>CL50 Safety &amp; Security</b>	Yes	The buildings used for the art gallery and studio will allow for casual surveillance of the parking area and the street.	Yes
<b>CL51 Front Fences and Walls</b>	No		N/A
<b>CL52 Development Near Parks, Bushland Reserves &amp; other public Open</b>	No		N/A



General Principles	Applies	Comments	Complies
<b>Spaces</b>			
<b>CL53 Signs</b>	No		N/A
<b>CL54 Provision and Location of Utility Services</b>	Yes	The site will provide the required utility services.	Yes
<b>CL55 Site Consolidation in 'Medium Density Areas'</b>	No		N/A
<b>CL56 Retaining Unique Environmental Features on Site</b>	Yes	The existing unique environmental features on the sites will be retained.	Yes
<b>CL57 Development on Sloping Land</b>	Yes	The site is not at risk of landslip.	Yes
<b>CL58 Protection of Existing Flora</b>	No		N/A
<b>CL59 Koala Habitat Protection</b>	No		N/A
<b>CL60 Watercourses &amp; Aquatic Habitats</b>	No		N/A
<b>CL61 Views</b>	Yes	No views will be affected by the proposal.	Yes
<b>CL62 Access to sunlight</b>	Yes	The proposal will not result in any additional overshadowing to neighbouring properties.	Yes
<b>CL63 Landscaped Open Space</b>	Yes	The existing LOS on site is greater than 30% and will remain unchanged.	Yes
<b>CL63A Rear Building Setback</b>	Yes	Complies	Yes
<b>CL64 Private open space</b>	Yes	The property provides ample private open space.	Yes
<b>CL65 Privacy</b>	Yes	The proposal will not result in any unreasonable privacy impacts to neighbouring properties.	Yes



<b>General Principles</b>	<b>Applies</b>	<b>Comments</b>	<b>Complies</b>
<b>CL66 Building bulk</b>	Yes	There will be no change to the existing above ground structures.	Yes
<b>CL67 Roofs</b>	Yes	There will be no change to the existing roofs.	Yes
<b>CL68 Conservation of Energy and Water</b>	No		N/A
<b>CL69 Accessibility – Public and Semi-Public Buildings</b>	No		N/A
<b>CL70 Site facilities</b>	Yes	The site includes all necessary facilities.	Yes
<b>CL71 Parking facilities (visual impact)</b>	Yes	The ground level parking facilities will not result in an unacceptable visual impact to the streetscape or the neighbouring properties.	Yes
<b>CL72 Traffic access &amp; safety</b>	Yes	Council's Traffic Engineers raised several concerns about the proposed parking arrangements. The engineers recommended several conditions to resolve these issues. Those conditions are included in the notice of determination attached to this report  The vehicle access is acceptable.	Yes
<b>CL73 On-site Loading and Unloading</b>	Yes	There is sufficient space for the unloading of art supplies and works for the studio and gallery.	Yes
<b>CL74 Provision of Carparking</b>	Yes	The proposal includes 16 parking spaces and two disabled spaces. Council's Traffic Engineers have reviewed the proposal and, subject to conditions, raised no objections to the proposed parking numbers.	Yes
<b>CL75 Design of Carparking Areas</b>	Yes	Council's Traffic Engineers have reviewed the proposal and recommended conditions to improve the design of the carparking areas.	Yes
<b>CL76 Management of Stormwater</b>	Yes	As there will be no additional hard surface areas, the management of stormwater will remain unchanged.	Yes
<b>CL77 Landfill</b>	No		N/A
<b>CL78 Erosion &amp;</b>	No		N/A



General Principles	Applies	Comments	Complies
Sedimentation			
CL79 Heritage Control	No		N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	No		N/A
CL81 Notice to Heritage Council	No		N/A
CL82 Development in the Vicinity of Heritage Items	No		N/A
CL83 Development of Known or Potential Archaeological Sites	No		N/A

## SCHEDULES

### Schedule 15 - Statement of Environmental Effects

Under Clause 15 of WLEP 2000, there are specific provisions relating to Category 3 development.

Pursuant to Clause 15 of WLEP 2000, consent may be granted to development classified as Category Three only if the consent authority has considered a Statement of Environmental Effects that includes the items in Schedule 15.

The applicant has submitted a Statement of Environmental Effects which addresses the items listed in Schedule 15 of WLEP 2000. An assessment of Category 3 elements of the proposal only against the provisions of Schedule 15 is provided below:

Requirement	Comment
(1) A summary of the statement of environmental effects.	It is considered that the statement submitted adequately summarises the submitted statement of environmental effects.



<p>(2) A statement indicating how the proposed development is consistent with the relevant desired future character statement and general principles of development control established by this plan.</p>	<p>In summary, the applicant has concluded that the proposal is consistent with DFC statements for the B2 Locality and the development is also consistent with the General Principles as contained in Part of the WLEP 2000.</p>
<p>(3) A statement of the objectives of the proposed development.</p>	<p>The applicant states that:</p> <p><i>"The objective of the proposed development is to provide a creative environment and an educational facility to assist upcoming artists in the local community. A gallery space will also be provided to the artists to allow an exhibition space for artists to display their work. The business is not for profit."</i></p>
<p>(4) An analysis of any feasible alternatives to the carrying out of the development, having regard to its objectives, including:</p> <p>(a) the consequences of not carrying out the development, and</p> <p>(b) The reasons justifying the carrying out of the development.</p>	<p>The applicant has provided the following comments in regard to the possibility of feasible alternatives;</p> <p><b>(a) The consequences of not carrying out the development</b></p> <p><i>"If the application is not approved, the organisation (not-for-profit) will then be required to find an alternative venue, obtain consent to carry out the proposed uses and fit-out the premises. Given the lack of appropriate premises for the proposed uses and the fact that this is a not-for-profit organisation with limited funds, this process is likely to be time consuming and costly. The ultimate consequence may be the loss of a business which will provide a significant contribution to the local community and local artists."</i></p> <p><b>(b) The reason justifying the carrying out of the development.</b></p> <p><i>"The justification for the development as proposed is to obtain consent to utilise the vacant stables buildings on the land for a worthwhile cause. In this regard the justification for the development as proposed is:</i></p> <ul style="list-style-type: none"><li><i>• The proposed use is ancillary to the residential use of the land and is considered to constitute a "low impact and low intensity" use by virtue of the nature of the proposed operations;</i></li><li><i>• The proposal simply serves to operate out</i></li></ul>

	<p><i>of disused stable buildings, as such the present character of development within the Oxford Falls locality will remain unchanged;</i></p> <ul style="list-style-type: none"> <li><i>Adequate parking spaces can be accommodated on the site, within the existing disused tennis court and will not give rise to any traffic or parking impacts;</i></li> <li><i>The proposal is a not-for-profit charitable organisation, which serves the needs of the local community providing a space where artists can learn and display their work;</i></li> <li><i>The proposed use will not give rise to any noise or amenity impacts, given the nature of the proposed use."</i></li> </ul> <p><b>Comment:</b> The applicant's comments in regard to the possibility of feasible alternatives, and the consequences of not carrying out the development, are concurred with as the site can reasonably accommodate the proposed use.</p>
<p>(5) An analysis of the development, including:</p> <p>(a) a full description of the development, and</p> <p>(b) a general description of the environment likely to be affected by the development, together with a detailed description of those aspects of the environment that are likely to be significantly affected, and</p> <p>(c) a description of the likely impact on the environment of the development, having regard to:</p> <p>(i) the nature and extent of the development, and</p> <p>(ii) the nature and extent of any building or work associated with the development, and</p> <p>(iii) the way in which any such building will be erected in connection with the development, and</p> <p>(iv) any rehabilitation measures to be undertaken in connection</p>	<p>The applicant states in part:</p> <p><i>"The application does not propose any modifications to the existing building. The impacts of the proposed use on the surrounding area, particularly in terms of traffic and parking have been addressed in Part 4 of the SOEE.</i></p> <p><i>The proposal will not result in any adverse effects on the environment. Accordingly, no mitigation measures are required."</i></p> <p><b>Comment:</b> The SEE has provided an appropriate description of the development and an analysis of the context of the site.</p>



with the development, and  (d) A full description of the measures proposed to mitigate any adverse effects of the development on the environment.	
(6) The reasons justifying the carrying out of the development in the manner proposed having regard to the biophysical, economic and social considerations and the principles of ecologically sustainable development.	<p>The applicant states:</p> <p><i>"The proposed uses will not result in any impacts on the biophysical environment.</i></p> <p><i>The proposed organisation is not-for-profit and the aim is to provide a creative environment and an educational facility to assist upcoming artists in the local community. A gallery space will also be provided to the artists to allow an exhibition space for artists to display their work.</i></p> <p><i>It is proposed to hold 1 to 2 workshops per month with up to 12 artists in attendance on the site. Exhibitions will also be held on a monthly basis (1 to 2 per month) by invitation only. The art gallery will also be available for viewings between the hours of 10am and 4pm Thursday to Sunday, again by invitation only.</i></p> <p><i>The organisation intends to be active in fostering the development of local artists and the art community in general. The approval of the proposed use will enable the organisation to support the local community and local artists."</i></p> <p><b>Comment:</b> Given the low intensity and low impact nature of the use, the development is unlikely to have any significant impact on the biophysical, economic and social environment.</p>
(7) The statement is to include a compilation (in a single section of the statement) of the measures proposed to mitigate any adverse effects of the development on the environment.	<p>The applicant states:</p> <p><i>"There are no adverse effects arising from the use as proposed."</i></p> <p><b>Comment:</b> As the proposal does not require the construction of any new buildings and only seeks consent for an art gallery and art studio, no adverse environmental impacts are expected.</p>
(8) A list of any approvals that must be obtained under any other Act or law before the development may lawfully be	No approvals from any external bodies are required.





carried out.

### Schedule 17 - Carparking Provision

Carparking Provision	<p>Schedule 17 requires the following parking for <i>Entertainment facilities</i>:</p> <p>Comparisons must be drawn with developments for a similar purpose.</p> <p><u>Comment:</u> The proposal includes 16 parking spaces and two disabled spaces. Council's Traffic Engineers have reviewed the proposal and, subject to conditions, raised no objections to the proposed parking numbers.</p>
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### POLICY CONTROLS

#### Warringah Section 94A Development Contribution Plan

As the estimated cost of works is less than \$100,000, Council's Section 94A Development Contributions Plan is not applicable to the assessment of this application.

### CONCLUSION

The proposal includes a change of use of three existing buildings to an art studio and gallery. An existing disused tennis court that is currently used as an informal parking area will be upgraded to become the formal parking area for the visitors to the site. No new above ground structures are proposed.

The proposed art studio and gallery constitutes a low impact and low intensity use and is consistent with the desired future character statement for the B2 Oxford Falls Valley Locality.

Council's Traffic Engineers raised concerns regarding several parking spaces and has recommended several conditions to resolve these issues, which are included in the draft conditions.

The site has been inspected and the proposal has been considered against the relevant matters for consideration under Section 79C of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, the provisions of WLEP 2000 and the proposal will not result in any unreasonable impacts on surrounding, adjoining, adjacent or nearby properties subject to the conditions contained within the recommended consent attached to this report.

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

### RECOMMENDATION - APPROVAL

- A. THAT the Warringah Development Assessment Panel recommends the General Manager the consent authority grant Development Consent to DA2015/1006 for the



use of the premises as an art studio and gallery on land at Por 1085/ Oxford Falls Road OXFORD FALLS subject to the conditions in the attached Notice of Determination.

"I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest"

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

#### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
79815.01 Issue A	30.09.2015	HSA Architects

Reports -All recommendations and requirements within		
Report title.	Dated	Prepared By
Bushfire Hazard Assessment Report	11 May 2015	Building Code & Bushfire Hazard Solutions Pty Ltd

#### b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

### 2. Limitations of the Landuse

The approved use of the premises as an *Entertainment Facility* is limited to the use for the purposes of an art studio and gallery.

Reason: To ensure consistency with the provisions of WLEP 2000. (DACPLB04)

### 3. Prescribed Conditions

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

(o) New solid fuel burning heaters or existing solid fuel heaters affected by building works must comply with the following:

- (1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.
- (2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## **5. Disabled Parking**

The proposed disabled parking spaces are to comply with AS2890.6 with regard to length, width and the provision of a shared area adjacent to the space.

Reason: To ensure compliance with Australian Standards (DACTRBOC1)

**6. Vehicle Entry/Exit**

Entering vehicles are to be given right of way to ensure that queuing of vehicles does not occur on Oxford Falls Road. In this regard a waiting area and suitable signposting is to be provided for vehicles exiting the car park.

Reason: To reduce potential queuing on Oxford Falls Road (DACTRBOC2)

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

**7. Vehicle Crossings Application Formwork Inspection**

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

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

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

**8. Vehicle Driveway and Parking**

Driveway and parking faculties must be designed and built by a civil engineer in accordance with AS2890.1.

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

Reason: To ensure suitable vehicular access to private property. (DACENC13)

**9. Tree protection**

In order to protect and enhance onsite vegetation and trees the following applies to the development site

(a) Existing trees which must be retained

All trees unless exempt or noxious in Warringah

(b) Tree protection

i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.

ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.

iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, particularly Section 4 Tree Protection Measures.

iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373- 2007 Pruning of amenity trees AS4970-2009 Protection of trees on development sites.

v) All tree protection measures are to be in place prior to commencement of works

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

**10. Compliance with Standards**

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures\*\*
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings\*\*
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting\*\*
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) \*\*
- (e) AS 4970 - 2009 'Protection of trees on development sites'\*\*\*
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking\*\*
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities\*\*
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities\*\*
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking\*\*
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities\*\*
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set\*\*
- (l) AS 1428.1 - 2009\* Design for access and mobility - General requirements for access - New building work\*\*
- (m) AS 1428.2 - 1992\*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities\*\*
- (n) AS 4674 Design, construction and fit out of food premises
- (o) AS1668 The use of mechanical ventilation

\*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [http://www.humanrights.gov.au/disability\\_rights/buildings/good.htm](http://www.humanrights.gov.au/disability_rights/buildings/good.htm)

\*\*Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

#### 11. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

### **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

#### 12. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved

works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

#### **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**13. Vehicle Crossings**

The provision of rural vehicle crossing in accordance with Warringah Council specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

**14. Trees Condition**

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLA03)

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

**15. Change of Use**

A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a building (within the meaning of section 109H (4) of the Act) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that the

building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.

**Note:** The obligation to comply with the category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

Reason: Statutory requirement under S109N of the Environmental Planning & Assessment Act 1979. (DACBCFPOC2)

**16. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

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

**Note:** The following Standards and Codes applied at the time of determination:

(a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage

(b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage

(c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

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

**17. Hours of Operation (Art Gallery)**

The hours of operation are to be restricted to:

- 10am to 4pm Monday to Sunday

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: To ensure that amenity of the surrounding locality is maintained. (DACPLG08)

**18. Commercial Waste Collection**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 9pm and 8am on any day.

Reason: To ensure the acoustic amenity of surrounding properties. (DACPLG24)

**19. Hours of Operation (Workshops)**

No more than two workshops per month may be held on the site.

These workshops must not accommodate more than 12 artists at any one time.

The workshops must be held between the hours of:



- 9am to 6pm Monday to Sunday

Reason: To ensure that amenity of the surrounding locality is maintained (DACPLGOG1)

20. **Hours of Operation (Exhibitions)**

No more than two exhibitions per month may be held on the site.

The exhibitions must be held between the hours of:

- 9am to 6pm Monday to Sunday

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: To ensure that amenity of the surrounding locality is maintained (DACPLGOG2)

21. **Delivery Hours**

Deliveries to the premises must only occur between the hours of 9am to 5pm Monday to Friday.

Reason: To ensure that amenity of the surrounding locality is maintained.

