

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0439
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Responsible Officer:	Simon Ferguson Tuor
Land to be developed (Address):	Lot 1 DP 88028, 77 Bassett Street MONA VALE NSW 2103 Lot 4 DP 707291, 77 Bassett Street MONA VALE NSW 2103
Proposed Development:	Alterations and additions to an industrial development and a change of use to light industry and an industrial retail outlet
Zoning:	E4 General Industrial OLDLand Zoning Map - IN2 Light Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Harrington Mona Vale Pty Ltd
Applicant:	Matthew Vaughan Davison

Application Lodged:	19/04/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Industrial
Notified:	26/04/2023 to 10/05/2023
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 412,500.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to an industrial unit, as well as a change of use to light industry, with an industrial retail outlet at the front of the premises. Operations on site will consist of the assembly, storage and sale of e-bikes.

Specific physical works include:

- Replacement of existing sliding door panel with motorised roller door

- Construction of a new mezzanine floor (514m²) over most of the existing warehouse/light industrial space
- Installation of fire-rated panels along internal rear wall
- Construction of a second access/egress to the proposed mezzanine floor and a new (second) emergency exit door at the ground level

Changes to the operating hours are also sought and are proposed to be:

Monday – Friday: 8:00am to 6:00pm

Saturday – 9:00am to 3:00pm

Planner Note

Additional Information was requested in relation to the permissibility of the proposed industrial retail outlet, predominately in relation to whether the operations were considered 'manufacturing'. The Dictionary of Pittwater LEP states:

***industrial retail outlet** means a building or place that—*

(a) is used in conjunction with an industry (other than an artisan food and drink industry) or rural industry, and

(b) is situated on the land on which the industry or rural industry is located, and

(c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry or rural industry is located,

but does not include a warehouse or distribution centre.

The Applicant provided a written response (1/09/2023) detailing the characterisation of the use. The response from the Applicant demonstrated that the operations at the site did involve 'manufacturing' - the processing of raw materials or parts into finished goods through the use of tools, human labour, and machinery.

Council is satisfied that the proposed industrial retail outlet is consistent with the Pittwater LEP definition, and is permitted with consent in the zone.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;

- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

SITE DESCRIPTION

Property Description:	Lot 1 DP 88028 , 77 Bassett Street MONA VALE NSW 2103 Lot 4 DP 707291 , 77 Bassett Street MONA VALE NSW 2103
Detailed Site Description:	<p>The subject site consists of one (1) unit within set of two industrial allotments, located on the southern side of Bassett Street.</p> <p>The site is regular in shape with an approximated frontage of 102.745m along Bassett Street and a depth of 153.48m. The site has a surveyed area of 14470m².</p> <p>The site is located within the E4 General Industrial (formerly IN2 Light Industrial zone and accommodates two large buildings, separated by a central driveway.</p> <p>The site is flat.</p> <p>The site is highly developed and contains little vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by neighbouring industrial sites to the east, west and south, along Bassett Street. Development to the north consists of dwelling houses zoned R2 Low Density Residential.</p>

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site. Other applications located on the site relate to different units within the allotment.

The land has been used for industrial purposes for an extended period of time.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report. The NSW employment zones reforms have been made and will come into force on 26 April 2023. These reforms will result in this property changing from a IN2 Light Industrial zone to a E4 General Industrial zone. The proposed uses will remain permissible in the new zone.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration	Comments
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)</p>	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to building assessment, fire safety issues and permissibility.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in</p>	<p>See discussion on "Notification & Submissions Received" in this report.</p>

Section 4.15 Matters for Consideration	Comments
accordance with the EPA Act or EPA Regs	
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 26/04/2023 to 10/05/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Jens Frei	96 Bassett Street MONA VALE NSW 2103
Mr Mario Francisco Benitez	94 Bassett Street MONA VALE NSW 2103

The issues raised in the submissions are addressed as follows:

- **Noise**

The submissions raised concerns that noise from the industrial precinct is impacting on residential amenity.

Comment:

The noise concerns were predominantly in relation to other businesses, deliveries and trucks in the early hours of the morning, evenings and Sundays. The proposed operating hours of Unit A are between 8:00am and 6:00pm Monday to Friday and 9:00am to 3:00pm on Saturday and the associated deliveries are limited to these hours. The proposed use is considered to be a relatively low intensity industrial use and will not exacerbate or increase the types of noise that were the basis of the submissions.

- **Traffic Generation**

The submissions raised concerns that the industrial area has increased traffic in the area, impacting on residential amenity. The submissions also raised concerns about the cumulative

impacts involved in continuing to allow development in the industrial precinct that will exacerbate traffic impacts on the local road network.

Comment:

The submissions predominantly relate to traffic generation from existing businesses including hardware stores and car repair businesses. The traffic impacts from existing businesses are beyond the scope of this application. Council has taken into account the potential cumulative impacts of the proposal in relation to traffic generation. As above, the proposal is considered a relatively low intensity industrial use and the hours of operation, staff numbers and expected customer numbers all demonstrate that the proposal is unlikely to have any material impact on the residential road network. The application was referred to Council's Traffic Engineer who supported the proposal, commenting that it was 'unlikely to have any significant impacts to traffic.'

- **Parking Impacts**

The submissions raised concerns that street parking was being impacted due to delivery trucks and insufficient industrial customer parking spilling onto the residential streets. It was noted that truck parking and driveways being blocked were contributing to safety concerns in relation to visibility and sight lines.

Comment:

The proposal is considered to be a relatively minor intensification of the existing approved business that operates within the industrial precinct. The parking impacts from hardware stores and other businesses in the area are not the subject of this assessment. The company has 5 full-time and part-time staff, some of whom drive to work and some who ride. It is considered that the 8 allocated parking spaces are more than sufficient to cater for staff parking, deliveries and customer parking. The application was referred to Council's Traffic Engineer who supported the proposal, commenting that it was 'unlikely to have any significant impacts to traffic and parking.'

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been further investigated with respect to aspects relevant the Building Certification and Fire Safety Department and having regard to the BCA Assessment Report prepared by Jensen Hughes, dated 1/8/2023. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>

Internal Referral Body	Comments
	<p>Original Comments - 24/04/2023</p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. The proposal involves both a change of use (S.62 EP&A Reg) and Alterations (S.62 (EP&A Reg) for the existing building. In this regard a 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Registered Certifier will need to be submitted to Council for further consideration of the application, addressing the following:</p> <p>The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to-satisfy provisions of Sections C, D, E and F and the Category 1 provisions of the Building Code of Australia. The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made by the proposed development are appropriate for its intended use to:</p> <ul style="list-style-type: none"> i) restrict the spread of fire from the building to other buildings nearby, and ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and iii) where appropriate, provide access for persons with a disability, and iv) provide facilities and services appropriate for the development.
Environmental Health (Industrial)	<p>General Comments</p> <p>The proposed development is limited to Unit A, which is located at the front of the north-western building. Unit A currently comprises a double height warehouse and office space over two levels, with a total floor area of 921.7m². Unit A also has 9 allocated parking spaces, being spaces 10-18 as per the Site Plan by Real Serve, with additional general visitor spaces available on site.</p> <p>The application seeks consent for the alterations and additions to Unit A, to provide a mezzanine above the existing warehouse space, as detailed in the architectural plans by Cullen Feng Architects. The proposed works include:</p> <ul style="list-style-type: none"> • Replacement of existing sliding door panel with motorised roller door, • Construction of a new mezzanine floor (514m²) over most of the existing warehouse/light industrial space, • Installation of fire-rated panels along internal rear wall, • Construction of a second access/egress to the proposed mezzanine floor and a new (second) emergency exit door at the ground level. <p>The application also seeks consent to change the use of the warehouse and mezzanine space to a light industrial use, with the existing office area to be used as an industrial retail outlet.</p>

Internal Referral Body	Comments
	<p>The proposed hours of operation are: Monday – Friday: 8:00am to 6:00pm Saturday – 9:00am to 3:00pm</p> <p>The intended operation is assembly of boxed e-bikes and the like.</p> <p>Environmental Health supports the proposal with out additional conditions and believes the use is permitted by the zoning and hours of operation not unreasonable provided deliveries are not made before 7am due to the residential area immediately opposite but should be consistent with other Planning approved uses adjacent as determined by Planning.</p>
NECC (Flooding)	<p>It is proposed to construct a new mezzanine floor within the warehouse at Unit A of 77-79 Bassett St, in the north-western section of the property.</p> <p>Whilst the southern part of the property is affected by the Medium Flood Risk Precinct and 1% AEP flood event, the site for the proposed works is located in the Low Flood Risk Precinct.</p> <p>There are no applicable flood related development controls from Section B3.11 of the Pittwater DCP.</p>
Traffic Engineer	<p>The application seeks consent for the alterations and additions to Unit A, to provide a new mezzanine floor (514m²) above the existing warehouse space. The application also seeks consent to change the use of the warehouse and mezzanine space to a light industrial use, with the existing office area to be used as an industrial retail outlet.</p> <p>The Statement of Environmental Effects (SOEE) specifies that Unit A has 9 allocated parking spaces for the premises, with additional general visitor parking spaces on site. There is an existing marked Loading Area within the car park used for deliveries and service vehicles. The SOEE also indicates that one space will be removed due to the proposed new (second) emergency exit door. Overall the proposed internal alterations and change of use for Unit A, are considered to be relatively minor and are unlikely to have any significant impacts to traffic and parking.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council

Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for industrial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the industrial land use.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with: aims of the LEP?	Yes

zone objectives of the LEP?	Yes
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Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	9.9m (unchanged)	N/A	Yes
Floor Space Ratio	FSR: 1:1	FSR: 0.69:1	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	15.6m (existing, no change)	N/A	Yes
Side building line	0m	0m (existing, no change)	N/A	Yes
	0m	0m (existing, no change)	N/A	Yes
Building envelope	3.5m	E: Outside envelope (existing, no change)	N/A	Yes
	3.5m	W: Outside envelope (existing, no change)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.9 Estuarine Hazard - Business, Light Industrial and Other Development	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C3.1 Landscaping	Yes	Yes
C3.2 Safety and Security	Yes	Yes
C3.3 View Sharing	Yes	Yes
C3.4 Accessibility	Yes	Yes
C3.8 Building Facades	Yes	Yes
C3.10 Waste and Recycling Facilities	Yes	Yes
C3.13 Industrial Development Adjoining Residential Land	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes
D9.7 Side and rear building line	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

Requirements

The tenancy is currently serviced by 9 car spaces, and the proposal involves the removal of one of these spaces in order to facilitate the proposed emergency exit door. Hence, the proposal provides a total of 8 parking spaces to service the tenancy.

There is no specific parking requirement for *light industry* in Pittwater21 DCP. In these instances, the relevant requirement is:

The minimum number of vehicle parking requirements must be determined using the appropriate guidelines for parking generation and servicing facilities based on development type comparison based on the Roads and Maritime Services Guide to Traffic Generating Development [RMS Guide] or analysis drawn from surveyed data for similar development uses. Provision must be made within the development site for access and parking of all service vehicles servicing the site, visitor parking and parking for people with disabilities.

Consideration of Proposal

The proposal seeks to change the use from 'warehouse' to 'light industry' and therefore different car

parking rates are applicable to the proposal. A strict application RMS Guide would demonstrate an intensification of parking requirements:

- warehousing (existing use) require one car space per 300m² gross floor area (GFA)'
- industry (proposed use) requires 1.3 spaces per 100m² GFA

It is noted that the RMS Guide does not have parking rates that capture the exact proposal. For instance, 'industrial retail outlet' is not defined and it would be overly onerous if Council were to undertake car parking calculations based on the 'Retail' requirements of 6.1 spaces per 100m².

Strict adherence to the parking rates specified in the RMS Guide is considered burdensome and an inaccurate way of conducting a merit assessment of the proposal. Whilst technically, the land use will change from warehouse to light industry, the business operations will continue relatively unchanged. The bicycle factory with associated offices and a small retail component is considered a relatively low intensity industrial use, when compared to other land uses that are permitted at the site under PLEP 2014.

As discussed above under 'Internal Referrals', the proposal was referred to Council's Traffic Engineer who supported the proposal, commenting:

Overall the proposed internal alterations and change of use for Unit A, are considered to be relatively minor and are unlikely to have any significant impacts to traffic and parking.

It is also noted, that the peak times expected in relation to staff and customer numbers are Saturdays, when other surrounding industries are closed, and on and off street parking is more readily available

The 8 parking spaces allocated to Unit A are considered to be sufficient to accommodate the proposed alterations and additions and change of use without impacting surrounding traffic and parking.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$4,125 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$412,500.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation

submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2023/0439 for Alterations and additions to an industrial development and a change of use to light industry and an industrial retail outlet on land at Lot 1 DP 88028, 77 Bassett Street, MONA VALE, Lot 4 DP 707291, 77 Bassett Street, MONA VALE, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A 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.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA02 - Ground Floor Plan	24.02.2023	Cullen Feng
DA03 - Upper Floor Plan	24.02.2023	Cullen Feng
DA04 - Existing Floor Plan	24.02.2023	Cullen Feng
DA05 - Existing Upper Plan	24.02.2023	Cullen Feng
DA06 - Existing Section	24.02.2023	Cullen Feng
DA07 - Proposed Ground Floor Plan	24.02.2023	Cullen Feng
DA08 - Proposed Upper Floor Plan	24.02.2023	Cullen Feng
DA09 - Proposed Elevation and Section	24.02.2023	Cullen Feng
DA10 - Schedule of Areas	24.02.2023	Cullen Feng

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BCA Assessment Report	01.08.2023	Harrington Property

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

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	18.04.2023 (received)	Applicant

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

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

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:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	26.04.2023

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website 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. **Approved Land Use**

Nothing in this consent shall authorise the use of the tenancy, as detailed on the approved plans, for any land use of the site beyond the definition of a *light industry* or *industrial retail outlet*, in accordance with the Dictionary of the Pittwater Local Environmental Plan 2014, as follows:

light industry means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following—

- (a) *high technology industry,*
- (b) *home industry,*
- (c) *artisan food and drink industry,*
- (d) *creative industry.*

Note—

Light industries are a type of industry

industrial retail outlet means a building or place that—

- (a) *is used in conjunction with an industry (other than an artisan food and drink industry) or rural industry, and*
- (b) *is situated on the land on which the industry or rural industry is located, and*
- (c) *is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry or rural industry is located,*
but does not include a warehouse or distribution centre.

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.

4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal 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) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

- A. the name and licence number of the principal contractor, and
- B. the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

- A. the name of the owner-builder, and
- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) 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.

5. 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,
- 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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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 an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) 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.
- (e) 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.
- (f) 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 \$250,000. The Long Service Levy is calculated on 0.25% 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) 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.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

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

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$4,125.00 is payable to Northern Beaches Council for the provision

of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$412,500.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

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 or, if relevant, the Subdivision Certificate (whichever occurs first).

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 to fund the provision of new or augmented local infrastructure and services.

7. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. **Building Code of Australia Fire Safety Requirements**

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Assessment Report prepared by Jensen Hughes, dated 1/8/2023, Project No. 117756, Rev. 1 including any required Performance Reviews, are to be included as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

9. Access and Facilities for Persons with Disabilities

Access and facilities as required to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

DURING BUILDING WORK

10. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

11. Waste Management Confirmation

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

12. Hours of Operation

The hours of operation are to be restricted to:

- Monday to Friday – 8:00am to 6:00pm
- Saturday – 9:00am to 3:00pm
- Sunday and Public Holidays – Closed .

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

13. Deliveries and Waste Collection

Deliveries, loading or unloading associated with the premises are to take place within the approved hours of operation.

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect ensure the acoustic amenity of surrounding properties.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Simon Ferguson Tuor, Planner

The application is determined on 02/09/2023, under the delegated authority of:



Steven Findlay, Manager Development Assessments