

# CENTRAL COAST COUNCIL

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number</b>	DA58287/2020.2
<b>Delegation level</b>	Delegated
<b>Property Lot &amp; DP</b>	LOT: 5 DP: 12791
<b>Property Address</b>	265 Ocean Beach Road UMINA BEACH NSW 2257
<b>Site Area</b>	670 m <sup>2</sup>
<b>Zoning</b>	R2 LOW DENSITY RESIDENTIAL
<b>Proposal</b>	Section 4.55 Amendment - Increase Rear Boundary
<b>Application Type</b>	Amendment under Section 4.55 (1A) - Local
<b>Application Lodged</b>	22/09/2020
<b>Applicant</b>	Knight Mapleton Design Partners
<b>Estimated Cost of Works</b>	\$ 0
<b>Advertised</b>	Not Advertised or Notified
<b>Submissions</b>	Nil
<b>Disclosure of Political Donations &amp; Gifts</b>	No
<b>Site Inspection</b>	16 October 2020
<b>Recommendation</b>	Approval, subject to conditions

### Assessment

This application has been assessed using the heads of consideration specified under Section 4.15 of the Environmental Planning & Assessment Act 1979, Council policies and adopted Management Plans.

### Background

Council's records show the following applications have been lodged on this site:

[BA42491/1987](#) (004.1987.00042491.001)

Building Application - CARPORT

Lodged: 11/05/1987 ( **Finished** : 09/06/1987 )

Address: 265 Ocean Beach Road UMINA BEACH NSW 2257

[BA68639/1992](#) (004.1992.00068639.001)

Building Application - DWELLING-HOUSE

Lodged: 01/07/1992 ( **Finished** : 16/10/1992 )

Address: 265 Ocean Beach Road UMINA BEACH NSW 2257

[DA58287/2020](#) (011.2020.00058287.001)

Development Application - Secondary Dwelling & Demolition of Garage

Lodged: 29/04/2020 ( **Approved under Delegation** : 16/06/2020 )

Address: 265 Ocean Beach Road UMINA BEACH NSW 2257

Applicant: Knight Mapleton Design Partners

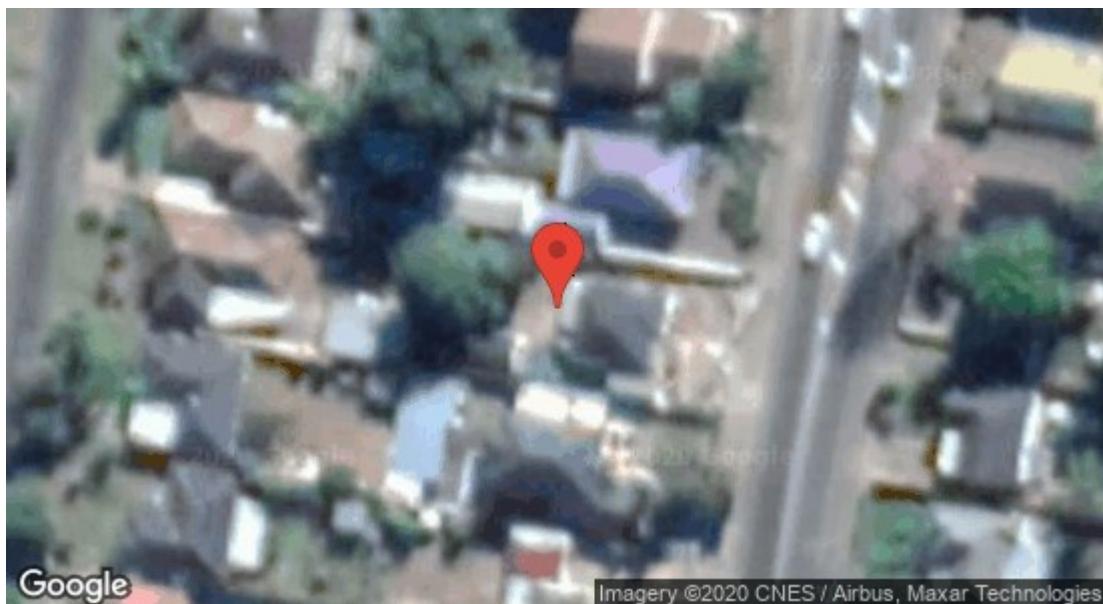
Principal Certifying Authority: To Be Advised

[CC58287/2020](#) (012.2020.00058287.001)

Construction Certificate - Secondary Dwelling & Demolition of Garage  
Lodged: 08/07/2020 ( **Approved under Delegation** : 20/08/2020 )  
Address: 265 Ocean Beach Road UMINA BEACH NSW 2257  
Builder: W H Murray

## Site & Surrounds

The site is located in a residential area and is not bush fire prone land as identified on Council's Bush Fire maps.



## The Proposal

The proposal comprises:

- Secondary Dwelling & Demolition of Garage

## Applicable Planning Controls

The following planning policies and control documents are relevant to the development and were considered as part of the assessment.

Environmental Planning & Assessment Act 1979 - Section 4.15  
Local Government Act 1993 - Section 89  
State Environmental Planning Policy (Coastal Management) 2018  
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004  
Gosford Local Environmental Plan 2014  
Gosford Development Control Plan 2013

## Draft Environmental Planning Instruments

The application has been assessed under the provisions of the Draft Central Coast Local Environment Plan 2018 . The assessment concluded the proposal is consistent with the Draft Plan.

## Permissibility

The subject site is zoned R2 LOW DENSITY RESIDENTIAL The proposed development is defined as Secondary Dwelling which is permissible in the zone with the consent of Council.

**secondary dwelling** means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

## State Environmental Planning Policies

### **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The application is supported by a BASIX certificate which confirms the proposal will meet the NSW government's requirements for sustainability, if built in accordance with the commitments in the certificate.

The proposal is considered to be consistent with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

## Gosford Local Environmental Plan 2014

The Gosford LEP 2014 was considered during assessment of this application. There are no variations in relation to the proposed development.

### **Zone R2 Low Density Residential**

The objectives of the R2 zone are:

- To provide for the housing needs of the community within a low density residential environment
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that development is compatible with the desired future character of the zone.
- To encourage best practice in the design of low-density residential development.
- To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.
- To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low-density housing.

In this instance, it is considered that the proposal is consistent with the stated objectives of the zone and consistent with the principles of Ecologically Sustainable Development as specified within the Local Government Act 1993.

## Gosford Development Control Plan 2013

Development Standard	Description	Required	Proposed	Compliance with Controls	Compliance with Objectives
3.1.3.1b - Rear Setback	Rear setback to private allotment required	900	4500	Yes	Yes
	Rear setback to parallel road or public reserve required			n/a	n/a
	Rear setback within coastal hazard area required			n/a	n/a
3.1.4.1 - Views				Yes - see comments below	Yes - see comments below
3.1.4.2 - Visual Privacy				Yes - see comments below	Yes - see comments below

## Umina

The proposed development is consistent with the desired character of Umina.

### **Chapter 2.2 Scenic Quality**

The visual and scenic impact has been assessed and the development is considered to be consistent with the objectives of scenic quality. The proposed development does not unreasonably contribute to the loss of characteristics of the natural or built environment, nor does it unreasonably dominate the local area.

#### **3.1.4.1 Views**

The proposal is consistent with the objectives of Consideration of Views. The primary views and outlook from the existing neighbouring dwellings will not be substantially affected.

#### **3.1.4.2 Visual Privacy**

Minimal to nil impact on privacy considering the location, size and setbacks of the proposed habitable spaces and windows from allotment boundaries.

### **6.3 Erosion Sedimentation Control**

Appropriate siltation control to be conditioned.

## **Planning Agreements**

The proposed development is not subject to a planning agreement or draft planning agreement.

## **Development Contribution Plan**

The proposed development is a development type that is not subject to S94 development contributions under the Contribution Plan. Therefore, no contributions are applicable.

## **Referrals**

Internal Referral Body	Comments
Engineering	Supported, subject to conditions
Water and Sewer Assessment	Supported, subject to conditions

## **Political Donations**

During assessment of the application there were no political donations declared by the applicant, applicant's consultant, owner, objectors and/or residents.

## **Public Submissions**

The proposed development did not require notification in accordance with the provisions of Gosford Development Control Plan 2013.

## **Conclusion**

The proposed development has been considered under Sections 4.55 and 4.15 of the Environmental Planning and Assessment Act 1979. The proposal involves modifications to the secondary dwelling at 265 Ocean Beach Road Umina Beach NSW 2257 . The proposed modifications will not result in adverse amenity impacts on the adjoining properties and the streetscape. The proposed development is substantially the same as the development that was originally granted consent.

As such, in accordance with Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979, the Section 4.55(1A) for modification is recommended for **approval**.

**Plans for Stamping**

Amended Plans, CM9 Doc No D14249749

**Supporting Documents for Binding with consent**

Nil

**Recommendation**

- A. Council as consent authority approve the Section 4.55 (1A) Part 2 application to modify Development Consent No 58287/2020 to the approved Secondary dwelling on Lot: 5 DP: 12791, 265 Ocean Beach Road Umina Beach . The Development Consent No 58287/2020 be modified as follows:
  - i. amendment to condition 1.1 ( increase rear boundary set back)
- B. The applicant be advised that the approved amendment does not extend the terms of the approved original consent.

<b>Recommendation:</b>	Approval, subject to conditions
<b>Assessing Officer:</b>	Robert Williams Building Surveyor
<b>Recommendation Reviewed by:</b>	Robert Williams Peer Review Not Required, 100% Compliant

## Conditions

### 1. PARAMETERS OF THIS CONSENT

#### 1.1 IL Approved Plans and Supporting Documents

Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "Development Consent" unless modified by any following condition.

**Architectural Plans by:** KM design partners

Drawing	Description	Sheets	Issue	Date
20-1325	Architectural plan set	1 to 4	D	02/09/2020

**Supporting Documentation:**

Nil

- 1.2 Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.
- 1.3 Comply with all commitments listed in the BASIX Certificate for the development as required under clause 97A of the Environmental Planning and Assessment Regulation 2000.

### 2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1 All conditions under this section must be met prior to the issue of any Construction Certificate.

- 2.2** Pay to Council a total contribution amount of **\$8408.00**, that may require adjustment at the time of payment, in accordance with the relevant Council Contribution Plans No. 31A, 31B, 31C & 31D - Peninsula.

Roadworks - Capital	B	(Key No 789)	\$446.00
Open Space - Land	C	(Key No 791)	\$1470.00
Open Space - Embellishment	C	(Key No 790)	\$4073.00
Community Facilities - Land	D	(Key No 793)	\$72.00
Community Facilities - Capital	D	(Key No 792)	\$1142.00
Drainage - Land	A	(Key No 787)	\$244.00
Drainage - Capital	A	(Key No 788)	\$961.00
<b>TOTAL AMOUNT</b>			<b>\$8408.00</b>

The total amount must be indexed each quarter in accordance with the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician as outlined in the contributions plan.

Contact Council's Contributions Planner on Tel 1300 463 954 for an up-to-date contribution payment amount.

Any Construction Certificate must not be issued until the developer has provided the Certifier with a copy of a receipt issued by Council that verifies that the contributions have been paid. A copy of this receipt must accompany the documents submitted by the Certifier to Council under Clause 104 of the *Environmental Planning and Assessment Regulation 2000*.

A copy of the Contribution Plan may be inspected at the office of Central Coast Council, 49 Mann Street Gosford or on Council's website:

[Development Contributions - former Gosford LGA](#)

- 2.3** No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
- Site investigation for the preparation of the construction, and / or
  - Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
  - Demolition
- 2.4** Submit an application to Council under section 305 of the *Water Management Act 2000* to obtain a section 307 Certificate of Compliance. The *Application for a 307 Certificate under section 305 Water Management Act 2000* form can be found on Council's website [www.centralcoast.nsw.gov](http://www.centralcoast.nsw.gov). Early application is recommended.
- A section 307 Certificate must be obtained prior to the issue of any Construction Certificate.
- 2.5** Submit engineering details prepared and certified by a practising structural engineer that comply with *Council's Building Over or Adjacent To Sewer and Water Main Guidelines* to the satisfaction of Council. Engineering details must be submitted to Council's Water Assessment Team for approval. Plan assessment fees apply.
- 2.6** Submit design details of the following engineering works within private property:
- The minimum floor level of all habitable rooms in the development must be RL 5.90m AHD.
  - All building materials used or located below RL 5.90m AHD must be of a type to withstand the effects of immersion.
  - Non-habitable floor levels: Garage, shed, laundry, or public toilets/sporting amenities to have the floor levels at or above the 1% AEP flood level (RL 5.40m AHD) or at least 300mm (desirable 500mm) above the surrounding finished ground level. Materials, equipment or contents are not to be stored below the FPL unless they are flood compatible, capable of withstanding the forces of floodwater, debris and buoyancy, and not prone to causing pollution or an environment hazard. (Refer to DCP 2013 Part 6.7.7.6.4 B)

These design details and any associated reports must be certified and included in the Construction Certificate.

### **3. PRIOR TO COMMENCEMENT OF ANY WORKS**

- 3.1** All conditions under this section must be met prior to the commencement of any works.
- 3.2** Appoint a Principal Certifier for the building work:
- a. The Principal Certifier (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
  - b. Submit to Council a Notice of Commencement of Building Work form giving at least two (2) days' notice of the intention to commence building work. The forms can be found on Council's website: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)
- 3.3** Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:
- a. The name, address and telephone number of the Principal Certifier for the work; and
  - b. The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
  - c. That unauthorised entry to the work site is prohibited
  - d. Remove the sign when the work has been completed.
- 3.4** Submit both a Plumbing and Drainage Inspection Application, with the relevant fee, and a Plumbing and Drainage Notice of Work in accordance with the Plumbing and Drainage Act 2011 (to be provided by licensed plumber). These documents can be found on Council's website at: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)
- Contact Council prior to submitting these forms to confirm the relevant fees.
- This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage). This condition does not apply to swimming pool plumbing that does not physically connect / break into the sewer system.
- 3.5** Provide and maintain a garbage receptacle at the work site until the works are completed. The garbage receptacle must have a tight fitting lid and be suitable for food scraps and papers.
- 3.6** Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
- a. erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
  - b. diverting uncontaminated run-off around cleared or disturbed areas, and
  - c. preventing the tracking of sediment by vehicles onto roads, and
  - d. stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot
- 3.7** Disconnect, seal and make safe all existing site services prior to the commencement of any demolition on the site. Sewer and water services must be disconnected by a licensed plumber and drainer with a Start Work Docket submitted to Council's Plumbing and Drainage Inspector as the Water and Sewer Authority.

- 3.8** Erect a temporary hoarding or temporary construction site fence between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works, if the works:
- could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
  - could cause damage to adjoining lands by falling objects, or
  - involve the enclosure of a public place or part of a public place

**Note 1:** A structure on public land or on or over a public road requires the prior approval of the relevant authority under the *Local Government Act 1993* or the *Roads Act 1993*, respectively.

**Note 2:** The *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011* contain provisions relating to scaffolds, hoardings and other temporary structures.

- 3.9** Provide or make available toilet facilities at the work site before works begin and maintain the facilities until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site.

Each toilet must:

- be a standard flushing toilet connected to a public sewer, or
- have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- be a temporary chemical closet approved under the *Local Government Act 1993*

- 3.10** Undertake any demolition involving asbestos in accordance with the *Work Health and Safety Act 2011*.

The person having the benefit of this consent must ensure that the removal of:

- more than 10m<sup>2</sup> of non-friable asbestos or asbestos containing material is carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist, and
- friable asbestos of any quantity is removed by a licensed removalist with a friable (Class A) asbestos removal licence

The licensed asbestos removalist must give notice to the regulator before work commences in accordance with Clause 466 of the *Work Health and Safety Regulation 2011*.

#### 4. DURING WORKS

- 4.1** All conditions under this section must be met during works.
- 4.2** Carry out construction or demolition works during the construction phase of the development only between the hours as follows:
- 7.00am and 5.00pm Monday to Saturday

No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.

- 4.3** During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains), is discovered during the course of the work:
- All excavation or disturbance of the area must stop immediately in that area, and
  - The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the National Parks and Wildlife Act 1974.

**Note:** If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.

- 4.4** Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 4.5** Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifier or an officer of Council.
- 4.6** Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the Plumbing and Drainage Act 2011.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).

- 4.7** Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.
- 4.8** Connect downpipes and the associated stormwater disposal system to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run-off. The Principal Certifier for the development must not issue a mandatory critical stage Compliance Certificate for framing unless connection of the site stormwater (or temporary system) has occurred.
- 4.9** Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.
- 4.10** Demolish all buildings and / or building components in a safe and systematic manner in accordance with Australian Standard AS 2601-2001: *The demolition of structures*. Waste materials must be disposed of at a waste management facility.
- 4.11** No fill other than that as indicated within the approved plans is permitted to be placed upon the site.
- 4.12** Locate all electrical fixtures (including meter box) and/or gas outlets associated with the proposed works at a minimum height of RL 5.90m AHD. Alternatively, all electrical outlets and fixtures located between RL 5.90m AHD (minimum floor level) and RL 5.40m AHD (1% AEP flood level) can be protected by a residual current device (safety switch).

These details and any associated reports must be certified and included in the Construction Certificate.

## 5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1** All conditions under this section must be met prior to the issue of any Occupation Certificate.

- 5.2** Submit a Certificate of Compliance for all plumbing and drainage work and a Sewer Service Diagram showing sanitary drainage work (to be provided by licensed plumber) in accordance with the Plumbing and Drainage Act 2011.
- This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).
- 5.3** Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifier. The Occupation Certificate application is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.
- 5.4** Provide mail receptacles appropriately numbered for each dwelling unit in the development, as well as for the managing body, in consultation with Australia Post.
- 5.5** Contact Council's Land Information Officer or email [ask@centralcoast.nsw.gov.au](mailto:ask@centralcoast.nsw.gov.au) for allocation of a street address for the Secondary Dwelling.
- 5.6** Complete the building in accordance with the relevant provisions and requirements of the National Construction Code Series.
- 5.7** Install the required rainwater tank in the location as detailed within the approved development plans with suitable plumbing connections provided to collect rainwater from the roof area as detailed within the BASIX Certificate applicable to the development. The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code Australian Standard AS 3500 and must be provided with first flow diversion devices fixed to all inflows and a functioning pressure pump plumbed to service all fixtures as detailed within the BASIX Certificate applicable to the development. The required tank must be controlled in order that supplemental flow from domestic mains does not take place until the capacity of the tank has been reduced to 20%.

## 6. ONGOING OPERATION

- 6.1** Operate and maintain all external lighting so as not to impact on any adjoining property.
- 6.2** Do not let, adapt or use the dwelling for separate occupation in two or more parts.
- 6.3** Insulate and / or isolate the motor, filter, pump and all sound producing equipment or fitting associated with so as not to create an offensive noise to the occupants of the adjoining premises as defined in the *Protection of the Environment Operations Act 1997*.

## 7. PENALTIES

- 7.1** Failure to comply with this development consent and any condition of this consent may be a criminal offence. Failure to comply with other environmental laws may also be a criminal offence.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

### Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and / or custodial sentences for serious offences.

## ADVISORY NOTES

- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:
  - a. Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments
  - b. Jemena Asset Management for any change or alteration to the gas line infrastructure
  - c. Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
  - d. Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
  - e. Central Coast Council in respect to the location of water, sewerage and drainage services
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- **Dial Before You Dig**  
Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.
- **Telecommunications Act 1997 (Commonwealth)**  
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.
- Install and maintain backflow prevention device(s) in accordance with Council's WS4.0 Backflow Prevention Containment Policy. This policy can be found on Council's website: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).