



**Land and Environment  
Court**  
of New South Wales

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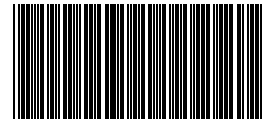
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Your Ref:



D00026223F

11 June 2025

### NOTICE OF ORDERS MADE

Case number	2024/00383094
Case title	HENRY FRASER PTY LTD v NORTHERN BEACHES COUNCIL

On 11 June 2025 the following orders (and/or directions) were made:

The Court Orders:

- (1) The Appeal is upheld.
- (2) The Applicant is to pay the Respondent's costs thrown away pursuant to section 8.15(3) of the Environmental Planning and Assessment Act 1979, as a result of the amendment to the development application as agreed or assessed.
- (3) Development Application DA2024/0944 for demolition works and construction of a new plant nursery and landscape material supplies premises, tree removal, associated earthworks, landscaping, and environmental protection works at 10-12 Boondah Road Warriewood NSW is determined by the grant of consent subject to the conditions in Annexure A.

For the Registrar

**Annexure A****DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT****Development Application No:** DA2024/0944**Development:** Demolition works and construction of a plant nursery and landscape material supplies premises**Site:** Lot 3 DP 26902, 12 Boondah Road, WARRIEWOOD NSW 2102  
Lot 4 DP 26902, 10 Boondah Road, WARRIEWOOD NSW 2102

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

**Date of determination:** 11 June 2025**Date from which consent takes effect:** Date of determination

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**TERMINOLOGY**

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as 10 and 12 Boondah Road, WARRIEWOOD NSW 2102 (title references listed above).

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**Terms and Reasons for Conditions**

Under section 88(1)(c) of the EPA Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

**DEVELOPMENT CONSENT OPERATIONAL CONDITIONS****1. Approved Plans and Supporting Documentation**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision	Plan Title	Drawn By	Date
<b>Architectural</b>				
AMP-0101	10	Site Plan	Buchan	12 March 2025
AMP-2001	10	Level G Plan	Buchan	12 March 2025

AMP-2002	10	Roof Plan	Buchan	12 March 2025
AMP-2101	10	Ground Floor Plan / Roof Plan	Buchan	12 March 2025
AMP-4001	10	West Elevation / 8 Boondah Road Street View – South Elevation / North Elevation Spine Bill Drive / 10-12 Boondah Road Street View – East Elevation	Buchan	12 March 2025
AMP-4002	10	Section 02 / Section 01	Buchan	12 March 2025
AMP-5500	10	8 Boondah Road Street View – South Elevation_Signage / North Elevation Spine Bill Drive_Signage	Buchan	12 March 2025

**Landscape**

LP00	U	Landscape Site Plan	John Chetham & Associates	21 April 2025
LP01	U	Landscape Plan – Outdoor Play & Café Area	John Chetham & Associates	21 April 2025
LP02	U	Landscape Sections	John Chetham & Associates	21 April 2025
LP03	U	Proposed Plant Schedule	John Chetham & Associates	21 April 2025

**Stormwater**

101	3	Stormwater Management Plan	Calibre	4 April 2025
102	3	Soil & Water Management Plan	Calibre	4 April 2025

**Civil**

C0-00	F	Cover Sheet	Egis	23 April 2025
C0-01	F	General Notes and Legend	Egis	23 April 2025
C1-50	H	Earthworks Plan	Egis	23 April 2025
C1-60	H	Earthworks Section	Egis	23 April 2025

**Approved Reports and Documentation**

Document Title	Version	Prepared By	Date
Statement of Environmental Effects for Development Application	6	SJB Planning	4 March 2025
Aboriginal Due Diligence Assessment	02	City Plan	10 February 2025
Aboriginal Archaeological Advice	-	City Plan	16 May 2025
Accessibility Report	-	Accessibility Solutions	23 July 2024
Acid Sulfate Soil Management Plan	3	Douglas Partners	6 February 2025
Arboriculture Impact Assessment Report	-	Travers Bushfire & Ecology	12 March 2025
Biodiversity Development Assessment Report	-	Travers Bushfire & Ecology	19 March 2025
Building Code of Australia Assessment Statement	-	Advance Building Approvals	16 July 2024

Report on Detailed Site (Contamination) Investigation	0	Douglas Partners	6 February 2025
Remediation Action Plan	0	Douglas Partners	5 February 2025
Remediation Memorandum	0	Douglas Partners	3 March 2025
Bushfire Protection Assessment	-	Travers Bushfire & Ecology	13 March 2025
Transport Assessment	2	Ason Group	5 June 2024
Response to Transport Matters – Addendum Letter	-	Ason Group	10 January 2025 and 21 February 2025
Response to Transport Matters – Addendum Letter II	-	Ason Group	11 March 2025
Vegetation Management Plan	-	Travers Bushfire & Ecology	17 April 2025
Water Management Report	08	EGIS	5 May 2025

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

## 2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	9 August 2024
Department of Planning and Environment – Water	Department of Planning and Environment – Water Referral Response	1 August 2024

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

## 3. **Prescribed Conditions**

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

- (d) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- i) protect and support the adjoining premises from possible damage from the excavation, and
  - ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

#### 4. **General Requirements**

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday, and
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Subdivision Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The Applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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.

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

#### 5. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definitions of *plant nursery* and *landscaping materials supplies*, in accordance with the Dictionary of the Pittwater Local Environmental Plan 2014, as follows:

*Plant nursery means a building or place the principal purpose of which is the retail sale of plants that are grown or propagated on site or on an adjacent site. It may include the on-site sale of any such plants by wholesale and, if ancillary to the principal purpose for which the building or place is used, the sale of landscape and gardening supplies and equipment and the storage of these items.*

*Landscaping material supplies means a building or place used for the storage and sale of landscaping supplies such as soil, gravel, potting mix, mulch, sand, railway sleepers, screenings, rock and the like.*

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

### **FEES / CHARGES / CONTRIBUTIONS**

#### 6. **Policy Controls**

Warriewood Valley Contributions Plan Amendment 16 Revision 4

Before the issue of a Construction Certificate, the Applicant must pay a total development contribution to Council of \$4,455,920 in accordance with the Warriewood Valley Development Contributions Plan (as amended). The monetary contribution will be adjusted at the time of payment in accordance with the provisions of the Warriewood Valley Development Contributions Plan (as amended).

This contribution is based on the contribution rate of \$218/m<sup>2</sup> and the total developable area of the site (total site area minus any creek line corridor land) as being 20,440m<sup>2</sup>.

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate.

The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land (other than those already identified above) in lieu of the monetary contribution above (or any portion of that monetary contribution) through a Planning Agreement between Council and the Applicant in accordance the Warriewood Valley Development Contributions Plan (as amended) and Council's Planning Agreement Policy. The Planning Agreement between the Applicant and Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at [Northern Beaches Council - Development Contributions](#).

Reason: To provide for contributions in accordance with the Contribution Plan that enables the provision of local infrastructure and services commensurate with the increased demand resulting from development in the Warriewood Valley Release Area.

## 7. Housing and Productivity Contribution – Development Consents

1. The Housing and Productivity Contribution (HPC) set out in the table below, but as adjusted in accordance with condition 2, is required to be made:

Contribution Type	Amount
Housing and Productivity Contribution	\$11,682.00
Strategic Biodiversity Component / Transport Project Component	\$0
Total:	\$11,682.00

2. The amount payable at the time of payment is the amount shown in condition 1 as the total housing and productivity contribution adjusted by multiplying it by:

***highest PPI number***

***consent PPI number***

where—

***highest PPI number*** is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made.

***consent PPI number*** is the PPI number last used to adjust HPC rates when consent was granted.

***June quarter 2023 and PPI*** have the meanings given in clause 22 (4) of the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

3. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	Time by which HPC must be paid
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Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Manufactured home estate for which no construction certificate is required

4. The HPC must be paid using the [NSW Planning Portal](#).
5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
  - a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
  - b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.
6. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

8. **Construction, Excavation and Associated Works Security Bond(s)**

The Applicant is to lodge a bond with Council for the following:

**Crossing / Kerb & Gutter / Footpath Works**

As security against any damage or failure to complete the construction of the entry/exit vehicular crossing, and removal of any redundant driveways required as part of this consent a bond of \$30,000.

**Security Bond**

As security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site a bond of \$25,000.

**Maintenance for Civil Works**

A maintenance bond of \$10,000 for the construction of vehicle crossing. The maintenance bond will only be refunded upon completion of the six month maintenance period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council prior to issuing of practical completion for the road infrastructure works.



Details confirming payment of the bond(s) are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

### 9. **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 Certifier prior to the issue of the Construction Certificate.

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

### 10. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

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

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

### 11. **Amendment to the Plans**

The approved plans are to be amended to remove reference to 'open events'. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure consistency with this consent and reasonable amenity for surrounding properties.

### 12. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours,
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application),
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities),
- Existing and proposed drainage patterns with stormwater discharge points,
- Locations and methods of all erosion and sediment controls, and
- North point and scale.

Details demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

13. **Sydney Water Requirements**

Evidence of a section 73 Compliance Certificate obtained from Sydney Water under the provisions of the *Sydney Water Act 1994* must be submitted to the satisfaction of the Certifier.

Reason: Compliance with the *Sydney Water Act 1994*.

14. **Planting Atop Culverts**

The following soil depths are required to support planting: 300-450mm for groundcovers and grasses; 500-600mm for shrubs; and 800mm for small trees. Details from the landscape architect shall be submitted to the Certifier confirming that adequate soil depths will be provided to support the proposed plant species.

Reason: To ensure appropriate soil depth for planting.

15. **Ecosystem Credit Retirement - Like for Like**

Prior to issue of the relevant Construction Certificate the class and number of ecosystem credits in Table 1 must be retired to offset the impacts of the development.

The requirement to retire credits outlined in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 1 requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and to the Certifier prior to the issue of the Construction Certificate.

Table 1:

Impacted plant community type	TEC	Number of ecosystem credits	Hollow bearing trees (HBTs)	IBRA subregions from which credits can be used to offset the impacts from development	Trading group that can be used to offset the impacts from development
4028-Estuarine Swamp Oak Twig-rush Forest	Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions	1	Yes	Pittwater, Cumberland, Sydney, Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions This includes PCT's: 1731, 3962, 3963, 3985, 3987, 3993, 4016, 4023, 4026, 4027, 4028, 4030, 4035, 4038, 4040, 4048, 4049, 4050, 4056
3638-South Coast Sands Bangalay Forest	Bangalay Sand Forest of the Sydney Basin and South East	2	Yes	Pittwater, Cumberland, Sydney, Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100	Bangalay Sand Forest of the Sydney Basin and South East Corner bioregions This includes PCT's: 3546, 3638, 3639, 3640

	Corner bioregions			kilometres of the outer edge of the impacted site.	
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Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

16. **Species Credit Retirement - Like for Like**

Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 2 must be retired to offset the impacts of development.

The requirement to retire credits outlined in Table 2 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 2 requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifier prior to the issue of the Construction Certificate.

Table 2. Species credits required to be retired – like for like:

Impacted species credit species	Number of species credits	IBRA subregions from which credits can be used to offset the impacts from development
<i>Myotis macropus</i> / Southern Myotis	3	Anywhere in NSW
<i>Vespadelus troughtoni</i> / Eastern Cave Bat	4	Anywhere in NSW

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

17. **Engagement of Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with the Biodiversity Development Assessment Report (Travers Bushfire & Ecology 19 March 2025) and Vegetation Management Plan (Travers Bushfire & Ecology 17 April 2025).

The Project Ecologist must have one of the following memberships/accreditations:

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- Biodiversity Assessment Method Accredited Assessor under the relevant legislation (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)
- A degree qualified practicing ecologist with 10 years ecological experience and Certificate III in Conservation and Land Management (or a similar qualification)

Evidence of engagement of the Project Ecologist is to be provided to the Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

18. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate. Details demonstrating compliance are to be submitted to the Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation.

19. **Car Park Finishes**

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

20. **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to Council via an application for a Permit to Implement Traffic Control. The application form can be accessed via <https://www.northernbeaches.nsw.gov.au/council/forms>. Approval of the permit application by the Northern Beaches Council Traffic Team is required prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
  - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
  - Demonstrate that direct access from a public space/road is not viable for each stage of works.
  - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
  - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
  - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
  - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
  - If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be

- required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
- A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
  - A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
    - Compare the post-construction report with the pre-construction report,
    - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,Should any damage have occurred, identify remediation actions taken.  
Be submitted to Council with the Occupation Certificate.
  - The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site. Make provision for parking onsite.
  - Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
  - Specify that, due to the proximity of the site adjacent to Narrabeen Public School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
  - Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
  - The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
  - Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
  - Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
  - The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
  - Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
  - The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
  - Proposed protection for Council and adjoining properties.
  - The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

**21. Removal of Redundant Driveways**

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council prior to the issue of the Construction Certificate. All costs associated with the works shall be borne by the Applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the Applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

**22. Pedestrian Sight Distance at Boundary**

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas.

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

Reason: To maintain pedestrian safety.

**23. Flood Planning Levels**

The proposed nursery building is to have a floor level set at the flood planning level and include an area within the building set at or above the Probable Maximum Flood level. Areas of the building below the Flood Planning Level shall be designed and constructed from flood compatible materials. Details demonstrating compliance are to be submitted to the Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood prone property and reduce public and private losses and the risk to life in accordance with Council and NSW Government policy.

**24. Emergency Response**

Portions of the site (including the carpark and plant display area) can be inundated in times of floods. Flash-flood signage and signage to direct persons on the site to take refuge in the building in times of heavy rainfall. Inside the building there is to be signage directing occupants to the flood refuge area. Details demonstrating compliance are to be submitted to the Certifier for approval.

Reason: To inform site users of potential flood risks in accordance with Council and NSW Government policy.

25. **Fencing**

New fencing (including boundary fencing and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area along any straight length, from the natural ground level up to the 1% AEP flood level. Openings shall be a minimum of 75mm x 75mm. Details demonstrating compliance are to be submitted to the Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood prone property and reduce public and private losses in accordance with Council and NSW Government policy.

26. **Design of Stormwater Outlet Structure to Wetland**

Stormwater outlet structures to the wetland must be designed in accordance with DPI Water's Guidelines for Outlet Structures on Waterfront land. Guidelines can be found on WaterNSW website. This design is to be submitted to the Certifier prior to the release of the Construction Certificate.

Reason: To protect the surrounding creek bank from the effects of localised erosion.

27. **Soil and Water Management Plan**

A soil and water management plan (SWMP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The SWMP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction – Volume 1, 4th Edition (2004). The SWMP must include the following as a minimum: Site Boundaries and contours Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application) Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities) Existing and proposed drainage patterns with stormwater discharge points Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected. North point and scale. Dewatering methodology and compliance. Details demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

28. **Detailed Design of Stormwater Treatment Measures**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the Engineering Plans (Issue 3) and report prepared by Egis Consulting dated 5 May 2025, the Water Management Specification (2001) and Council's Water Management for Development Policy. The certificate shall be submitted to the Certifier prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

29. **No Works in Coastal Wetland**

Apart from weed removal and planting by hand, no other works, including civil engineering works, are authorised in the area mapped as coastal wetland under the *State Environmental Planning Policy (Resilience & Hazards) 2021* under this consent.

Reason: The Warriewood wetlands are specifically excluded from the works to avoid environmental impacts.

30. **Stormwater Conveyance and Treatment**

The Applicant is to provide a certification of drainage plans in accordance with the Water Management Specification (2001) and the Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans (Issue 3) prepared by Egis Consulting. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering. Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

31. **Utilities Services**

Prior to the issue of the Construction Certificate, the Applicant is to obtain the following:

- (a) A letter from the utility provider confirming that satisfactory arrangements have been made for the approved development have been made; and
- (b) Evidence that notification has been received from a utility authority that, requirements for the development can be provided.

Reason: To demonstrate compliance with utility provider/authority requirements.

32. **Water Management Report – Warriewood Valley**

The detailed design of all works associated with the water management system must provide for a complete system, which meets the objectives and requirements of the Warriewood Valley Water Management Specification (February 2001). The system is to be in accordance with the Water Management Report (Egis Consulting dated 5 May 2025). Details demonstrating compliance are to be submitted to the Certifier in an updated Water Management Report to be issued prior to the issue of the Construction Certificate.

Reason: To ensure water is managed appropriately and in accordance with the requirements of the Warriewood Valley Water Management Specification and Pittwater 21 DCP.

33. **Certification of Water Management Report**

A qualified practising Civil Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering and appropriate experience is to certify that the Water Management Report and all associated plans and detailed design are in accordance with the Warriewood Valley Water Management Specification (February 2001), and as meeting the requirements of these conditions. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure water is managed appropriately and in accordance with the requirements of the Warriewood Valley Water Management Specification and Pittwater 21 DCP.

34. **Soil and Water Management Plan**

A Soil and Water Management Plan is to be prepared for the proposed works in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Any temporary basins are to be sized to meet a 95th percentile 7 day rainfall requirement. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To protect the environment.

35. **Stormwater Disposal**

The Applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance and the development application approved stormwater concept plans, AS/NZS 3500 and Council's Water Management for Development Policy,



prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Details demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal of stormwater management arising from the development.

36. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include Civil Engineering plans for the design of vehicle entry/exit crossing which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1 and the Warriewood Road Valley Road Masterplan June 2018. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

The Vehicle Crossing serving the site demonstrating that the vehicle crossing will be consistent with Council's proposed Boondah Road upgrade works and making allowance for any required adjustments to indented parking bays, shared paths or kerb and gutter alignments to provide for turning of the largest anticipated vehicle accessing the site. The Plans are to include signage details for the banning of left turns from the driveway by vehicles in excess of 6m in length.

Temporary kerb and gutter extensions to facilitate the flow of existing upstream gutter flows.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

37. **Pre-Commencement Dilapidation Report**

The Applicant must prepare and submit a dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifier prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

38. **Plan of Management**

A Plan of Management for the ongoing operation of the plant nursery and landscaping materials supplies premises is to be prepared, addressing the following:

- Hours of operation as approved under this consent,

- Waste storage and collection measures, including hours as specified in this consent
- Delivery management measures, including hours as specified in this consent,
- Noise management measures,
- Safety and security measures, and
- Complaint and incident management measures, including specification that a complaint and incident register is to be kept on site and up to date, detailing a contact person and phone number, complaint(s) received, incident occurrence(s), and action(s) taken.

Reason: To ensure operation that is consistent with this consent and that protects the amenity of surrounding properties.

### 39. **Signage Details**

Detailed signage plans depicting design, colours and materials are to be provided to the satisfaction of the Executive Manager of Development Assessment prior to the issue of the Construction Certificate.

The Construction Certificate is to include the approved signage design(s).

Reason: To ensure consistency with this consent.

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

### 40. **Department of Planning and Environment – Water General Terms of Approval: TC-G001, TC-G004, TC-G0005**

Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment – Water, and obtained, for a controlled activity approval under the Water Management Act 2000.

The General Terms of Approval (GTA) only apply to the proposed controlled activity described in the plans and associated documents found in Schedule 1 of the GTAs, relating to Development Application DA2024/0944 provided by Council to Department of Planning and Environment – Water.

Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Department of Planning and Environment – Water, must be notified in writing to determine if any variations to the GTA will be required.

The application for a controlled activity approval must include the following plan(s):

- Site plans
- Soil and water management plan
- Construction detailed drainage plans
- Construction stormwater drainage outlet plan
- Vegetation management plan
- Landscape plan
- Construction detailed basin design plans
- Construction Cut and Fill Cross Sections and Plan View Details of Site
- Construction detailed bulk earthworks plans

The plan(s) must be prepared in accordance with Department of Planning and Environment – Water's guidelines located on the website <https://www.dpie.nsw.gov.au/water/licensing-and-trade/approvals/controlled-activity-approvals/what/guidelines>

Reason: Department of Planning and Environment – Water General Terms of Approval.

### 41. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

42. **Hazardous Materials Survey**

Prior to the commencement of any demolition works, a hazardous building materials survey is to be conducted by a suitably qualified and experienced person. The survey is to include a survey of hazardous building materials including but not limited to asbestos, lead, SMF and PCBs.

Following the survey a Hazardous Building Materials Register is to be prepared for the premises providing recommendations for the safe management/removal of hazardous building material.

Reason: Protection of the environment, and compliance with the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

43. **Project Arborist**

- a) A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.
- b) The Project Arborist shall be in attendance and supervise all works as nominated in the approved Arboricultural Impact Assessment.
- c) All tree protection measures specified must:
  - i) be in place before work commences on the site, and
  - ii) be maintained in good condition during the construction period, and
  - iii) remain in place for the duration of the construction works.
- d) The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

44. **Tree Removal Within the Property**

- a) This consent approves the removal of existing trees on the subject site as identified in the approved Arboricultural Impact Assessment.
- b) A qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

45. **Works Zone and Permits**

Prior to commencement of the associated works, the Applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane.

Reason: To ensure Work zones are monitored and installed correctly.

46. **Utilities Services**

Prior to the commencement of demolition works, written evidence of the following service provider requirements must be provided to the Principal Certifier that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

- a) Sydney Water
- b) Ausgrid

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of demolition works.

Reason: To ensure relevant utility and service providers' requirements are provided to the Principal Certifier.

47. **Archaeological Assessment**

If impacts to natural soils (as opposed to surface fill) are likely, further archaeological assessment is required prior to ground disturbing works. This additional archaeological assessment shall include an Aboriginal Cultural Heritage Assessment Report (ACHAR). The findings of the ACHAR may include a requirement for sub-surface archaeological testing.

Reason: Aboriginal heritage protection.

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

48. **Storage of Materials on Land Owned or Managed by Council Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited.

Reason: Public safety and environmental protection.

49. **Protection of Council's Public Assets**

Any damage to Council's public assets shall be made good by the Applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the *Local Government Act 1993*.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Reason: To protect and/or restore any damaged public asset.

**50. Stockpiling Materials**

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean, and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

**51. Acid Sulfate Soils**

All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soil Management Plan ref. Project 85749.04 Revision 3 prepared by Douglas Partners dated 6th February 2025.

Reason: To ensure management of potential acid sulfate soils.

**52. Off-site Disposal of Contaminated Material**

Any contaminated material removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with *Protection of the Environment Operations Act 1997* (NSW); and Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).

Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Reason: To protect environment and public health.

**53. Requirement to Notify About New Acid Sulfate Soils Evidence**

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be notified as soon as practical to the Council and the Principal Certifier and a report be obtained from a suitably qualified person. Any recommendations provided by the report are to be complied with during works.

Reason: To protect the environment.

**54. Site Contamination – Acid Sulfate Soils**

All stockpiles of potentially contaminated soil must be stored in a secure area in a way that is not likely to cause pollution or be a public health risk.

All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines.

Copies of all test results and disposal dockets must be retained by the site occupier for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination:

- iv) *Protection of the Environment Operations Act 1997*,
- v) Environment Protection Authority, Waste Classification Guidelines (2014),
- vi) Water Quality Australia, National Acid Sulfate Soils Guidance (2018), and
- vii) Acid Sulfate Soil Advisory Committee, Acid Sulfate Soil Manual (1998).

Reason: To protect environment and public health.

**55. Compliance Remedial Action Plan**

The requirements of the Remedial Action Plan by Douglas Partners, reference Project 85749.05 dated 5 February 2025 required by this consent are to be fully implemented from commencement of any excavation, demolition or development works until the issue of an Occupation Certificate.

Reason: Protection of the environment, and compliance with the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

56. **Site Contamination**

All stockpiles of potentially contaminated soil must be stored in a secure area on the site (as soon as practical) so as not to cause pollution or public health risk until disposed of at a waste facility.

All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines.

Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination:

- i) *Protection of the Environment Operations Act 1997*, and
- ii) Environment Protection Authority, *Environmental Guidelines Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999)*.

Reason: To protect human health and the environment.

57. **Requirement to Notify about New Contamination Evidence**

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be notified as soon as practical to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

58. **Soil Removal and Classification**

Any soils requiring removal from the site, as part of future site works, should be classified in accordance with the "Waste Classification Guidelines, Part 1: Classifying Waste" NSW EPA (2014).

Reason: To ensure appropriate and safe disposal of soil.

59. **Off-site Disposal of Contaminated Soil – Chain of Custody**

'Chain of Custody' documentation shall be kept and submitted for the transport of the validated fill material from the site to a lawful waste facility.

Details demonstrating compliance are to be submitted to the Principal Certifier and Council with the final validation report required by condition 81.

Reason: To ensure compliance with legislation.

60. **Aboriginal Objects**

Should any Aboriginal objects not already recorded on the Aboriginal Heritage Information Management System be uncovered by the work, disturbance of the area is to stop immediately, and Heritage NSW is to be informed in accordance with the National Parks and Wildlife Act 1974.

Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the *National Parks and Wildlife Act 1974*.

Reason: Aboriginal heritage protection.

61. **Human Remains**

If human skeletal remains are found during the activity, all work must stop, and the area of the find is to be secured in order to prevent unauthorised access. NSW Police, the Coroner's Office, Traditional Owners, and Heritage NSW be contacted immediately.

Reason: Aboriginal heritage protection.

62. **Fill in Areas of Potential Archaeological Deposit**

In areas where fill is to be deposited directly onto a remnant profile which has been identified as potential archaeological deposit (PAD), a non-intrusive process of fill deposit (i.e. avoidance of heavy machinery directly on top of the remnant profile) is required to ensure ground and PADs are not disturbed or damaged during works.

Reason: Aboriginal heritage protection.

63. **Protection of Existing Street Trees**

- a) All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS 4970-2009 Protection of trees on development sites. As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.
- b) All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

64. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected, including:
  - i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
  - ii) all trees and vegetation located on adjoining properties,
  - iii) all trees and vegetation within the road reserve.
- b) Tree protection shall be undertaken as follows:
  - i) tree protection shall be in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
  - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
  - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,

- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
  - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
  - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
  - vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
  - viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009 Protection of trees on development sites,
  - ix) the activities listed in section 4.2 of AS 4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
  - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
  - xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.
- c) The Principal Certifier must ensure that:
- i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

65. **Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related impact mitigation and management measures are to be implemented during construction in accordance with Table 5.1 of the approved Biodiversity Development Assessment Report (Travers Bushfire & Ecology 19 March 2025) and these conditions of consent.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

66. **Pre-clearance Survey**

Any habitat for native wildlife (including tree hollows) approved for removal is to be inspected for native wildlife by the Project Ecologist prior to its removal. If native wildlife is found within habitat to be removed, the animal is to be safely relocated by the Project Ecologist to a suitable location.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Reason: To protect native wildlife.

67. **Dead or Injured Wildlife**



If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

68. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

69. **Implementation of Vegetation Management Plan**

Vegetation management actions are to be implemented in accordance with the approved Vegetation Management Plan (Travers Bushfire & Ecology 17 April 2025) and these conditions of consent.

Reason: To ensure native vegetation and fauna habitats are protected and managed in accordance with relevant natural environment legislation and LEP/DCP controls.

70. **Implementation of Demolition Traffic Management Plan**

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

71. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

72. **Ongoing Management**

The Applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

73. **Coastal Wetland Works**

Apart from weed management and revegetation (by hand), no works are permitted in the area mapped as coastal wetland under the *State Environmental Planning Policy (Resilience and Hazards) 2021* and within 1 m of the boundary of the wetland. A temporary fence marking

the extent of the area 1 m from the mapped wetland extent is to be installed and this fence shall prevent access and works in the wetland. The fence should have signage at regular spacings along its length to indicate that the area is a no-go area and cannot be accessed or used for any purpose relating to the development or its construction.

Reason: To avoid impacts on sensitive coastal wetland lands.

74. **Aquatic Sediment Management**

Environmental safeguards (e.g. silt curtains) are to be used during construction to prevent the escape of turbid plumes into the aquatic environment. The safeguards must be regularly maintained and removed once the works are completed.

Reason: Protection of Warriewood Wetlands and Narrabeen Lagoon.

75. **Dewatering Management (Surface Water and Groundwater)**

A dewatering permit application must be made for expected multiple instances or continuous dewatering of tailwater. A permit from Council is required for any dewatering of groundwater. An application for interference with an aquifer is required to the Natural Resources Access Regulator. The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (where applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the *Environment Operations Act 1997* and *Contaminated Lands Act 1997*. All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources.

76. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management. Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Soil and Water Management Plan prior to commencement of any other works on site. Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

77. **Road Reserve**

The Applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

78. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public safety.

**CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE  
OCCUPATION CERTIFICATE****79. Acid Sulfate Soil Management Confirmation**

Details demonstrating compliance with the approved Acid Sulfate Soil Management Plan ref. Project 85749.04 Revision 3 prepared by Douglas Partners dated 6 February 2025. is to be submitted to the satisfaction of the Principal Certifier prior to the issue of the occupation certificate.

Reason: To ensure management of potential acid sulfate soils.

**80. Environmental Management Plan**

In accordance with the recommendations of the Detailed Site Investigation by Douglas Partners Project 85749.05 Revision 0 prepared by Douglas Partners dated 6 February 2025, for remediation involving the management of contamination on-site, an environmental management plan (EMP) is to be prepared and administered in a way consistent with NSW EPA requirements upon completion of the remediation works.

Any residual contamination is required an Environmental Management Plan (EMP) is to be prepared for the management of any residual contamination remaining onsite. The EMP is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification Policy.

The EMP shall describe the nature and location of the contamination and prescribe how the contaminants will be managed and the responsible parties for this management in the long term.

The EMP must be submitted for review and approval by Council and approved by the Site Auditor prior to the issue of the Site Audit Statement.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Occupation Certificate.

Reason: Manage contaminated land in a way that protects human and environmental health.

**81. Site Audit Statement**

Upon completion of the works, a Site Audit Statement must be submitted to Council and the Principal Certifier on completion of remediation works.

The Site Audit Statement must be prepared by a Site Auditor registered with the NSW Department of Planning, Industry and Environment (DPIE) and must be in accordance with the EPA's Site Audit Scheme and the protocol outlined in the NSW EPA (1997) document entitled Guidelines for Consultants Reporting on Contaminated Sites, and the NSW EPA (2017) Guidelines for the NSW Site Auditor Scheme.

The Site Audit Statement must state the following:

- That the remediation and validation has been completed in accordance with the approved Remediation Action Plan and that the site is suitable for its proposed use; and
- That if any long-term Environmental Management Plan (EMP) is required, that the EMP is suitable for the sites proposed use.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with Contaminated Land Guidelines and protection of environment and human health.

**82. Validation for Remediation**

A validation and site monitoring report, including a survey of all sites used for landfill disposal is to be prepared in accordance with relevant guidelines issued under the *Contaminated Land Management Act 1997* must be submitted to the Council within one month from completion of the remediation work.

The plan must identify the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all sites used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure environmental amenity is maintained.

**83. Existing Septic Tank to be Decommissioned**

The existing septic tank is to be decommissioned in accordance with the requirements of NSW Health "Advisory Note 3 - Destruction, Removal or Reuse of Septic Tanks, Collection Wells, Aerated Wastewater Treatment Systems (AWTS) and other Sewage Management Facilities (SMF)".

Details confirming compliance with this requirement are to be supplied to the Principal Certifier and Northern Beaches Council prior to the issue of any Occupation Certificate.

Reason: To ensure removal of redundant systems and promote public health.

**84. Landscape Completion**

a) Landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawings LP00, LP01, LP02, LP03 revision U by John Chetham & Associates dated 21/04/25), and inclusive of the following conditions:

- i) landscape works are to be contained within the legal property boundaries,
- ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
- iii) all tree planting shall meet the requirements of AS2303 – Tree Stock for Landscape Use; be watered until established; and be located within garden bed with minimum 75mm depth of mulch,
- iv) all tree planting in the front boundary landscaped area shall be a minimum pre-ordered size of 45 litres and be installed at least 1.5 metres from common boundaries,
- v) substitute the 'medium size native tree' along the southern boundary, in the 1.5 metre setback between the boundary and culverts, with small tree species (5-8 metre mature height) selected from the approved plant schedules, and install centrally between the culverts and boundary,
- vi) mass planting shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- vii) where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.

b) Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

**85. Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

**86. Compliance with Approved BDAR Impact Mitigation Table to Minimise Impacts – Occupation Certificate**

All biodiversity-related impact mitigation and management measures are to be implemented prior to issue of the occupation certificate in accordance with Table 5.1 of the approved Biodiversity Development Assessment Report (Travers Bushfire & Ecology 19 March 2025) and these conditions of consent.

All biodiversity-related measures are to be implemented immediately after construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Principal Certifier and Council prior to issue of Occupation Certificate.

Reason: To ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR.

**87. Certification of Vegetation Management Plan**

Vegetation management actions to be implemented in accordance with the approved Vegetation Management Plan (Travers Bushfire & Ecology 17 April 2025) and these conditions of consent.

Details demonstrating compliance are to be prepared by the project ecologist and provided to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure native vegetation and fauna habitats are protected and managed in accordance with relevant natural environment legislation and LEP/DCP controls.

**88. Priority Weed Removal and Management**

All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

**89. No Weeds Imported onto the Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

90. **Protection of Habitat Features – Certified by Ecologist**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Written details demonstrating compliance are to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

91. **Pre-clearance Survey – Certified by Project Ecologist**

Any habitat for native wildlife (including tree hollows) approved for removal is to be inspected for native wildlife by the Project Ecologist prior to its removal. If native wildlife is found within habitat to be removed, the animal is to be safely relocated by the Project Ecologist to a suitable location.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be prepared by the Project Ecologist and provided to the Principal Certifier prior to any Occupation Certificate.

Reason: To protect native wildlife.

92. **Disabled Parking Spaces**

Where disabled parking spaces are provided, they must be in accordance with AS2890.6:2009, including provision of a bollard in the hatched shared zone area

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with Australian Standards.

93. **Certification of Works as Executed**

A suitably qualified engineer and/or registered surveyor is to certify that the completed works have been constructed in accordance with this consent and the approved plans with respect to the following:

- a) Floor levels have been set at or above the required level.
- b) There has been no filling on the land other than what has been approved.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood prone property and reduce public and private losses in accordance with Council and NSW Government policy.

94. **Certification of Services**

Certification that new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections are located above the FPL and waterproofing of electrical equipment and installation of residual current devices below the Flood Planning Level. A suitably qualified electrical engineer or contractor is to certify that all new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and

connections are located above the Flood Planning Level and any existing electrical devices, wiring and the like located below the FPL are protected from water egress or have residual current devices installed to cut electricity supply during flood events. Details demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of any Occupation Certificate.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood prone property and reduce public and private losses in accordance with Council and NSW Government policy.

95. **Demonstrate Compliance with Water Management Report**

A suitably qualified expert is to certify compliance with the recommendations in the Water Management Report prepared by Egis Consultants dated 5 May 2025.

Details demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of any Occupation Certificate.

Reason: To reduce the impact on surface water and groundwater including flooding and flood liability on owners and occupiers of flood prone property and reduce public and private losses in accordance with Council and NSW Government policy.

96. **Certification for the Installation of Stormwater Treatment Measures**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the engineering plans dated 24 April 2025 prepared by Egis Consultants. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. The certificate shall be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: Protection of the receiving environment.

97. **Stormwater Treatment Measures Operation and Maintenance Plan**

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective. The Plan must be attached to the Positive Covenant and contain the following:

- A. Detail on the stormwater treatment measures:
  - a) Work as executed drawings
  - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
  - c) Site detail showing catchment for each device
  - d) Impervious area restrictions to maintain the water balance for the site
  - e) Identification of maintenance and management responsibilities
  - f) Maintenance and emergency contact information
- B. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure.
- C. Maintenance schedule and procedure – ongoing
  - a) Activity description, and duration and frequency of visits.
  - b) Routine maintenance requirements.
  - c) Work Health and Safety requirements.
  - d) Waste management and disposal.
  - e) Traffic control (if required).

Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed).

Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: Protection of the receiving environment.

98. **Works as Executed Drawings – Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets. The drawings shall be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: Protection of the receiving environment.

99. **Certification of Council Drainage Works (6 x culverts) and Works as Executed Data within Private Land**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 68 approved plans. Works as Executed data (details overdrawn on a copy of the approved drainage plan) certified by a registered surveyor in relation to boundaries and/or relevant easements prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' within the subject site, shall be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure compliance of drainage works with Council's specification for engineering works.

100. **Easement to Drain Water – Channel/Floodways**

The Applicant shall create a 3.5m wide easement to drain water in favour of Council along the southern boundary. The easement is to be detailed on the final plans prior to registration. The terms of such restriction are to be prepared by a registered surveyor with terms acceptable to Council at the Applicant's expense. Council shall be nominated as a party to release, vary or modify such restriction. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To identify assets that are essential for flood conveyance and identify flood affected areas on the property title.

101. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to operate and maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan. A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures. The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the Applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.



A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

102. **Easement Creation**

The Applicant shall create an easement for drainage (under the provisions of Section 88B of the *Conveyancing Act 1919*) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all water management infrastructure is located within the appropriate easement(s). Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: Council's Subdivision standards and statutory requirements of the *Conveyancing Act 1919*.

103. **Updated Water Management Report – Warriewood Valley**

The detailed design of all works associated with the water management system must provide for a complete system, which meets the objectives and requirements of the Warriewood Valley Water Management Specification (February 2001). The system is to be in accordance with the Water Management Report (Egis Consulting dated 5 May 2025). Details demonstrating compliance are to be submitted to the Certifier in an updated Water Management Report to be issued prior to the issue of the Occupation Certificate.

Reason: To ensure water is managed appropriately and in accordance with the requirements of the Warriewood Valley Water Management Specification and Pittwater 21 DCP.

104. **Certification of Water Management Report**

A qualified practising Civil Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering and appropriate experience is to certify that the Water Management Report and all associated plans and detailed design are in accordance with the Warriewood Valley Water Management Specification (February 2001), and as meeting the requirements of these conditions. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure compliance with the relevant requirements.

105. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all the approved construction certificate plans and Councils Water Management for Development Policy and relevant Australian Standards and Codes by the design engineer. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

106. **Post-Construction Dilapidation Report (Major Development)**

The Applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.

## ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

### 107. Ongoing Operation

The plant nursery and landscaping materials supplies premises are to operate and be maintained in accordance with the approved Plan of Management and the approved plans.

Reason: To ensure operation in accordance with this consent.

### 108. Events, Functions and the Like

No consent is granted for the carrying out of events, functions or the like on the subject site for the life of the development.

Reason: To ensure consistency with this consent.

### 109. Amenity

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the *Protection of the Environment Operations Act 1997*.

### 110. Landscape Maintenance

- a) If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.
- b) Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.
- c) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.
- d) A maintenance activity schedule for on-going maintenance of planting on structure shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.
- e) The approved landscape planted areas, whether containing lawn, gardens or planters shall in perpetuity remain as planting under the development consent and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

### 111. Compliance with Approved BDAR Impact Mitigation Table to Minimise Impacts – Post-Construction/Ongoing

All ongoing biodiversity-related impact mitigation and management measures are to be maintained for the life of the development in accordance with Table 5.1 of the approved Biodiversity Development Assessment Report (Travers Bushfire & Ecology 19 March 2025) and these conditions of consent.

Reason: To ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR.

### 112. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

113. **Parking Spaces**

52 parking spaces are to be maintained on the site for the life of the development.

Reason: To ensure consistency with this consent.

114. **Parking Enclosure**

No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

Reason: To ensure accessibility is maintained.

115. **Vehicle Parking**

The car parking area shown on the approved drawings must be used for vehicle parking only. Loading and unloading of vehicles and delivery of goods to the land must be carried out within the site. Any loading or unloading of materials of potential environmental damage must be appropriately bunded with adequate spill response equipment in place to ensure nil runoff from the site.

Reason: To ensure the safety and amenity of the general public using public streets, and to ensure the protection of the environment from spillage of materials.

116. **Landscaping Adjoining Vehicle Access**

The Applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1m

Reason: To maintain unobstructed sight distance for motorists.

117. **Sightlines Within Carparks**

The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

118. **Flood Effects Caused by Development**

There shall be no obstruction of flow paths through the property.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood prone property and reduce public and private losses in accordance with Council and NSW Government policy.

119. **Water Management Facilities**

All water management facilities proposed for the development, including rainwater tanks, stormwater quality improvement devices, all elements of the plumbing for the building that are interconnected with the rainwater tanks, all elements of the irrigation system associated with the stormwater harvesting tank, and private stormwater drainage are to remain in private ownership, be located within private property and maintained in accordance with the manufacturer's specifications.

Reason: Ongoing stormwater management.

120. **Maintenance of Stormwater**

Treatment Measures Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development. Northern Beaches Council reserves the right

to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

121. **Wetland Access**

No access is to be permitted to the coastal wetland with the exception of weed management (by hand) or maintenance of the slotted outlet pipe (by hand). A permanent palisade type fence is to be installed along the edge of the fire trail to prevent access to the wetland. The fence should have signage at regular spacings along its length to indicate that the area is a no-go area and cannot be accessed or used for any purpose relating to the development or its construction.

Reason: Environmental protection.

122. **Hazardous Materials and Chemicals**

No hazardous materials or chemicals are to be stored in areas below the flood planning level.

Reason: To prevent pollution of floodwaters in the event of a flood.

123. **Landscaped Materials and Waste Storage**

Areas of landscaped materials and waste storage are both to be covered for the life of the development.

Reason: To prevent stormwater pollution.

124. **Hours of Operation**

The hours of operation are to be restricted to:

8:00am to 6:00pm, seven days a week

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

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

125. **Deliveries and Waste/Recycling Collection Hours**

Deliveries to or from the site, and waste collection and recycling collection from the site, are to be carried out between 7:00am and 10:00pm only, to minimise noise.

Reason: To minimise noise to residential receivers.

126. **Signage Maintenance and Illumination**

Signage is to be maintained as approved for the life of the development. Illumination of signage is permitted only during the hours of operation approved under this consent.

Reason: To ensure consistency with this consent.

127. **No Consent for Food and Drink Premises**

No approval is granted or implied under this consent for the use of any part of the plant nursery, landscaping materials premises or site for the purpose of a food and premises.

Reason: To ensure consistency with this consent.

128. **Shelter in Place Procedure**

In the event of a flood during the life of the development, shelter in place is to be in accordance with the procedure specified in the approved Water Management Report.

Reason: Public safety.

129. **Ongoing Noise Management**

The ongoing management of the plant nursery and landscaping materials supplies premises must be in full accordance with the *Protection of the Environment Operations Act 1997*.

Reason: To protect the amenity of the surrounding area.

130. **Lighting**

Any lighting on the site shall be maintained so as not to cause a nuisance to other properties in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the relevant Australian Standards.

Reason: To protect the amenity of the surrounding area.