

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/1224
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Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 4 DP 737411, 62 Myoora Road TERREY HILLS NSW 2084
Proposed Development:	Alterations and additions to the existing garden centre
Zoning:	Warringah LEP2011 - Land Zoned RU4 Primary Production Small Lots WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011
Development Permissible:	Yes, under Schedule 1 Clause 18 of the Warringah LEP 2011
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Syesun Pty Ltd
Applicant:	LJB Urban Planning Pty Ltd

Application Lodged:	21/09/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	20/10/2023 to 03/11/2023
Advertised:	Not Advertised
Submissions Received:	85
Clause 4.6 Variation:	4.3 Height of buildings: 15.88%
Recommendation:	Approval

Estimated Cost of Works:	\$ 14,299,955.00
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EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to an existing garden centre known as Flower Power.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the proposed the height non-compliance exceeding 10% (15.88%), and the application being a contentious application, as the number of submissions exceeds 10 (total of 83 in objection).

Concerns raised in the objections predominantly relate to traffic generation and vehicular access, pedestrian safety, impact on the existing bridle trail (Cooyong Road), noise generation, impacts on the existing small business on site, construction impacts and stormwater management.

Critical assessment issues included the proposed heights, setbacks, site coverage, landscaped areas, and the matters raised in resident submissions.

The Clause 4.6 request for variation to the height of buildings development standard under WLEP 2011 arises due to the topography of the site and the need to provide buildings of generous height for the garden centre operations. The variation is well founded and is supported for the reasons detailed in the section of this report relating to Clause 4.6 Exceptions to Development Standards of the WLEP 2011.

This report concludes with a recommendation that the NBLPP should grant **approval** to the development application, subject to conditions provided.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to the existing garden centre as follows:

- Partial demolition of existing structures,
- Extension of the existing garden centre building
- Construction of:
 - Landscape shop,
 - Fruit shop,
 - Pet shop,
 - Cafe,
 - Children's play area,
 - Storage and office spaces,
- Closure of the existing vehicular access point on Mona Vale Road,
- Reconfiguration of existing vehicular access points on Cooyong Road and Myoora Road,
- Construction of a new vehicular access point on Cooyong Road,
- Reconfigured and extended car parking areas,
- Landscaping works.

Amended Plans

Amended plans responding to a number of concerns raised in submissions and in correspondence from Council were received in April 2024.

In accordance with Council's Community Participation Plan, the plans did not require re-notification, as they amounted to a lesser environmental impact and were not substantive enough to warrant a renotification.

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

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Local Environmental Plan 2011 - 2.5 Additional permitted uses for particular land
 Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Local Environmental Plan 2011 - 6.2 Earthworks
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B4 Site Coverage
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - B14 Main Roads Setback
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

SITE DESCRIPTION

Property Description:	Lot 4 DP 737411 , 62 Myoora Road TERREY HILLS NSW 2084
Detailed Site Description:	<p>The subject site consists of one allotment located on the eastern side of Myoora Road, Terrey Hills.</p> <p>The site is irregular in shape with frontages of 71.585 metres to Myoora Road, 248.33 metres to Cooyong Road, and 120.05 metres along Mona Vale Road. The site has a surveyed area of 2.829ha.</p> <p>The site is located within the RU4 Primary Production Small Lots zone and accommodates a garden centre.</p> <p>The site slopes down approximately 10 metres from north-west to south-east and contains some mature vegetation, particularly along the Cooyong Road frontage.</p>

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low density residential dwellings, a primary school, small agricultural and commercial premises, and reserves. The Terrey Hills Bridle Trail runs along the southern side of Cooyong Road, which borders the subject site.

Map:



SITE HISTORY

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

A search of Council's records has revealed the following relevant history:

- Pre-lodgement meeting **PLM2021/0199** was held on 9 September 2021 for demolition works and redevelopment of an existing garden centre.
- **DA2022/0456** for demolition of existing structures and construction of new buildings for the purpose of a retail garden centre, cafe, pet store and fruit store with associated parking and landscaping was withdrawn on 10 November 2022.

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.
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	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<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 landscaped open space, tree removal, traffic, and ancillary details of the proposal. Sufficient information was provided in April 2024.</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 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 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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.

Section 4.15 Matters for Consideration	Comments
built environment and social and economic impacts in the locality	<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>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application (prepared by EgoLogical, dated 4 May 2023). The report recommended an alternative solution to comply with Planning for Bush Fire Protection. The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS, have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 20/10/2023 to 03/11/2023 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 85 submission/s from:

Name:	Address:
Mr Michael David Cohn	24 Currong Circuit TERREY HILLS NSW 2084

Name:	Address:
Mrs Elizabeth Ann Barraclough	64 Myoora Road TERREY HILLS NSW 2084
Mr James Matthew Bradshaw	2 Cooyong Road TERREY HILLS NSW 2084
Catherine Maher	Address Unknown
Jill Patricia Mogg	3 Currong Circuit TERREY HILLS NSW 2084
Ms Cathy Macnamara	62 Tiarri Avenue TERREY HILLS NSW 2084
Bree Niels	Address Unknown
Mrs Leeanne Michelle Davies	19 Currong Circuit TERREY HILLS NSW 2084
Emma Graham	Address Unknown
Mrs Kelly Marie Bilton	30 A Cooyong Road TERREY HILLS NSW 2084
Mrs Karen Higgins	2 Nambucca Road TERREY HILLS NSW 2084
Megan Campbell	Address Unknown
Ashleigh Neeves	Address Unknown
Mr Andrew John Renwick	13 Dandenong Road TERREY HILLS NSW 2084
Ms Susan Phillips	18 Terrigal Road TERREY HILLS NSW 2084
Mrs Diana Cooke	121 Prince Alfred Parade NEWPORT NSW 2106
Mrs Deborah Elizabeth Moore	2 Tallara Place TERREY HILLS NSW 2084
Mrs Coralie Kaye Turner-Morris	1214/10 Minkara Road BAYVIEW NSW 2104
Alison McMorland	31 Cowrang Avenue TERREY HILLS NSW 2084
Mrs Rachel Elizabeth Jackett	4 Jinchilla Road TERREY HILLS NSW 2084
Ms Sally Victoria Crompton	PO Box 65 CHURCH POINT NSW 2105
Mrs Caroline Elizabeth Hamilton-Smith	44 Tiarri Avenue TERREY HILLS NSW 2084
Mrs Tracey-Louise Howard	3 Isobel Close MONA VALE NSW 2103
Ms Nicole Jane Harrison	2 Cooyong Road TERREY HILLS NSW 2084
Cooper Joyce	2 Currong Circuit TERREY HILLS NSW 2084
Mrs Theodora Johanna Cornelia Gadsby	4 Carramar Grove TERREY HILLS NSW 2084
Mr David Gerard Watts	14 Moolah Road TERREY HILLS NSW 2084
Georgina Louise Winder	PO Box 149 ST IVES NSW 2075
Anthony Enfield	Address Unknown
Ms Susan Smith	63 Earl Street BEACON HILL NSW 2100
Mrs Jeanette Brunhilde Grellinger-Rieser	64 Cooyong Road TERREY HILLS NSW 2084
Larissa Alexandra Abbott	60 Timaru Road TERREY HILLS NSW 2084
Mr Marc Collins	103 Booralie Road TERREY HILLS NSW 2084
Mr Tania Jane Bright	24 Tiarri Avenue TERREY HILLS NSW 2084
Daphne May Marshall	3 Angorra Road TERREY HILLS NSW 2084

Name:	Address:
Tamara Louise Morony	17 Burruga Avenue TERREY HILLS NSW 2084
Jacqueline Anne Mullen	319 McCarrs Creek Road TERREY HILLS NSW 2084
Judith Carolyn De Jong	93 Booralie Road TERREY HILLS NSW 2084
Mr Dennis John Casper	307 / 0 Coonawarra Road TERREY HILLS NSW 2084
Sharyn Anne French	16 Terrigal Road TERREY HILLS NSW 2084
Josh Hort	2 Angorra Road TERREY HILLS NSW 2084
Ms Sarah Katherine Van Bree	20 Cooyong Road TERREY HILLS NSW 2084
Angela Wilson	Address Unknown
Mrs Kay Margaret Cutmore	24 Coreen Avenue TERREY HILLS NSW 2084
Withheld Jenny Nelson	NSW
Withheld Jenny Nelson	Address Unknown
Mr Kobie Joyce	28 Tiarri Avenue TERREY HILLS NSW 2084
Mrs Carla Jane Williamson	40 Timaru Road TERREY HILLS NSW 2084
Mrs Jennifer Jackson	38 Laitoki Road TERREY HILLS NSW 2084
Mrs Elaine Joy Gear	6 Jumbunna Place TERREY HILLS NSW 2084
Elizabeth Thorbu Evins	38 Timaru Road TERREY HILLS NSW 2084
Mrs Gaye Lee	11 Bungendore Street INGLESIDE NSW 2101
Mr Nicholas Howard	28 Laitoki Road TERREY HILLS NSW 2084
Mrs Zia Andrea Cole	36 Booralie Road TERREY HILLS NSW 2084
Bailey Foord	Address Unknown
Mrs Margaret Jandura	49 Myoora Road TERREY HILLS NSW 2084
Ian Dugald Collins	103 Booralie Road TERREY HILLS NSW 2084
Mrithula Shanker	80 Myoora Road TERREY HILLS NSW 2084
Bernadette Marion Van Den Tweel-Holmes	Po Box 480 BELMONT NSW 2200
Mrs Raylene Anne Jarvis	6 Yallabee Place TERREY HILLS NSW 2084
Mr Luke Gordon Robinson	10 / 32 Booralie Road TERREY HILLS NSW 2084
Mr Michael Gunnar Scott	279 A Mona Vale Road TERREY HILLS NSW 2084
Katherine Evans	23 Moolah Road TERREY HILLS NSW 2084
Ms Judith Jean Andrews	18 Currong Circuit TERREY HILLS NSW 2084
Kerrie Sutton	24 Nerang Avenue TERREY HILLS NSW 2084
Ms Justine Elizabeth Del-Grande	39 Myoora Road TERREY HILLS NSW 2084
Ms Pamela Annette Acott	5 Currong Circuit TERREY HILLS NSW 2084
Mrs Vanessa Mary Giblin	14 Nambucca Road TERREY HILLS NSW 2084
Cherie Ann Clarke	4 Cooyong Road TERREY HILLS NSW 2084
Adam John Foord	2 Currong Circuit TERREY HILLS NSW 2084
Mrs Katherine Ashlie Miln	20 Booralie Road TERREY HILLS NSW 2084

Name:	Address:
Natasha Ann Mountfort	4 Beltana Avenue TERREY HILLS NSW 2084
Ms Lesley Dawn Nalbandian	47 / 0 Tooronga Road TERREY HILLS NSW 2084
Dr Emma Samantha Meredith Clout	315 McCarrs Creek Road TERREY HILLS NSW 2084
Ms Helen Krechkin	6 Cooyong Road TERREY HILLS NSW 2084
Debbie Gai Severino	58 Myoora Road TERREY HILLS NSW 2084
Terrey Hills Progress Association	22 Myoora Road TERREY HILLS NSW 2084
Mrs Ursula Jeffery	9 Dandenong Road TERREY HILLS NSW 2084
Mr Alexander Kim Tah Ng	1100 Oxford Falls Road OXFORD FALLS NSW 2100
Paul Davenport	2 Carramar Grove TERREY HILLS NSW 2084
Duffys Forest Residents Association	PO Box 567 TERREY HILLS NSW 2084
Richard Lee Smallwood	311 Weemala Road TERREY HILLS NSW 2084
Katie Fox	Address Unknown
Miss Lauren Jane Seeley	8 / 52 - 58 Howard Avenue DEE WHY NSW 2099
Allison Louise Keating	24a Fairfax Road MOSMAN NSW 2088
Mrs Leah Frazer	371 Thuddungra Road DUFFYS FOREST NSW 2084

The following issues were raised in submissions:

- *Concern about traffic congestion and vehicular (car and truck) movements in and out of the site, particularly with respect to bicyclist and pedestrian safety and the nearby school and daycare centres.*
- *Objection to the removal of the Mona Vale Road entry and the proposed new and reconfigured driveways.*
- *Concern about the impact on street parking as a result of the intensified use of the site and during construction works.*
- *Concern about the impact on the existing bridle trail along Cooyong Road as a result of construction and operation.*
- *Objection to the removal of the small business operating on site.*
- *Concern about relocation of utilities.*
- *Concern about increased operational noise.*
- *Concern regarding the increased fire potential of the development.*

It is noted one submission was received in support of the application, and a number provide supportive comments along with concerns.

It is also noted that all submissions were received prior to the amended plans and documentation received in April 2024. The amended plans were not re-notified as the changes represent a lesser environmental impact and were not substantive enough to warrant such a re-notification.

The above issues are grouped together where related and addressed as follows:

Traffic, Driveways, Parking, and the Bridle Trail

Objections raised concern about traffic congestion and vehicular (car and truck) movements in and out of the site, particularly with respect to bicyclist and pedestrian safety and the nearby school and daycare centres.

The removal of the Mona Vale Road entry and the proposed new and reconfigured driveways were objected to.

Concern was raised about the impact on street parking as a result of the intensified use of the site and during construction works.

Concern was raised about the impact on the existing bridle trail along Cooyong Road as a result of construction and operation.

Comment:

The proposed development, as amended in April 2024, has been reviewed by Council's Traffic Engineer, Road Assets team, and Development Engineer (amongst other experts). These experts are supportive of the proposed development, subject to recommended conditions of consent. The proposed development supports retention of the bridle trail with the inclusion of additional signage indicating to drivers and pedestrians that the trail is in use in perpetuity, and with the requirement for a grassed passageway for horses to walk along, running the length of the site on Cooyong Road. These elements do not currently exist, so represent an improvement on the existing situation.

The reconfigured and additional driveways are not considered to materially or unreasonably increase risk to drivers, pedestrians and riders, as supported by Council's Traffic Engineer, Development Engineer and Road Assets team.

The conditions of consent also require a number of actions by the Applicant with regard to traffic, parking and safety, including:

- Submission and approval of Demolition and Construction Traffic Management Plans
- Limiting work zones to Cooyong Road only,
- Creation of kerbing and guttering along Cooyong Road
- Construction of a shared path along Cooyong Road
- No parking along the southern side of Cooyong Road
- Reinstatement of Council's road reserve on Mona Vale Road
- Submission and approval of an operational plan of management, which must address vehicle and truck movements
- Restriction of larger truck movements to outside peak school hours

The objections raised do not warrant refusal of the application.

Existing Small Business

Removal of the small business operating on site (a craft/mosaics workshop) was objected to.

Comment:

The existing small business on site is noted, though its retention does not form part of this application. The objections raised do not warrant the refusal of the application.

Operational Noise

Concern was raised that the proposed development would result in increased and unreasonable operational noise.

Comment:

The proposed development is supported by an acoustic assessment, which addresses operation of the business. Council's Environmental Health Officer is supportive of the proposed development, subject to conditions of consent, including adherence to the recommendations of the acoustic assessment report, restriction of hours for noisy operations, and installation of acoustic barriers. The objections raised do not warrant the refusal of the application.

Fire Safety

Concern was raised that the proposed development would result in increased fire potential.

Comment:

The proposed development is supported by a bushfire report with certificate and a Building Code of Australia report, each prepared by suitably qualified professionals. These reports demonstrate that the proposed development is sufficient with regard to both bush fire and fire as the result of operation. The objections raised do not warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>Supported</p> <p>The Panel was generally supportive of the changes that have been made between this and the previous proposal (DA2022/0456). The Panel made a number of recommendations, which are detailed below and responded to via the amended plans received in April 2024.</p> <p>Strategic context, urban context: surrounding area character <i>The applicant contends that the proposal builds on the success of the existing centre in this location. It scales up the offer by introducing additional land-uses, a fruit and a pet shop, a playground and café, as well as a separate bulky goods store. The Panel recognizes that there are benefits associated with the additional uses. It makes the building potentially more diverse.</i></p> <p><i>The revised scheme generally complies with the setbacks and the intended landscaped setting along Mona Vale Road but has large hard stand areas for parking, nursery and the bulky goods landscape shop.</i></p> <p><i>The Panel is keen to ensure that key objectives of the RU4 zone, being to maintain or enhance the natural landscape including landform and vegetation and to maintain the rural and scenic character of the land, are satisfied.</i></p> <p><i>The Panel sees the potential for new businesses to have a symbiotic relationship with the existing nursery. It is disappointed that the architectural expression of this appears to be of a strip mall type. The landscape experience and spatial interconnectivity between different parts of the building could therefore benefit from further development.</i></p> <p><u>Recommendations</u></p> <ol style="list-style-type: none"> <i>1. Introduce more trees through-out the parking areas;</i> <i>2. Enrich the architectural and landscape experience between new and old (nursery) uses.</i> <p><u>Assessing Officer's Comment:</u></p>

Internal Referral Body	Comments
	<p>The amended plans incorporate trees intermittently between car parking spaces, so as to break up the hardstand form.</p> <p>The amended plans reconfigure the layout of the development so as to break up the building form to the centre of the site, increase setbacks, and provide additional landscaping. The existing garden centre has been incorporated into the overall development well.</p> <p>Scale, built form and articulation</p> <p><i>The Panel notes that improvements have been made. However the proposal still seems to be a little too driven by the preferencing of parking (capacity) but leaves little engagement between this entry /perimeter landscape and the buildings (both new and existing) within the building complex.</i></p> <p><i>The buildings generally comply with the height controls apart from some non-compliances in the centre of site which are considered minimal in terms of their impact on neighbouring sites and therefore acceptable.</i></p> <p><i>The building presents as a central spine with pitched roofs and a central external space. Unfortunately the benefits of this strategy are compromised by changes in level – necessitating a lot of ramps -and the absence of a centralized easily accessible communal space.</i></p> <p><u>Recommendations</u></p> <p><i>3. Further development between the perimeter landscape and the buildings (both new and existing) within the building complex is encouraged.</i></p> <p><i>4. Pedestrian routes between the carpark and the different uses within the building – as well as the spatial connections between these separate uses- could benefit from further consideration.</i></p> <p><u>Assessing Officer's Comment:</u></p> <p>The amended plans provide improved landscaping buffers to each of the property boundaries and reduced building footprints within the site.</p> <p>The amended plans reconfigure the individual elements of the overall development so as to be more easily accessible from the parking areas, by way of consolidation towards the Mona Vale Road frontage of the site.</p> <p>Access, vehicular movement and car parking</p> <p><i>The proposal includes a closure of the Mona Vale Road entry and exit balanced by additional entries off side roads. While excess parking has been reduced from approximately 400 in the previous application the numbers are still considered too be high and present too great an impact on the overall landscape and architectural response. Whilst the Panel acknowledges that parking is crucial for the success of the retail centre it does need to be balanced against environmental and amenity outcomes.</i></p> <p><u>Recommendations</u></p> <p><i>5. Consideration should be given to more clearly defined and safe</i></p>

Internal Referral Body	Comments
	<p><i>pedestrian pathways across site. Walking in parking aisles is not acceptable.</i></p> <p><i>6. Consideration should be given to further reduction in parking to more closely align with Council controls</i></p> <p><u>Assessing Officer's Comment:</u> The amended plans demonstrate additional pathways around the parking areas to provide for increased pedestrian safety. Following commentary from Council's Traffic Engineer, it is established that the proposed development includes a suitable number of parking spaces for the uses proposed. Notwithstanding this, the amended plans demonstrate a reduction in parking spaces from 259 to 241, in combination with increased landscaped area.</p> <p>Landscape <i>The Panel sees the integration of additional landscape as an opportunity for the centre to define its character and showcase its products. The carpark has the potential to celebrate landscape and be part of the sales process.</i> <i>The panel notes that the landscape architect did not attend the meeting and the landscape architecture documentation for the DA is light on detail.</i></p> <p><u>Recommendations</u> <i>7. Avoid removal of mature trees along Cooyong Road – relocate driveway.</i> <i>8. Introduce additional trees in carparking area to increase tree canopy.</i> <i>9. The 12m landscaped setback should extend for the full length of the site, ie include the area of the closed Mona Vale Road driveway.</i></p> <p><u>Assessing Officer's Comment:</u> The amended plans demonstrate acceptable and minimised removal of trees, supported by Council's Landscape Officer. The amended plans incorporate trees intermittently between car parking spaces, so as to break up the hardstand form. The 12-metre landscaped buffer has been extended for the full Mona Vale Road frontage, with the exception of a small encroachment, reducing the buffer to no less than 10.8 metres in width for a nominal portion.</p> <p>Amenity <i>In addition to pedestrian circulation and tree canopy improvements discussed the central circulation space should be decluttered of ramps and storage space. The quality of the café and kids play areas are difficult to understand due to poor-legibility of the architectural drawings.</i></p> <p><u>Recommendations</u> <i>10. Improve movement and spatial efficiencies between perimeter (entry/parking areas) and the central spaces to remove number of</i></p>

Internal Referral Body	Comments
	<p><i>ramps and minimize the impact of “back-of-house” elements like services and storage.</i></p> <p><u>Assessing Officer's Comment:</u> The amended plans demonstrate a more cohesive configuration of the individual elements of the overall development, such that the 'back-of-house' elements are suitably separated from the spaces commonly accessed by customers.</p> <p><i>Façade treatment/Aesthetics</i> <i>The panel encourages the design to incorporate greater authenticity in material selection. Simplify the use of the materials which will make the project cheaper and more beautiful, as well as more sustainable.</i></p> <p><u>Recommendations</u> 11. <i>Consider making strip windows bigger to better connect inside with outside, and make interiors feel more generous.</i> 12. <i>Avoid paint finishes.</i></p> <p><u>Assessing Officer's Comment:</u> The amended plans demonstrate a significant increase in glazing to the Mona Vale Road frontage, so as to create a connectivity between in the inside and outside. The amended plans reduce paint finishes for the development and incorporate more sandstone and colorbond finishes.</p> <p><i>Sustainability</i> <i>The Panel supports the use of PVs on roof which are perfect for a daytime business with so much roof area, as well as that all water onsite is captured and reused for irrigation.</i></p> <p><u>Recommendations</u> 13. <i>Incorporate more landscaping.</i></p> <p><u>Assessing Officer's Comment:</u> The amended plans demonstrate an increase in landscaped area from 4,402m² (15.5%) in the original plans to 4,863.5m² (17.19%), being a significant increase from the existing landscaped area totalling approximately 2,400m² (8.5%).</p>
Building Assessment - Fire and Disability upgrades	<p><i>Supported, subject to conditions</i></p> <p>The application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. 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</p>

Internal Referral Body	Comments
	requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.
Environmental Health (Contaminated Lands)	<p>Supported, subject to conditions</p> <p>This application is seeking consent for alterations and additions to the existing Flower Power Garden Centre to provide additional retail floor area and car parking.</p> <p>In relation to site contamination, a Remediation Action Plan (RAP), Asbestos Management Plan and a Detailed Site Investigation has been provided. Further investigation is required as outlined in the RAP.</p> <p>Therefore, Environmental health recommend approval subject to conditions.</p>
Environmental Health (Industrial)	<p>Supported, subject to conditions</p> <p>This application is seeking consent for alterations and additions to the existing Flower Power Garden Centre to provide additional retail floor area and car parking.</p> <p>An acoustic report has provided recommendations to mitigate noise on surrounding properties.</p> <p>Environmental Health recommends approval subject to conditions</p>
Environmental Health (Food Premises, Skin Pen.)	<p>Supported, subject to conditions</p> <p>This application is seeking consent for alterations and additions to the existing Flower Power Garden Centre to provide additional retail floor area and car parking.</p> <p>There is limited detail in relation to the design layout of the kitchen, cafe, servery and food storage area. Council will require detailed drawings prior to Construction Certificate.</p> <p>Environmental Health recommends approval subject to conditions.</p>
Landscape Officer	<p>Supported, subject to conditions</p> <p>The proposal is supported with regard to landscape issues.</p> <p><u>Updated Comment (5 April 2024):</u> The amended plans are noted.</p> <p>The landscaped area has been increased which is supported. The amended proposal has improved the buffer planting to Mona Vale Rd and added additional landscape in the carpark which will improve the overall amenity. The removal of prescribed trees within the property boundaries, as outlined in the Arboricultural Impact Assessment, can be supported and include trees 10, 14, 16, 40, 41, 42, 73, 74, 75, 76,</p>

Internal Referral Body	Comments
	<p>77, 78, 83, and 84. Safety and traffic concerns require the removal of street trees 82 and 101, and as such these trees can be supported for removal. Sufficient native tree replacement is shown on the Landscape Plans which will offset any canopy loss. Landscape Referral supports the tree protection recommendations outlined in the Arboricultural Impact Assessment and a Project Arborist shall be engaged to supervise all work in the tree protection zone of trees to be retained.</p> <p>Exempt trees, as identified in the Arboricultural Impact Assessment (and including tree 79), may be managed or removed at the discretion of the applicant without consent.</p> <p>The mature tree canopy coverage is under the 15% requirement of an Inner Protection Area and as such the proposal as shown can be implemented in accordance with Planning for Bushfire Protection 2019.</p> <p>No further concerns are raised.</p> <p><u>Original Comment (17 October 2023):</u> The Arboricultural Impact Assessment (AIA) outlines that 101 trees were assessed, of which 56 trees are exempt. No concerns are raised with the removal of exempt trees, subject to tree replacement to help mitigate the loss of canopy. Concern is raised with the removal of existing significant street trees, and in particular street trees 82 and 101. The removal of significant street trees is not supported and as such trees 82 and 101 shall be retained. The carpark entries shall be designed in collaboration with the Arborist and locations selected that result in no loss of existing street trees and minimal impact to existing significant trees within the property boundaries. Tree sensitive construction methods shall be utilised where necessary and as recommended by the Arborist to enable tree retention.</p> <p>The site has been identified as an Inner Protection Area (IPA) for its entirety. Please provide more information outlining that the requirements of the IPA are being met by the landscape proposal e.g. 15% tree canopy cover (proposed trees and existing trees to be retained) etc.</p> <p>Upon receipt of further information regarding the above concerns, Landscape Referral will continue their assessment.</p> <p>Landscape Referral also notes the following matters. The landscaped buffers provided as part of the proposal along all boundaries will improve the amenity of the surrounding streetscapes and neighbouring properties. However, concern is raised that the proposed development has a significant departure from the required 70% landscaped area under the WDCP requirement. The calculations shown on drawing DA14 include the open nursery area</p>

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	<p>which appears to be on hard paved surface. Not including the open nursery area, the landscaped area (or landscape open space) is in fact more likely 4622m² (approximately) or 16%. Landscaped area is defined under WLEP as "...part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area." It is noted this matter is ultimately of planning concern and will be assessed and determined under merit consideration by the Assessing Planning Officer.</p> <p>Landscape Referral makes the following suggestions:</p> <ul style="list-style-type: none"> • The traffic report outlines a surplus of 34 carparking spaces which should be returned to landscaped area (approximately 450m²), • If the entry to Mona Vale Road is removed, continue the 12m landscaped buffer for the entirety of the Mona Vale Road frontage, further helping the significantly deficient landscaped area, • Although not included in landscaped area calculations, consider permeable parking areas.
NECC (Bushland and Biodiversity)	<p><i>Supported, subject to conditions</i></p> <p>The proposal seeks approval for Alterations and additions to the existing Flower Power Garden Centre to provide additional retail floor area, cafe, pet store and fruit store with associated parking and landscaping.</p> <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 (BC Act 2016) • NSW Biodiversity Conservation Regulation 2017 • Planning for Bushfire Protection 2019 (PBP 2019) • Warringah DCP - Clause E2 - Prescribed Vegetation • Warringah DCP - Clause E6 - Retaining unique environmental features <p>The proposal has been submitted with the following relevant documents and plans to the Biodiversity Assessment among others:</p> <ul style="list-style-type: none"> • Master Plans (Leffler Simes Architects, January 2022) • Bushfire Report (Eco Logical Australia, May 2023) • Landscape Report (Site Image Landscape Architects, May 2023) • Arboricultural Impact Assessment (Birds Tree Consultancy, June 2023) <p>The provided Arboricultural Impact Assessment (AIA) has assessed the condition of a total of 101 trees concluding that a total of 27 trees will remain viable, 74 will be removed and of those to be removed 56 are exempt under current rules. A total of 18 prescribed trees are</p>

Internal Referral Body	Comments
	<p>being proposed for removal of which a total of 10 (10, 14, 16, 40, 41, 42, 82, 83, 84, 101) are native species of Medium or High retention value.</p> <ul style="list-style-type: none"> • Trees 74-79 (exotic/introduced species), 84 (native) and 101 (native) are now proposed for removal when they were originally being retained (as per DA2022/0456) • Trees 80, 81, 86, 92, 96 and 97 are now proposed for retention when they were originally being removed (as per DA2022/0456). <p>Avoidance and minimisation of impacts to prescribed native trees have been considered in the updated application and are supported.</p>
NECC (Development Engineering)	<p>Supported, subject to conditions</p> <p><u>Updated Comments (13 May 2024):</u></p> <p>Amended stormwater management plans and models have been provided. Development engineering raises no further objections to the proposed development, subject to conditions.</p> <p><u>Original Comments (5 February 2024):</u></p> <p>The development requires on-site detention which is shown on submitted plans. A geotechnical report has been provided. A section 138 Application will be required for proposed kerb & gutter and footpath works. This will be conditioned.</p> <p>The following amendments are required to submitted plans:</p> <ol style="list-style-type: none"> 1. In accordance with Section 9.7.3 of the Water Management for Development Policy the following information is required: Longitudinal section of all pipe(s) from the OSD basin to the discharge point showing calculated flows, velocities, pipe sizes, type and class, grades, and invert levels of all pipes, all utility services crossings, invert level of receiving pit on road and a hydraulic grade line (where required). 2. Provide a DRAINS model of pre and post development conditions for the on-site detention system to Council for perusal.
NECC (Water Management)	<p>Supported, subject to conditions</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WM Policy); and • Relevant LEP and DCP clauses <p>The site is located within the Deep Creek high priority catchment. The proposed water managements strategy is based on water conservation and stormwater quality treatment system. The site stormwater annual balance model is indicating a satisfactory reduction of flow and pollutants.</p>

Internal Referral Body	Comments
	<p>Note that measures like passive irrigation of trees (tree pits) and permeable pavers could reinforce the proposed treatment chain.</p> <p>Please contact catchment@northernbeaches.nsw.gov.au for advice on Council's water quality requirements for a single instance of dewatering tailwater that collects in an excavation during works. A dewatering permit application must be made for expected multiple instances or continuous dewatering of tailwater.</p>
Road Reserve	<p>Supported, subject to conditions</p> <p>Given the extent of redevelopment and the increase in traffic volumes, the applicant shall provide kerb and gutter and any associated road pavement and drainage works along the Cooyong Road frontage of the site. Consideration should be given to the provision of pedestrian footpath also. Development Engineering and Traffic Teams to provide conditions following internal consultation. Footpath connections should be provided along Myoora Rd from Cooyong Rd to the bus stop and Myoora Rd driveway.</p> <p>The existing overflow parking on the Mona Vale Road verge is to be removed and the area reinstated to Council's satisfaction. The landscaping plans do not indicate any proposed works at this location.</p> <p>A s138 Application for Civil Works will be required.</p>
Traffic Engineer	<p>Supported, subject to conditions</p> <p><u>Updated Comments (9 May 2024):</u></p> <p>The revised design plans and additional traffic report from the applicant have been reviewed. It is now accepted that the assignment of traffic associated with the development is appropriate. The provision of two new egress driveways one to Cooyong Road and another to Myoora Road will assist in spreading the traffic load and will provide for alternate ingress/egress routes for at times when congested conditions may develop at the eastern driveway. The amended traffic report and plans do not address the provision of footpaths, pedestrian crossing facilities and infrastructure upgrades required in the road reserve along the frontage of the development site. However, the proposal can be supported subject to conditions outlining the required infrastructure improvements.</p> <p><u>Original Comments (19 February 2024):</u></p> <p>The proposal is for an expansion of the existing Flower Power development on the site. The site has an area of 28,299 sqm and it is proposed to increase the gross floor area of the existing garden centre from approx 4164m² to 5870m². The proposed development will incorporate additional retail area, a pet shop, a café, a fruit shop, a garden centre goods store, a plant store and a landscape shop. Additional outdoor nursery areas and bulky goods display areas are</p>

Internal Referral Body	Comments
	<p>also proposed but these are not considered additional gross floor area. The development application also proposes changes to the access and parking arrangements with the off-street parking supply proposed to increase from 127 spaces to 259 parking spaces.</p> <p>The plans and traffic and parking assessment report have been reviewed.</p> <p><u>Traffic Generation</u></p> <p>The TfNSW guide to traffic generating development recommends that the peak hour traffic generation for a "plant nursery" be estimated based upon the following formula 57 vehicles plus 0.7 vehicles per 100sqm of site area. This equates to 255 vehicles per hour. Surveys conducted by the applicants traffic consultant have found that the 2023 weekday peak traffic generation from the existing site is 51 vehicles per hour with the weekend peak hour traffic generation from the existing site being 183 vehicles per hour (during the Saturday AM peak period) i.e lower than the TfNSW estimate.</p> <p>The development application will significantly increase the floor area of the site and result in a significant increase in traffic generation from the site however as the TfNSW formula is based upon site area, which remains unchanged it would not be useful to estimate the increased traffic generation from the redeveloped site. To overcome this shortcoming the applicant has surveyed traffic generation from the Flower Power development in Milperra which is of a similar site area and scale to that proposed for the Terrey Hills site. The surveys have found that the traffic generation for the Thursday PM peak at the Milperra site was 228 vehicles per hour, while the Saturday peak was 524 vehicle per hour.</p> <p>The level of traffic generated by the Milperra site is considered likely to be higher than that generated by the Terrey Hills site given the higher density and quantum of residential development surrounding the Milperra site and the larger retail area at the Milperra site however it is clear that the redeveloped site will attract a significantly higher level of traffic than the existing development on the site. The applicants traffic consultant has calculated that the proposed GFA of the Terrey Hills development (5870m²) will be some 1,897.4m² (25%) smaller than the Milperra flower power site (which has a GFA of 7767.2m²) and has proposed that the generated traffic can therefore be reduced by this amount. This is considered acceptable. i. e the post development Saturday peak traffic from the site will be</p>

Internal Referral Body	Comments
	<p>approximately 393 vehicles per hour (an increase of 210 vehicles per hour) while the week day peak (Thursday) traffic will be 172 vehicles per hour (an increase of 121 vehicles per hour).</p> <p>The applicants traffic consultant has adopted a distribution of traffic associated with the redeveloped site which seems unlikely. In terms of traffic egressing the site while a predominance of traffic associated with the existing site egresses the site from its driveway at the north eastern corner 50% of egressing traffic from the developed site has been assigned to the driveway onto Myoora Road which would require such traffic to circulate through the Bulky goods and landscaping area. It is considered that the numbers egressing the site via the Myoora Road would be significantly lower, at most 10%, with most vehicles egressing via the two driveways on Cooyong Road. No egressing traffic has been assigned to the driveway located midway along the site on Cooyong Road.</p> <p>In terms of ingressing traffic, there is no access from Myoora Road to the customer parking area and as such only traffic making deliveries or accessing the bulky goods landscaping area will enter via that driveway. The traffic report however assigns 30% of entering traffic to that driveway. At most 5% of traffic should be assigned to enter the site via that driveway. The closure of the ingress driveway off Mona Vale Road is likely to see a significant increase in vehicle movements into Cooyong Road which is reflected in the traffic consultants assignment of traffic however the proposed closure of the Flower Power site in Warriewood will see a significant increase in traffic using this site from the north. This traffic would tend to access the site via the right turn bay from Mona Vale Road and the assignment of only 15% of entering traffic to that movement seems low.</p> <p>Given the above comments the traffic modelling conducted by the applicant should be revised to reflect a more realistic traffic assignment. It is noted that the previous traffic report for the previous (withdrawn) DA identified a need for the right turn bay for traffic turning from Mona Vale Road into Cooyong Road to be extended and this may still be the case noting the heavy opposing traffic flows and resultant delays in undertaking the right turn. Revised modelling is required to confirm whether this is still the case.</p> <p>It is noted that the existing site access road off Mona Vale Road will be closed on traffic efficiency and safety grounds. This will intensify traffic movements to and from the site via Myoora Road and Cooyong Road with the driveway off Cooyong Road at the eastern end of the site considered likely to absorb the majority of the</p>

Internal Referral Body	Comments
	<p>redirected traffic. The Mona Vale Road access driveway currently has a Saturday AM peak hour traffic inbound movement of 61 vehicles per hour with the applicant's traffic report estimating that post development an additional 96 vehicles/hour are likely to turn left into Cooyong Road to enter the site in the Saturday AM peak period. There will be a significant number up to 148 vehicles that will be entering the site via Cooyong Road in the Saturday peak. The eastern Cooyong Road driveway is likely to carry more than 300 vehicles per hour (combined in and outbound) in Saturday peak periods. At these levels there is concern that queued traffic might create congested conditions both within the carpark and tailing back along Cooyong Road towards or into Mona Vale Road.</p> <p>Further traffic analysis by the applicant's traffic consultant to better understand the impacts of the closure of the Mona Vale access driveway and the potential for queuing issues in and around the eastern driveway on Cooyong Road are required.</p> <p><u>Parking</u></p> <p>The existing garden centre development on the site provides parking for 127 vehicles with an observed peak parking demand of 91 spaces. The proposed expansion includes a proposal to increase the offstreet parking supply to 259 spaces. The Warringah DCP parking requirement that most closely reflects the uses on the site is "Landscape and garden supplies" which requires that parking be provided at the greater of 15 spaces or 0.5 spaces per 100m² of site area. The later figure equates to 141.495 spaces (rounded up to 142 spaces) for a site area of 28299m². The Traffic and Parking Impact report notes that this rate is the same as that reflected in the TfNSW Guide to Traffic Generating Development for "plant nurseries" . In the TfNSW guide it notes that offstreet parking should be provided to cater for peak parking periods at the facility and that parking for auxiliary facilities are not included, but that any increase to cater for auxiliary facilities should make appropriate allowance for dual or complementary use.</p> <p>The traffic and parking impact report notes that the additional 3605m² of retail space and 473m² of café space will generate a demand for 172 additional parking spaces but applies a 25% reduction in generated parking demands to account for linked trips meaning that an additional 129 parking spaces are required. i.e 256 spaces. The developer proposes 259 parking spaces which is considered acceptable.</p>

Internal Referral Body	Comments
	<p data-bbox="525 315 1406 450">It is noted that 8 accessible parking spaces (exceeding the BCA of Australia requirement of 1 per 50 spaces) has been proposed. Accessible parking spaces appear to be designed to be compliant with the requirements of AS2890.6 but this will also be conditioned.</p> <p data-bbox="525 546 1433 719">An omission from the carparking planned for the redeveloped site is an absence of parking spaces catering for cars towing trailers. It is however noted that the bulky goods display area and landscape shop would allow for cars with trailers to pull up and collect materials are circulate to and from Myoora Road in a forwards direction.</p> <p data-bbox="525 815 820 848"><u>Loading and Servicing</u></p> <p data-bbox="525 882 1433 947">The redeveloped site will provide for access to the site by vehicles up to and including a 19.0m semitrailer.</p> <p data-bbox="525 981 1433 1256">Swept path plots have been provided to demonstrate that a 19.0m semi-trailer can access the site and circulate through the Open Bulky Goods display area in a forwards direction to/from Myoora Road. It is noted that only right turn in and left turn out truck movements at the Myoora Road driveway have been plotted. This limits heavy vehicle movements past the Terrey Hills Public School or past homes in Cooyong Road and is supported. A condition will be imposed restricting truck movements to right in and left out of the property.</p> <p data-bbox="525 1352 1433 1628">The truck loading/hardstand areas and truck turning areas are separated from customer parking areas however there is some sharing of access driveways by service vehicles and car movements although this is in a forwards direction and is not in areas which will be frequented heavily by pedestrians. Conditions will be imposed to restrict truck access to times when customer use of the driveways is low with no service vehicle access on weekends when customer activity will be highest to be permitted.</p> <p data-bbox="525 1724 1433 2076">It is noted that the development is located within close proximity to the Terrey Hills Public School and that the primary truck access point is located off Myoora Road directly opposite the school. The mixing of heavy vehicle movements with intense before and after school activity, particularly pedestrian activity is inappropriate and unsafe. It is noted in the traffic report that the developer proposes to limit heavy vehicle movements to one inbound and one outbound movement during school peak periods however any truck movement at these times are considered inappropriate and a restriction will therefore be imposed as a condition of consent that any truck movements other</p>

Internal Referral Body	Comments
	<p>than by small rigid vehicles are not to occur between 8:00am and 9:30am or between 2:30pm and 4:40pm Mon-Fri.</p> <p>In view of the fact that the garden centre is at its busiest on weekends and that trucks must circulate through the customer parking areas no truck deliveries or servicing will be permitted on weekends. In addition, as the loading dock areas are primarily located near the south west corner of the site with customer parking located at the northern and eastern ends of the site a restriction on heavy vehicle movements into the site from Cooyong Road will be imposed i.e that all vehicles in excess of SRV (6.5m in length) are to access the site via Myoora Rd with all ingress and egress movements by semi-trailers and truck and bogey combinations to be to and from Myoora Road.</p> <p><u>Access</u></p> <p>The redeveloped site provides for some accessible paths of travel and marked pedestrian routes through the site however the level of detail is insufficient to determine if appropriately graded ramps and footpath connections are available.</p> <p>The access report notes some areas of concern with regard to that accessible paths of travel and that further work will be required during the detailed stage to achieve compliance with AS1428.1:2009</p> <p>There is an absence of footpaths along the site frontages and no pedestrian crossings or refuges providing connections to existing paths on opposite sides of the road. There is therefore poor pedestrian and cyclist connectivity to the site and inadequate pedestrian connection to bus stops near the site. Council's adopted bike plan proposes a 3m wide shared path along the southern side of Cooyong Road. A footpath connection between that path and the bus stop on the eastern side of Myoora Road on the frontage of the site will also be required. These path works along the site frontages will be conditioned in conjunction with any approval for the development</p> <p><u>Infrastructure works</u></p> <p>The following infrastructure works will be requested in conjunction with any development approval for this work to offset impacts of the development:</p>

Internal Referral Body	Comments
	<p>1. As proposed and previously requested by TfNSW the vehicular access to Mona Vale Road will be deleted and replaced by kerb and gutter to match existing to TfNSW requirements</p> <p>2. kerb & gutter should be provided along the full Cooyong Road frontage of the site to provide efficient drainage of the site, prevent parking on the nature strip and better cater for the generated traffic to and from the site. A shared Path along the south side of the site between Myoora Road and Mona Vale Road will also be required.</p> <p>3. A footpath connection shall be provided on the east side of Myoora Rd between the existing bus stop and Cooyong Road with appropriately located pram ramps and widened traffic splitter islands (to better cater for pedestrian storage) provided to facilitate links to footpaths on the west side of Myoora Road and the north side of Cooyong Road.</p> <p>4. A streetlighting upgrade shall be undertaken on Myoora Rd to provide a compliant level of streetlighting along the frontage of the site and in particular in the the vicinity of the site's Myoora Road driveway and bus stop. The applicant to prepare a streetlighting upgrade design and meet the cost of the upgrade works.</p> <p>5. Redundant layback vehicle crossings on Myoora Road shall be removed and reinstated to kerb and gutter and turfed nature strip</p> <p>6. Designs for extension of the right turn bay on Mona Vale Road, if required, shall be prepared and the turning bay increased in length at the applicants cost to a provide the required storage capacity.</p> <p><u>Summary</u></p> <p>Prior to further consideration of the development the plans and traffic and parking impact report shall be amended to incorporate:</p> <ul style="list-style-type: none"> - revised assignment of traffic to more realistically reflect likely directions of traffic to and from the site - additional traffic modelling to reflect revised distribution of traffic - additional analysis to review potential queueing issues on Cooyong Road and within the site near the sites eastern vehicle entry/exit driveway
Waste Officer	<p><i>Supported, subject to conditions</i></p> <p><u>Updated Comments (8 April 2024):</u></p> <p>Supported - subject to conditions</p> <p><u>Original Comments (27 September 2023):</u></p>

Internal Referral Body	Comments
	<p>Unsupported. Specifically: There is no area dedicated for the storage of garbage and recycling bins on the plans. The words "bin area" appears at several different locations on the plans. It is unclear what this actually means as the words are in different locations on different plans (e.g. in the middle of the driveway).</p> <p>A dedicated bin storage area must be provided and clearly shown on the plans along with demonstrated access for a HR truck to the bin storage area.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported, subject to conditions</p> <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>
Rural Fire Service - Local Branch - EP&A Act, s4.14	<p>Supported, subject to conditions</p> <p>The NSW Rural Fire Service is supportive of the proposed development, subject to conditions of consent, which are included in the recommendation of this report.</p>
Aboriginal Heritage Office	<p>Supported, subject to conditions</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted</p>
Roads and Maritime Service - Roads Act 1993, s138 (Non-integrated)	<p>Supported, subject to conditions</p> <p>Transport for NSW has reviewed the development application and would provide concurrence to the removal of the existing vehicular crossing on Mona Vale Road under Section 138 of the <i>Roads Act 1993</i>, subject to conditions of consent. The conditions have been included in the recommendation.</p>

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 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.

SEPP (Industry and Employment) 2021

Section 3.6 and 3.11 of Chapter 3 require Council to determine consistency with the objectives stipulated under Subsection 3.1 (1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 5.

The objectives of this chapter aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 5 of Chapter 3, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area		

Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The subject site is zoned RU4 Primary Production Small Lots. The proposed development is permissible within this area, as per the additional permitted uses under the WLEP 2011. The subject site is located on Mona Vale Road, characterised by similar premises. As such, the signage associated with the proposed development is consistent and compatible with the existing and desired future character of the area.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	No specific theme for outdoor advertising exists in the locality. However, the proposed signage is anticipated to be complementary to the colours and finishes of existing development in the street.	YES
2. Special areas		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The subject site is not classified as, or within the vicinity of environmentally sensitive areas, heritage areas, waterways, open space areas or rural landscapes. The proposed signage will not detract from the amenity or visual quality of nearby residential areas.	YES
3. Views and vistas		
Does the proposal obscure or compromise important views?	The proposed signage does not obscure or compromise important views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage does project beyond the building area, but in a more logical location and to a lesser extent than the existing signage, and therefore does not impact upon the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not unreasonably obscure any other advertisements.	YES
4. Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signage is consistent with other existing comparable uses within the street, and within the zoning of the site, and is therefore appropriate in the streetscape and setting.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed development and associated signage have been designed in a clear and modern	YES

	manner, and therefore create visual interest within the streetscape.	
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage is located only at key points on the building (being adjacent to pedestrian entries and a key road traffic corner) and therefore does not create visual clutter.	YES
Does the proposal screen unsightliness?	The proposed development does not give rise to unsightliness. The proposed signage is neat and limited to key points on the site.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage does not unreasonably protrude above the buildings. The main signage at the garden centre entry has minor portions and some of the structure above the roof, though this does not result in obscuring of any items of importance. The pylon sign at the south-eastern corner is free-standing, though of a suitable height and scale.	YES
Does the proposal require ongoing vegetation management?	The proposed signage does not require vegetation management.	YES
5. Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is of compatible scale and proportion to the building and the existing buildings in the surrounding area.	YES
Does the proposal respect important features of the site or building, or both?	The proposed signage does not detract from important features of the site or building.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is located logically to achieve an adequate level of exposure, while remaining visually compatible with the buildings and the streetscape.	YES
6. Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed signage will not require safety devices, platforms or external lighting devices.	YES
7. Illumination		
Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	Illumination of the proposed signage will not result in unreasonable or unacceptable glare or affect safety.	YES
Can the intensity of the illumination be adjusted, if necessary?	Illumination of the proposed signage can be adjusted by technicians, as required.	YES

Is the illumination subject to a curfew?	The proposed signage will be illuminated for the approved hours of operation only.	YES
8. Safety		
Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage will not reduce the safety of any public road, pedestrian or cyclist.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage does not obscure any sightlines and will therefore not reduce pedestrian safety.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality.

The proposal is therefore deemed to be **consistent** with the provisions of this chapter and its underlying objectives.

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 commercial 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 commercial land use.

Warringah Local Environmental Plan 2011

Is the development permissible?	No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	Max. 8.5m	Max. 9.85m	15.88%	No

Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)

Clause	Compliance with Requirements
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

2.5 Additional permitted uses for particular land

The proposed development is permissible under Schedule 1 Clause 18 of the Warringah Local Environmental Plan 2011, which allows for this land to be used for the purpose of a garden centre, as defined in the Dictionary of WLEP 2011:

Garden centre means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may include a restaurant or cafe and the sale of any of the following—

- (a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,*
- (b) pets and pet supplies,*
- (c) fresh produce.*

4.3 Height of buildings

The proposed development includes minor breaches to the height of buildings development standard, for the purpose of the roof ridge above the pet store (maximum 270mm), and the roof ridge above the cafe and associated outdoor seating (maximum 1.35m).

The variation to the development standard is acceptable and is **supported** for the reasons detailed in the section of this report relating to Clause 4.6 Exceptions to Development Standards of the WLEP 2011.

4.6 Exceptions to development standards

Description of Non-compliance

Development Standard:	Height of Buildings
Requirement:	8.5m
Proposed:	9.85m
Percentage Variation to Requirement:	15.88%

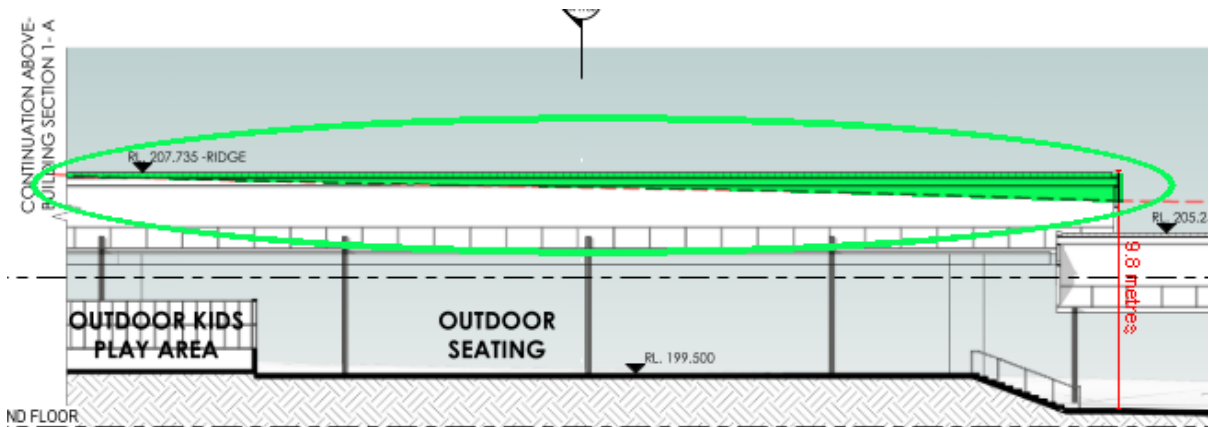


Figure 1: The extent of the building height breach to the roof above the cafe and associated outdoor seating area

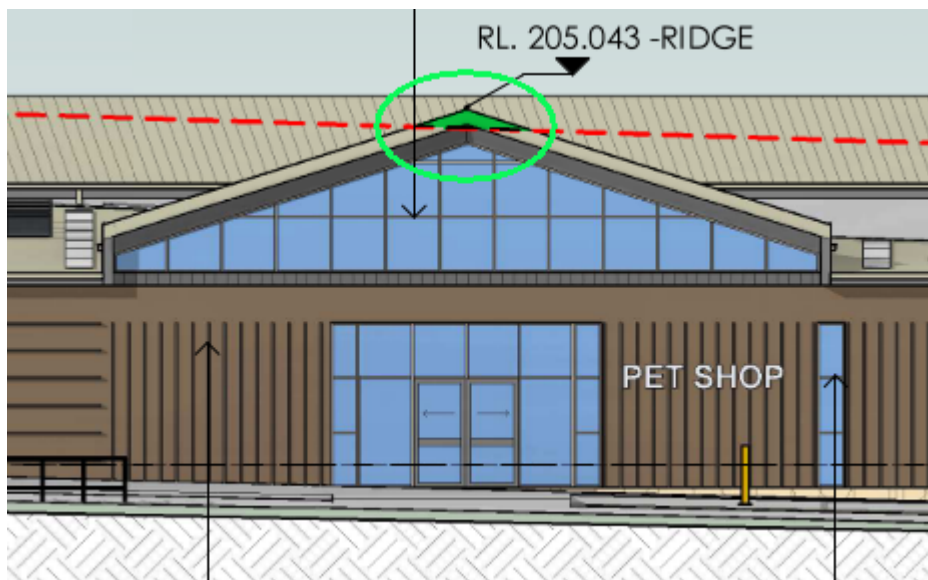


Figure 2: The extent of the building height breach to the roof above the pet shop

Assessment of Request to Vary a Development Standard

The following assessment of the variation to Clause 4.3 Height of Buildings, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to Development Standards

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly

excluded from the operation of this clause.

Comment:

Clause 4.3 Height of Buildings is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) Assessment

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two separate matters for consideration contained within Clause 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard. In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd

v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.’

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

Applicants Written Request

The Applicant's written request argues (verbatim):

- *The minor breach is due to the architectural design of the roof, being a double gable roof form. Given the nature of the use, a garden centre, it is important to achieve an internally open feel with high ceilings which bring in natural light. It is the pitched roof that creates the breach. The majority of the central roof is compliant, it is only due to changing existing ground levels that results in the minor breach.*
- *The areas of roof that are non-compliant do not result in any additional adverse shadow to adjoining properties and or the public domain beyond what would be expected by a compliant scheme. Any additional shadow is absorbed within the site and compliant solar access levels will be maintained to the property at 279 Mona Vale Road.*
- *The minor breach to part of the roof to the two buildings will not be noticeable from the public domain given its setback and central location within the site. It will have no adverse impact but will create an improved internal amenity with natural light penetration.*
- *There are no views that will be affected by the non-compliant components.*
- *The proposed development achieves the objectives the RU4 Primary Production Small Lots zone.*
- *The proposed development meets the objectives of the development standard notwithstanding the breach of the height control.*

The above justification is agreed with. In this regard, the Applicant’s written request has demonstrated that the proposed development is an orderly and economic use and development of the land (being of a form anticipated and required for a garden centre development), and that the structure is of a good

design (by providing generous access to light and ventilation) that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying (c) and (g) of Clause 1.3 Objects of the EPA Act.

Therefore, the Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by Clause 4.6 (3)(b). Council is satisfied that the Applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the RU4 Primary Production Small Lots zone. An assessment against these objectives is provided below.

Development Standard Objectives

The objectives of Clause 4.3 Height of Buildings are addressed as follows:

(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The proposed development demonstrates a height of building that is compatible with the height and scale of nearby and surrounding developments. The portions of the development that breach the height of buildings development standard are located such that they will generally not be perceptible from the public domain, and are of no impact to adjoining and surrounding land. The proposed development, also remains generally below canopy tree level, as confirmed by the supporting landscape plan, which demonstrates canopy tree plantings of between 10-12m in height, being set above the building heights proposed (9.85m).

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The proposed development (including the portions of which that breach the maximum height development standard) is designed and sited so as not to result in any unreasonable visual impact, disruption of view, loss of privacy, or loss of solar access.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The proposed development (including the portions of which that breach the maximum height development standard) not only minimises impacts on the scenic quality of the area, but lessens impacts by way of

improved architectural design, overall design cohesiveness, and greater landscaping than existing.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

Comment:

The proposed development includes increased landscaped area and planting to each frontage, and to the southern side boundary adjoining 279 Mona Vale Road. The proposed development also includes improved architectural design and a well-considered overall layout. In this way, the proposed development presents and improvement to the visual impact of the site when viewed from public places.

Zone Objectives

The objectives of the RU4 Primary Production Small Lots zone are addressed as follows:

To enable sustainable primary industry and other compatible land uses.

Comment:

The proposed development retains and expands upon the existing garden centre use.

To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.

Comment:

The proposed development will provide additional employment opportunities on site, by way of introduction of the pet shop, fruit shop, landscape shop, and the extension and alteration of the garden centre and cafe.

To minimise conflict between land uses within this zone and land uses within adjoining zones.

Comment:

The proposed development does not result in any unreasonable conflict between the continued land use of the site and adjoining or surrounding land uses, by way of suitable design, business modelling, and recommended conditions of consent.

To minimise the impact of development on long distance views of the area and on views to and from adjacent national parks and bushland.

Comment:

The impact of the development on long distance views is not only maintained, but improved, due to the overall improved design and landscaping outcomes.

To maintain and enhance the natural landscape including landform and vegetation.

Comment:

The landscape, landform, and vegetation on the site are not only maintained, but improved, due to the overall improved design and landscaping outcomes.

To ensure low intensity of land use other than land uses that are primary industry enterprises.

Comment:

The proposed development retains the existing garden centre use suitable design, business modelling, and recommended conditions of consent.

To maintain the rural and scenic character of the land.

Comment:

The rural and scenic character of the land is not only maintained, but improved, due to the overall improved design and landscaping outcomes.

CONCLUSION

The submitted written request is considered to be well-founded having regard to the circumstances of the development and it is therefore considered appropriate that flexibility in the application of the development standard be applied in this instance. In this context, the proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under Section 4.15 of the Act. Consequently, the development is considered to be in the public interest, subject to conditions.

Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted. Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the height of buildings development standard is assumed by the Local Planning Panel.

6.2 Earthworks

The objectives of Clause 6.2 Earthworks require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- (b) to allow earthworks of a minor nature without requiring separate development consent.*

In this regard, before granting development consent for earthworks, Council must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality*

Comment:

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

- (b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment:

The proposal will not unreasonably limit the likely future use or redevelopment of the land.

- (c) the quality of the fill or the soil to be excavated, or both*

Comment:

The excavated material will be processed according to the Waste Management Plan for the

development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment:

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment:

The north-eastern corner of the development is classified as of high potential for Aboriginal heritage significance. The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment:

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment:

The Applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment:

The Applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development

Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment:

The Applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall Height	Max. 7.2m	Max. 9.2m	27.78%	No
B4 Site Coverage	Max. 20% (5,658m ²)	21.85% (6,182m ²)	9.26%	No
B5 Side Boundary Setbacks	S: Min. 7.5m	Buildings: Min. 15m	-	Yes
		Parking/Hardstand: Min. 3.0m	60%	No*
B7 Front Boundary Setbacks	Cooyong Rd (N): Min. 10m	Buildings: Min. 6.2m	38%	No*
		Parking/Hardstand: Min. 4m	60%	No - Existing
	Myoora Rd (W): Min. 10m	Min. 7.7m	33%	No
B14 Main Roads Setback	Mona Vale Rd (E): Min. 30m	Buildings: Min. 29.5m	1.67%	No*
		Parking/Hardstand: Min. 10.8m	60.67%	No*
		Signage: 3.6m	88%	No*
D1 Landscaped Open Space (LOS) and Bushland Setting	Min. 70% (19,803m ²)	17.19% (4,863.5m ²)	75.44%	No*

(*The non-compliances demarcated with an asterisk are noted to be an improvement on the existing development.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B4 Site Coverage	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	Yes
B14 Main Roads Setback	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

The proposed development includes a breach to the 7.2m maximum wall height control for a portion of the garden centre storage and staff office building, along the southern elevation. This elevation has a maximum wall height of 9.2m, as demonstrated below:

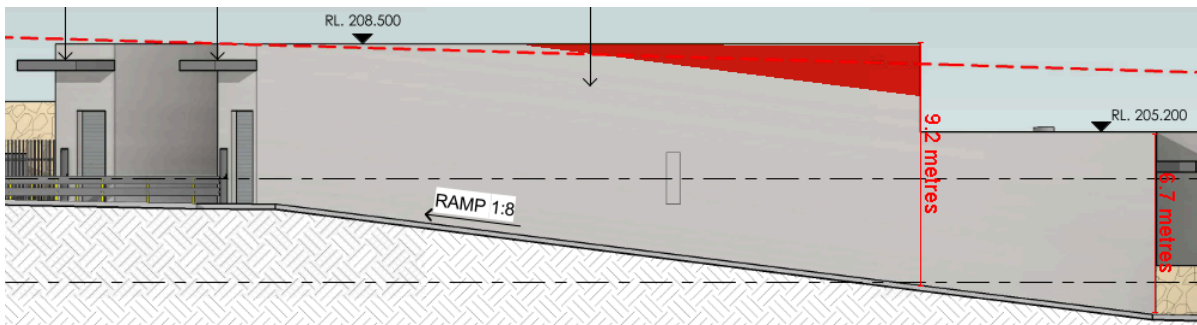


Figure 3: The proposed breach to the maximum wall height control, on the southern elevation of the garden centre storage and staff office building (as marked in red)

As shown above, the wall height non-compliance is as a result of maintaining the floor level for the relevant portion of the building in combination with the slope of the adjoining ramp. The remainder of the development is compliant with the control. With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.

Comment:

Given the location of the building in question, being relatively central to the site, the non-compliant wall height will not be perceptible from adjoining properties, streets, waterways and land zoned for public recreation purposes. The portion of the building that is not compliant with the control is located approximately 95m from the Myoora Road frontage and 160m from the Mona Vale Road frontage. The non-compliant portion is to the southern elevation, so not visible from the northern Cooyong Road frontage.

To ensure development is generally beneath the existing tree canopy level

Comment:

The proposed development, despite its non-compliance with the wall height control, remains generally below canopy tree level. This is confirmed by the supporting landscape plan, which demonstrates canopy tree plantings of between 10-12m in height, where the wall height in question is 9.6m.

To provide a reasonable sharing of views to and from public and private properties.

Comment:

Despite the non-compliance with wall height, the proposed development is designed and sited so as not to disrupt any significant views to or from public or private places.

To minimise the impact of development on adjoining or nearby properties.

Comment:

The proposed non-compliant wall height is designed and sited so as not to give rise to any unreasonable impacts to adjoining or surrounding land, including in relation to privacy, view sharing, and overshadowing. The non-compliant wall is set 15m from the nearest boundary, being the southern side boundary adjoining 279 Mona Vale Road, and the setback area includes a variety of planting types so as to soften the visual impact of the wall from that adjoining property.

To ensure that development responds to site topography and to discourage excavation of the natural landform.

Comment:

The proposed development generally steps down with the topography of the site.

To provide sufficient scope for innovative roof pitch and variation in roof design.

Comment:

The building that includes the breach to wall height has low-pitched skillion roof design with parapet, so as to reduce overall height.

B4 Site Coverage

The proposed development includes a site coverage of 21.85% of the site (6,182m²), where the control allows for a maximum of 20% (5,658m²).

It should also be noted that the site coverage control is intended to apply to permissible land uses anticipated for the site, being uses more readily able to provide smaller building footprints (such as agricultural, production, certain residential uses, and more). The proposed development benefits from being an additional permitted use (being a garden centre, as per Schedule 1 Clause 18 of the WLEP 2011). This means that the proposed development is a use that was not initially accounted for in preparation of the applicable site coverage control for the site.

Notwithstanding this, the development is acceptable on its merits. With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

To provide opportunities for the provision of landscaping and the enhancement of existing native vegetation.

Comment:

The proposed development doubles the landscaped area on site, as detailed in the section of this report relating to Clause D1 Landscaped Open Space and Bushland Setting of the WDCP 2011.

To minimise the bulk and scale of development.

Comment:

The proposed development includes several buildings on the site, for the purposes of the existing (altered) garden centre, a fruit shop, a pet shop, a cafe, a play area, a landscape shop, and storage. Each of these buildings is located so as to avoid impact on surrounding land, including with respect to bulk and scale. The buildings are of a size and scale anticipated for the use, with one portion of the development being non-compliant with the wall height control. This non-compliance is acceptable for the reasons detailed in the section of this report relating to Clause B1 Wall Heights of the WDCP 2011. The proposed development is also well-landscaped in logical locations so as to reduce the visual impact of the proposed buildings from surrounding land.

*To reduce the stormwater runoff, preventing soil erosion and siltation of the natural drainage network.
To limit impervious areas and encourage natural drainage into the sub-surface.*

Comment:

The proposed development provides greater soft landscaped open space than the existing scenario, which assists with water infiltration on the site. The proposed development is also supported by stormwater plans that demonstrate acceptable water management measures. The proposed development is supported by Council's Development Engineer, including with respect to stormwater management, subject to recommended conditions of consent.

B5 Side Boundary Setbacks

The proposed development includes parking spaces between 3m from the southern side boundary, where a minimum of 7.5m is required by the control. It should be noted that:

- The existing development includes materials stockpiles immediately on the southern side boundary, and that the proposed development presents an improvement on this scenario, and
- All buildings are compliant with the side setback control, with the nearest building being 15m from the southern boundary.

With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

To provide opportunities for deep soil landscape areas.

Comment:

The proposed development doubles the landscaped area on site, as detailed in the section of this report relating to Clause D1 Landscaped Open Space and Bushland Setting of the WDCP 2011. This provides greater deep soil landscape areas on site.

To ensure that development does not become visually dominant.

Comment:

The proposed development is designed and sited so as to provide for an upgrade of the site, without resulting in unreasonable built form. The proposed development introduces cohesive and intentional landscaped area to each of the site's three frontages, and along the southern side boundary where it adjoins 279 Mona Vale Road. This means that from any vantage point around the site, an improved visual outcome is provided by way of acceptable setbacks and improved landscaping.

To ensure that the scale and bulk of buildings is minimised.

Comment:

The proposed development includes several buildings on the site, for the purposes of the existing (altered) garden centre, a fruit shop, a pet shop, a cafe, a play area, a landscape shop, and storage. Each of these buildings is located so as to avoid impact on surrounding land, including with respect to bulk and scale. The buildings nearest to the southern side of the site are a minimum of 15m from the boundary, so as to provide suitable building separation and reduce the impact of their presence. The proposed development is also well-landscaped in logical locations so as to reduce the visual impact of the proposed buildings from surrounding land.

To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.

Comment:

The proposed development is for a commercial, ground-level premises, with substantial separation to surrounding residential properties. Each boundary setback area of the site is supplemented with planting to increase amenity on the subject site and adjoining sites. As above, the building nearest to the southern side boundary has a setback of 15m to the adjoining property. The proposed development is designed and sited so as to ensure a reasonable level of privacy, amenity and solar access is maintained.

To provide reasonable sharing of views to and from public and private properties.

Comment:

Despite the non-compliance with the side setback control, the proposed development is designed and sited so as not to disrupt any significant views to or from public or private places.

B7 Front Boundary Setbacks

Clause B7 requires a minimum front boundary setback of 10m, which applies to the Cooyong Road and Myoora Road frontages of the site. The Mona Vale Road frontage is subject to the 30m setback stipulated in Clause B14 Main Roads Setback.

The proposed development includes the following front boundary setbacks:

- **Cooyong Road:** Car parking 4m and 6.2m from the boundary, and a landscape shop 6.2m from the boundary, and
- **Myoora Road:** Landscape shop predominantly 10m from the boundary, with an encroachment up to 7.7m from the boundary.

It should be noted that parking areas currently exist along the Cooyong Road frontage, 4m from the boundary. Further, hardstand areas exist to the Cooyong Road and Myoora Road frontages with a nil setback, for approximately 35% of the Cooyong Road boundary length, and 50% of the Myoora Road boundary length. The proposed development presents an improved outcome for both the Cooyong Road and Myoora Road frontages.

With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

To create a sense of openness.

Comment:

It should be noted that encroachments to the front boundary setback areas are for at-grade parking, with the setback areas being supplemented with landscaping. This means the boundaries are not crowded with built form and thereby feel open, despite the technical non-compliance. The proposed development retains generous building separation amongst the proposed buildings on site, as well as to adjoining and surrounding sites. The increased landscape buffers and the retention and expansion of the open nursery area in the centre of the site ensure a satisfactory sense of openness across the whole site, including to the front setback areas.

To maintain the visual continuity and pattern of buildings and landscape elements.

Comment:

Despite the encroachments to the front boundary setbacks, the proposed development provides a suitable balance of built form and landscaped area in the context of the site, being for an existing garden centre development. Whilst providing more buildings, the proposed development is more aligned with each of the applicable setback controls, and provides a greater landscaped area outcome, thereby providing suitable continuity and pattern to the buildings and landscape elements on the site.

To protect and enhance the visual quality of streetscapes and public spaces.

Comment:

The increased landscaping and planting along both the Cooyong Road and Myoora Road frontages significantly improves the visual quality of the two streetscapes. The planting acts as a buffer to the surrounding residential properties, and softens the impacts of operation of the commercial premises with respect to amenity.

To achieve reasonable view sharing.

Comment:

Despite the encroachments to the front boundary setbacks, the proposed development is designed and sited so as not to disrupt any significant views to or from public or private places.

B14 Main Roads Setback

Clause B14 requires buildings to provide a minimum setback of 30m to a main road. Ground level car parking may be permitted between 15 and 30m from the road boundary provided views of the car park area from the main road are screened by landscaping. The proposed development includes buildings fronting Mona Vale Road (main road) with setbacks of between 29.5m and 30.6m to the boundary. The proposed development also includes parking spaces set 10.8m to 12m from the boundary. Finally, the proposed development includes signage 3.6m from the Mona Vale Road frontage.

It should be noted that the existing development sets buildings between 14.4m and 29m from the Mona Vale Road frontage, includes parking spaces immediately on the boundary, for the full length of the boundary, and signage within the road reserve. The proposed development presents a significant improvement on the existing presentation to Mona Vale Road with respect to the location of buildings, parking spaces, and signage.

With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

To provide a densely landscaped buffer between the development and the main road/s.

Comment:

The proposed development includes a 12-metre wide landscape buffer to the Mona Vale Road (main road) frontage. The buffer is reduced to 10.8m in width for a minor portion of the development, such that the reduction would not be noticeable. The proposed setback area to Mona Vale Road is proposed to be densely landscaped with a variety of planting types, including canopy trees, shrubs and grasses. The landscaped buffer will be sufficient in reducing the visual impact of the proposed parking spaces, signage and buildings from view for users of Mona Vale Road. This presents a

significant improvement on the existing Mona Vale Road frontage, which does not include landscaping, other than low-lying planter boxes and medium-height trees within the road reserve.

To enhance the aesthetic quality of main roads.

Comment:

As above, the proposed development provides a significant improvement in the landscape treatment to the Mona Vale Road frontage, replacing gravel and bitumen parking spaces with a densely landscaped buffer. This presents an enhancement to the aesthetic quality of the main road.

D1 Landscaped Open Space and Bushland Setting

The proposed development includes a landscaped area of **17.19%** (4,863.5m²) of the site, where the applicable control requires a minimum of 70% of the site (19,803m²).

The subject site currently contains approximately 2,400m² of landscaped open space, equating to 8.5% of the site area. The proposed development, while non-compliant with the numerical requirement of this control, doubles the landscaped area on site, and is configured to provide a wholly better landscaped outcome for the itself, as well as adjoining and surrounding properties.

It should also be noted that the landscaped area control is intended to apply to permissible land uses anticipated for the site, being uses more readily able to provide landscaped area (such as agricultural, production, certain residential uses, and more). The proposed development benefits from being an additional permitted use (being a garden centre, as per Schedule 1 Clause 18 of the WLEP 2011). This means that the proposed development is a use that was not initially accounted for in preparation of the applicable landscaped area control for the site.

Notwithstanding this, the development is acceptable on its merits. With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

To enable planting to maintain and enhance the streetscape.

Comment:

The proposed development introduces cohesive and intentional landscaped area to each of the site's three frontages, and along the southern side boundary where it adjoins 279 Mona Vale Road. The proposal demonstrates a 12m wide landscaped buffer to the Mona Vale Road frontage (east), being the main road to which the site presents. Along Cooyong Road (north), the proposal demonstrates predominant retention of existing significant vegetation, with additional planting to supplement the existing presentation. Along Myoora Road (west), the proposal introduces a 10m wide landscape buffer. In each circumstance, the proposed development provides an improvement to, and an enhancement of the streetscape by way of ample planting.

To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.

Comment:

The submitted landscape plans demonstrate a suitable variety of planting, including retention of a number of significant trees, and additional indigenous species to support habitat for wildlife. There are no topographical features of importance noted on site. The proposed landscaping outcome is noted to both conserve and enhance vegetation for the site.

To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.

Comment:

The proposed development demonstrates various landscaped areas of ample dimensions to support a variety of planting types and sizes. The submitted landscape plans provide confirmation in this regard, demonstrating many and various vegetation types across the site. The landscaped areas are logically located so as to visually reduce the height, bulk and scale of the development.

To enhance privacy between buildings.

Comment:

The proposed development is for a commercial, ground-level premises, with substantial separation to surrounding residential properties. Each boundary setback area of the site is supplemented with planting to increase amenity on the subject site and adjoining sites. As such, the proposed development enhances privacy between buildings.

To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.

Comment:

Not applicable. The proposed development is for the purpose of a commercial premises.

To provide space for service functions, including clothes drying.

Comment:

Not applicable. The proposed development is for the purpose of a commercial premises.

To facilitate water management, including on-site detention and infiltration of stormwater.

Comment:

The proposed development provides greater soft landscaped open space than the existing scenario, which assists with water infiltration on the site. The proposed development is also supported by stormwater plans that demonstrate acceptable water management measures. The proposed development is supported by Council's Development Engineer, including with respect to stormwater management, subject to recommended conditions of consent.

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 \$143,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$14,299,955.

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;
- Warringah Local Environment Plan;
- Warringah 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 EPs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

PLANNING CONCLUSION

This development application seeks consent for alterations and additions to the existing garden centre, known as *Flower Power*.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the non-compliance with the LEP height standard being greater than 10% and due to it being a contentious application, by virtue of the number of submissions being greater than 10 (83 in objection).

Concerns raised in the objections predominantly relate to traffic generation and vehicular access, pedestrian safety, impact on the existing bridle trail (along Cooyong Road), noise generation, impacts on the existing small business on site, construction impacts, and stormwater management.

Critical assessment issues include; building height, setbacks, site coverage, landscaped areas, and the matters raised in submissions.

The Clause 4.6 request for a variation to the height of buildings development standard arises due to the topography of the site and the need to provide buildings with a suitable height for the garden centre operations. The variation is well founded and is supported for the reasons detailed in the section of this report relating to Clause 4.6 Exceptions to Development Standards of the WLEP 2011.

The application represents an opportunity to significantly improve the streetscape presentation of the development to all 3 frontages, enhance the landscape frontage to Mona Valle Road, the internal landscape setting of the buildings and carparking areas, and improve the environmental performance of the existing garden centre operations and associated infrastructure, signage, architecture, hardsurface areas and fencing.

Additionally, the site upgrades and road reserve works will improve the traffic flow, safety and protection and provision for horses and riders using the Bridle Trail.

This report concludes with a recommendation that the NBLPP grant **approval** to the development application, subject to conditions.

REASON FOR DETERMINATION

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

RECOMMENDATION

That Northern Beaches Council as the consent authority permits a contravention of the Clause 4.3 Height of Buildings development standard pursuant to Clause 4.6 of the WLEP 2011. The Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3), the proposed development will be in the public interest, and the proposed development is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2023/1224 for Alterations and additions to the existing garden centre on land at Lot 4 DP 737411, 62 Myoora Road, TERREY HILLS, 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

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 Number	Plan Title	Drawn By	Date of Plan
DA11	G	Demolition Plan	Leffler Simes Architects	2 April 2024
DA15	J	Proposed Site Plan	Leffler Simes Architects	2 April 2024
DA100	H	Overall Floor Plan	Leffler Simes Architects	2 April 2024
DA111	G	Floor Plan - 1 of 2	Leffler Simes Architects	2 April 2024
DA112	G	Floor Plan - 2 of 2	Leffler Simes Architects	2 April 2024
DA120	H	Overall Roof Plan	Leffler Simes Architects	2 April 2024
DA150	G	Elevation - Sheet 1	Leffler Simes Architects	2 April 2024
DA151	G	Elevation - Sheet 2	Leffler Simes Architects	2 April 2024

DA152	G	Elevation - Sheet 3	Leffler Simes Architects	2 April 2024
DA153	B	Elevation - Sheet 4	Leffler Simes Architects	2 April 2024
DA160	G	Sections - Sheet 1	Leffler Simes Architects	2 April 2024
DA161	G	Sections - Sheet 2	Leffler Simes Architects	2 April 2024
DA162	H	Sections - Sheet 3	Leffler Simes Architects	2 April 2024
DA163	G	Sections - Sheet 4	Leffler Simes Architects	2 April 2024
LUX-001	P2	External Lighting 1/2	C-Level Deign & Engineering	29 May 2023
LUX-001	P2	External Lighting 2/2	C-Level Deign & Engineering	29 May 2023
001	F	Landscape Plan Ground Floor	Site Image Landscape Architects	18 April 2024
101	F	Landscape Plan - 1	Site Image Landscape Architects	18 April 2024
102	F	Landscape Plan - 2	Site Image Landscape Architects	18 April 2024
103	F	Landscape Plan - 3	Site Image Landscape Architects	18 April 2024
104	F	Landscape Plan - 4	Site Image Landscape Architects	18 April 2024
501	F	Landscape Details	Site Image Landscape Architects	18 April 2024
502	F	Landscape Details	Site Image Landscape Architects	18 April 2024
DAC01.11	02	Specification Notes	Northrop	15 June 2023
DAC02.01	02	Sediment and Soil Erosion Control Plan	Northrop	15 June 2023
DAC02.11	02	Sediment and Soil Erosion Control Details	Northrop	15 June 2023
DAC03.01	04	Bulk Earthworks Cut and Fill Plan	Northrop	15 June 2023
DAC04.01	05	Siteworks and Grading Plan	Northrop	15 June 2023
DAC04.02	01	Stormwater Management Plan	Northrop	15 June 2023
DAC04.21	02	Stormwater Longitudinal Sections - Sheet 01	Northrop	12 February 2024
DAC05.01	02	Stormwater Catchment Plan	Northrop	15 June 2023

DAC06.01	04	Stormwater Management Details - Sheet 01	Northrop	15 June 2023
DAC06.02	01	Stormwater Management Details - Sheet 02	Northrop	15 June 2023
DAC06.03	01	Stormwater Management Details - Sheet 03	Northrop	15 June 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Accessibility Report	v1.0	Morris Goding Access Consulting	24 August 2023
Acoustic Report	R01E	Acoustic Works	23 August 2023
Arboricultural Development Impact Assessment Report	B	Birds Tree Consultancy	2 June 2023
Interim Asbestos Management Plan	-	JK Environments	6 April 2022
BCA Assessment Report	3	Blackett Maguire + Goldsmith	5 June 2023
Bushfire Protection Assessment	v2	EcoLogical Australia	4 May 2023
Bushfire Certificate	-	EcoLogical Australia	4 May 2023
Bushfire Addendum	-	EcoLogical Australia	17 April 2024
Energy Efficiency & Sustainability Report	1	Sustain Erbas	25 August 2023
External Lighting Design Report	1	C-Level Design & Engineering	2 April 2024
Geotechnical Investigation	-	JK Geotechnics	9 June 2023
Preliminary (Stage 1) Site Investigation	-	JK Environments	28 October 2021
Detailed (Stage 2) Site Investigation	-	JK Environments	13 June 2023
Remediation Action Plan	-	JK Environments	21 June 2023
Stormwater Report	1	Northrop	15 June 2023
Traffic and Parking Assessment Report	V3	Positive Traffic	29 August 2023

Traffic and Parking Assessment Report Addendum	-	Positive Traffic	26 March 2024
Traffic Management Plan	A	FDC	24 January 2022
Waste Management Plan	2	Environmental Earth Services	4 May 2023

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

In the event of any inconsistency between 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:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	9 October 2023
NSW Rural Fire Service	NSW Rural Fire Service Referral Response	3 October 2023
Transport for NSW	TfNSW - Referral Response	16 October 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. 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.

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,
 - 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 following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (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

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$142,999.55 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 \$14,299,955.00.

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.

6. Security Bond

A bond (determined from cost of works) of \$10,000 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.

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

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

Drainage Works

As security against any damage or failure to complete the construction of stormwater drainage works required as part of this consent a bond of \$10,000.00

Crossing / Kerb & Gutter / Footpath Works

As security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath and shared path works and removal of any redundant driveways required as part of this consent a bond of \$150,000.00

Road Works

As security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works required as part of this consent a bond of \$50,000.00

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 \$50,000.00

Maintenance for Civil Works

A maintenance bond of \$50,000.00 for the construction of kerb & gutter, shared path, footpath, vehicle crossings, road pavement works and ancillary works on the road reserve. 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.

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.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. Construction in Bush Fire Prone Areas

The recommendations made in the Bush Fire Protection Assessment Report prepared by ecological Australia, dated 4/5/2023, Version V2 are to be carried out in full to the building.

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

Reason: To ensure adequate provision is made for the design and construction of the building to reduce the risk of ignition from a bushfire and provide building occupant safety.

9. On-Site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Northrop, job number 211979, dated 12.02.2024. 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.

10. Traffic Management and Control

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to TfNSW standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

11. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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 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.

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.

13. Detailed Design of Stormwater Treatment Measures - Major

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the Civil Engineering Plan (drawing set 211979 rev 2 dated 15.06.23) and Stormwater report (dated 15.06.23 rev 1) 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.

14. **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 and approved by the Northern Beaches Council Traffic Team 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. All Staff and Contractors are to use any basement parking once available.
- 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 Terrey Hills 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.

15. **Vehicle Access & Parking**

All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken;

All internal driveways and vehicle access ramps must have ramp grades and transitions complying with AS 2890.1. To ensure the gradient requirements and height clearances are satisfied, a driveway profile must be prepared for all internal ramps showing ramp lengths, grades, surface RL’s and overhead clearances, taken from the crest of the ramp to the base. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

Plans prepared by a suitably qualified Engineer shall be submitted to the Principal Certifier prior to the issue of a Construction Certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

16. **Amendments to the Approved Plans**

The following plans are to be updated in accordance with the amended design demonstrated by the approved architectural plans prepared by Leffler Simes dated 2 April 2024:

- LUX-001 P2 External Lighting 1/2 by C-Level Deign & Engineering dated 29 May 2023
- LUX-001 P2 External Lighting 2/2 by C-Level Deign & Engineering dated 29 May 2023
- DAC01.11 02 Specification Notes by Northrop dated 15 June 2023
- DAC02.01 02 Sediment and Soil Erosion Control Plan by Northrop dated 15 June 2023
- DAC02.11 02 Sediment and Soil Erosion Control Details by Northrop dated 15 June 2023
- DAC03.01 04 Bulk Earthworks Cut and Fill Plan by Northrop dated 15 June 2023
- DAC04.01 05 Siteworks and Grading Plan by Northrop dated 15 June 2023
- DAC04.02 01 Stormwater Management Plan by Northrop dated 15 June 2023
- DAC04.21 02 Stormwater Longitudinal Sections - Sheet 01 by Northrop dated 12 February 2024
- DAC05.01 02 Stormwater Catchment Plan by Northrop dated 15 June 2023

- DAC06.01 04 Stormwater Management Details - Sheet 01 by Northrop dated 15 June 2023
- DAC06.02 01 Stormwater Management Details - Sheet 02 by Northrop dated 15 June 2023
- DAC06.03 01 Stormwater Management Details - Sheet 03 by Northrop dated 15 June 2023

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

17. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

18. 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 Blackett Maguire + Goldsmith, dated 5/6/2023, Project No. 210350, Rev 3 including any required Performance Reviews, are to be considered as part of the assessment for any Construction Certificate.

Details demonstrating compliance are to be provided to the Certifier, 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.

19. Access and Facilities for Persons with Disabilities

Access and facilities 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. In this regard the Access Review Report prepared by Morris Golding dated 24/8/2023 V1.0 is to be taken into consideration as part of the determination of the Construction Certificate.

Details are to be provided to the Certifier 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.

20. **Plans of Kitchen Design, Construction and Fit Out**

Prior to any Construction Certificate being issued, detailed plans that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Principle certifier. These plans are to be prepared by a suitably qualified person.

The plans must detail adequate provision for storage including separate storage of food, equipment, chemicals and personal belongings.

Reason: To ensure that the food premises complies with the design construction and fit-out requirements.

21. **Mechanical Ventilation Plans**

Where Mechanical ventilation is required to be installed in the food premises ,prior to any Construction Certificate (CC) being issued, detailed plans must be submitted to and approved by the Certifier that demonstrate compliance with the following:

- Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings"; and
- Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

These plans are to be prepared by a suitably qualified person.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

22. **Mechanical Plant**

A suitably qualified acoustic consultant is to undertake an acoustic assessment of chosen mechanical plant for the development to determine any requirements for acoustic treatments.

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

Reason: To ensure noise amenity of the area.

23. **Asbestos Management Plan**

The Asbestos Management Plan dated 6 April 2022 prepared by JKEvironments is to be implemented into the operation of the proposed development. A copy of the Plan is to be made available to owner and operator of the property and the owner/operator of the business onsite.

All recommendations within the report are to be adhered to during the operation and use of the property.

Reason: To ensure effective management of asbestos onsite

24. **Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at: <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general->

information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2

The pre-construction / demolition Dilapidation Report must be submitted to Council for approval and the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

25. **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.

26. **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.

27. **External Finishes to Roof**

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.46 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a metallic steel or reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

28. **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 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.

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

The Applicant is to submit an application for Infrastructure Works on Council Roadway for approval under Section 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the new development works within the road reserve. The design of the kerb and gutter, footpath, ramps, stormwater connection to Council's pit, vehicle crossing design and road pavement are to be in accordance with Council standard drawings and Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

a) The construction of vertical faced kerb and gutter on the south side of Cooyong Road between Mona vale Road and Myoora Road. The face of kerb to be offset 8.2m for the kerb on the northern side of Cooyong Road road to providing two 3m wide traffic lanes and a 2.2m parking lane (northern side of Cooyong Road). This width is to be provided for the section of road between the existing School Zone sign opposite the Cooyong Road frontage of 64 Myoora Rd and a location opposite the Cooyong Rd access point to the Mona Vale Road underpass. Transitions between the new kerb and existing kerb at the intersections of Cooyong Rd with Myoora Road and Mona Vale Road must be designed to accommodate the turning manoeuvres for the largest vehicle type accessing the site. A swept path analysis demonstrating access is to be submitted Council's Traffic Engineer for approval.

b) A 2.5m wide concrete shared path on the southern side of Cooyong Road, between Myoora Road and Mona Vale Road. The shared path to be located between the property boundary of the development site and the existing streetlights in the Road Reserve. New kerb ramps connections to the path are to be provided on both sides of Myoora Road, and on the southern side of Cooyong Road at its eastern end opposite the access to the Mona Vale Road underpass.

c) A 1.5m wide concrete footpath on the eastern side of Myoora Road connecting to the new Cooyong Road shared path and Myoora Road kerb ramp and extending to Bus Stop ID: 208454, and the proposed nursery access driveway to Myoora Road.

d) A minimum 1.5m wide bridle trail (off-road & turfed) located in the grassed nature strip on the south side of Myoora Road.

e) Install 'No Parking' signage along the southern side of Cooyong Road.

f) The provision of 'No Parking' restrictions on the south side of Cooyong Road, between Myoora Road and Mona Vale Road, requires approval from the Northern Beaches Council Local Traffic Committee prior to commencement of installation. A plan providing details of the proposed signage must be lodged for consideration at least twelve (12) weeks prior to work commencing.

g) The existing overflow parking and planter boxes on the Mona Vale Road verge are to be removed and the area reinstated with grassed nature strip to Council's satisfaction. The existing access driveway off Cooyong Road shall be removed and replaced with kerb and gutter.

h) The redundant driveway on the Mona Vale Road boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Mona Vale Road shall be in accordance with TfNSW requirements.

i) Detail of stormwater connection to Pit SPP13301 on Mona Vale Road. Submitted plans must include longitudinal section from last pit on private property to Pit SPP13301. Show all crossing services. Connect to pit as high as possible whilst maintaining minimum grade of 1% and minimum cover requirements. Design is to be in accordance with Council Standard Drawing S1006 (Junction Pit).

j) Provide detailed design including longitudinal sections for all proposed vehicle crossings accessing the site.

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

Details demonstrating compliance in relation to works on Cooyong Road and Myoora Road (local roads) are to be submitted to Council for approval prior to the issue of the Construction Certificate.

Detailed design plans of the proposed works on Mona Vale Road (State Road) are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works.

An approval for the above matters is to be submitted to the 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.

30. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

31. **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 Arboricultural Impact Assessment, and in particular:

i) works and tree protection measures under sections 7 Recommendations, 8 Pre-Construction

Tree Protection Measures, 9 Site Management Issues, and 10 Tree Protection Measures During Construction,

ii) any hold points identified by the Arborist.

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.

32. Tree Removal Within the Property

a) this consent approves the removal of existing prescribed trees on the subject site as identified in the Arboricultural Impact Assessment:

i) trees 10 - *Eucalyptus haemastoma*, 14 - *Elaeocarpus reticulatus*, 16 - *Eucalyptus haemastoma*, 40 - *Syncarpia glomulifera*, 41 - *Corymbia citriodora*, 42 - *Eucalyptus tereticornis*, 73 - *Acer palmatum*, 74 to 78 - *Magnolia grandiflora*, 83 - *Corymbia gummifera*, and 84 - *Pittosporum undulatum*.

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.

33. Tree Removal Within the Road Reserve

a) this consent approves the removal of existing trees within the road reserve as identified in the Arboricultural Impact Assessment, or as listed below:

i) trees 82 - *Corymbia gummifera*, and 101 - *Eucalyptus haemastoma*.

b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

c) removal of the approved tree/s by the applicant in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services business unit prior to removal.

Reason: Public liability.

34. Road Occupancy Licence (ROL) from Roads and Maritime Services

The developer shall apply for a Road Occupancy Licence (ROL) from the TfNSW Transport Management Centre (TMC) prior to commencing work within the classified road reserve or

within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified with 'Prepare a Work Zone Traffic Management' accreditation or equivalent. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TMC.

Reason: To inform the relevant Roads Authority of proposed disruption to traffic flows.

35. Work Zones 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. The Work Zone will only be permitted in Cooyong Road.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on the subject section of Mona Vale Road

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

36. Demolition Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Specify that, due to the proximity of the site adjacent to Terrey Hills 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 an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of 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 DTMP 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. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.

- o Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP 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 Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

37. **Asbestos Management Plan and Data Gap Investigation**

An Asbestos Management Plan is to be prepared by a suitably qualified person to detail the management of asbestos through the demolition and construction phase of the development. The management plan is to be implemented during any major works involving soil disturbance.

Prior to commencement of remediation, a data gap investigation is to be undertaken by a suitably qualified person in accordance with Section 4 of the Remediation Action Plan dated 21 June 2023 prepared by JKEvironments. The outcome of the data gap investigation must be considered in the context of the remediation and an updated Remediation Action Plan must be prepared to outline any additional requirements relating to site remediation and validation.

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

Reason: To ensure the effective remediation of land contamination and protection of the environment and effective management of asbestos.

DURING BUILDING WORK

38. **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.

39. **Condition of Trees**

a) during the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

i) a general decline in health and vigour,
ii) damaged, crushed or dying roots due to poor pruning techniques,
iii) more than 10% loss or dieback of roots, branches and foliage,
iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
v) yellowing of foliage or a thinning of the canopy untypical of its species,
vi) an increase in the amount of deadwood not associated with normal growth,
vii) an increase in kino or gum exudation,
viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

b) any mitigating measures and recommendations required by the Arborist/Project Arborist are to be implemented.

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

Reason: Protection of trees.

40. **Wildlife Protection**

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

Reason: To protect native wildlife.

41. **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.

42. **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.

43. **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 Erosion and Sediment Control Plan prepared 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.

44. **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.

45. **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.

46. **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.

47. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

48. **Property Boundary Levels**

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To maintain the existing profile of the nature strip/road reserve.

49. **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.

50. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan (version 2) prepared by Environmental Earth Sciences dated 4/5/2023.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

51. Waste/Recycling Requirements (Materials)

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

52. Acoustic Barrier

Acoustic barriers and the solid wall shall be constructed to the height and extent shown in Figure 3 of the Acoustic Report dated 23 August 2023 prepared by Acoustic Works. The acoustic barriers should be constructed using either masonry, 9mm fibre cement sheet, Hebel, or other materials with a minimum surface density of 9kg/m² and shall be free of gaps and holes.

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

Reason: To ensure noise impacts are minimised on nearby properties.

53. Registration with Regulatory Authority

The business must be registered with the appropriate regulatory authority, prior to the Occupation Certificate being issued.

Reason: Legislative requirement.

54. Landscape Completion

a) landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawings 101 Issue F, 102 Issue F, 103 Issue F, 104 Issue F, 501 Issue F, 502 Issue F by Site Image dated 02/04/2024), 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 carpark tree planting shall be a minimum pre-ordered planting size of 100 litres and all boundary tree planting shall be a minimum pre-ordered planting size of 45 litres; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
- iv) mass planting shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- v) 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.

55. Condition of Retained Vegetation

a) 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.

56. Replacement of Canopy Trees

At least 10 locally native canopy trees are to be planted on the site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with the relevant section of the Native Planting Guide available on Council's website..

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

57. No Weeds Imported On To 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.

58. 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.

59. Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the

asset has been damaged by the works. Council's Guidelines are available at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

60. **Certification of Civil Works and Works as Executed Data in accordance with Road Act Approval**

The Applicant shall submit a certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed data 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 Assets' in an approved format shall be submitted to the Principal Certifier for approval prior to the issue of the Occupation Certificate.

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

61. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

62. **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 plans prepared by Northrop. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifier prior to the release of an Occupation Certificate.

Reason: Protection of the receiving environment.

63. **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 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 the 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.

64. **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 the community or strata management statement if applicable) and contain the following:

1. 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) Vegetation species list associated with each type of vegetated stormwater treatment measure
 - e) Impervious area restrictions to maintain the water balance for the site
 - f) Funding arrangements for the maintenance of all stormwater treatment measures
 - g) Identification of maintenance and management responsibilities
 - h) Maintenance and emergency contact information
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
 - a) Activity description, and duration and frequency of visitsAdditionally for vegetated devices:
 - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure
3. 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)
- f) 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)
- g) 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 release of the Occupation Certificate.

Reason: Protection of the receiving environment.

65. 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 release of the Occupation Certificate.

Reason: Protection of the receiving environment.

66. Loading Dock Management Plan

A Loading Dock Management Plan shall be prepared by the applicant and submitted to and approved by the Principal Certifier prior to the issue of any Occupation Certificate.

The Plan will need to demonstrate how the loading dock will be managed to ensure that there will be only one vehicle entering and exiting the loading dock access in any period and how safe servicing arrangements including waste collection will be undertaken without interrupting general traffic. Vehicle queuing on public road(s) is not permitted.

Reason: to ensure the loading dock is managed appropriately and that tenants are aware of the conditions of use.

67. Disabled Parking Spaces

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

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.

68. Shared Zone Bollard

A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2009.

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.

69. **Operational Management Plan**

An Operational Management Plan (OMP) is required to be prepared and submitted to Council detailing the operation of the development. The OMP shall include, but not be limited to the following:

- o Vehicle access and egress.
- o Through-site circulation of vehicle movements.
- o Management of car parking areas.
- o The location and content of directional signage.
- o Complaints management.
- o Noise management.
- o Truck delivery times and methods of control to manage the sequencing of the loading docks.
- o Waste management.

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

Reason: To ensure that the development operates with minimum disruption to the surrounding area.

70. **Footpath, Shared Path and Kerb and Gutter Construction**

The required footpath, Shared Path, Kerb & Gutter and associated signposting and linemarking in accordance to Council's standard specifications and consistent with any Roads Act and Traffic Committee approvals, shall be constructed to Council's satisfaction. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To provide for pedestrian, bicycle and vehicle access and parking to, from and around the site.

71. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

72. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Civil Engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. 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 for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

73. Certification of Off Street Parking Works

The Applicant shall submit a certificate from a suitably qualified person certifying that the parking facility was constructed in accordance within this development consent and the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

74. 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.

75. Validation for Remediation

A site validation report is to be prepared on completion of Remediation Action plan and submitted to the consent authority to demonstrate that the site is suitable for the proposed development. A validation report is to be prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 and must be submitted to the Council within one month from completion of the remediation work.

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

Reason: To ensure environmental amenity is maintained.

76. Positive Covenant for encapsulated contamination

A covenant must be registered on the title of the land, giving notice of the former use, level of site contamination and its former location on the land.

A covenant must be registered on the title of the land binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated materials, including the discharge or prevention of discharge from of any contaminants or for any works required by Northern Beaches Council or any State or Federal Department/Authority.

The positive covenant is to contain reference to the completed Long-term Environmental Management Plan for the site.

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

Reason: Environmental Protection.

77. Mechanical Plant

The recommendations as per the mechanical plant acoustic assessment, completed prior to Constructed Certificate, are to be implemented into the development prior to Occupation Certificate

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To ensure mechanical plant is managed to protect the noise amenity of the area.

78. Long Term Environmental Management Plan

Prior to the issue of an Occupation Certificate, a Long-Term Environmental Management Plan (LTEMP) is to be prepared by an appropriately qualified environmental consultant to manage potential future disturbance of any retained asbestos-impacted soils for the ongoing use of the site. The Plan is to be readily available to the owners and occupiers of the property to ensure conditions within the LTEMP are complied with. The LTEMP must outline who is responsible and for what in relation to the management of the asbestos impacted soils encapsulated.

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

Reason: Protection of the environment and effective management of ongoing contamination.

79. Kitchen Design, Construction and Fit Out of Food Premises Certification

Prior to the issuing of any occupation certificate, certification is to be provided to the Principal Certifier by a suitably qualified person demonstrating that that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Reason: To ensure that the kitchen complies with Australian Standard design requirements.

80. Mechanical Ventilation Certification

Where Mechanical ventilation is required to be installed in the food premises it must comply with the following:

- Australian Standard (AS) 1668.2 “The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings”; and
- Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

Certification is to be provided to the Principal Certifier prepared by a suitably qualified person to demonstrate that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

81. 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.

82. Waste/Recycling Compliance Documentation

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

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

83. Acoustic Measures

The wheeled loader operation shall be limited to the day period only (7am to 6pm).

Reason: To ensure acoustic compliance in an operational situation.

84. Deliveries, waste and recycling collection hours

Deliveries, waste and recycling collection from the site is to be carried out between 7am and 6pm only to minimise noise Monday to Friday.

Reason: To minimise noise to residential receivers.

85. 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) 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.

86. Maintenance of Stormwater Treatment Measures - Major

Stormwater treatment measures must be maintained at all times in accordance with the

Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

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.

87. Delivery Vehicles

1. Delivery vehicles other than small rigid vehicles are not permitted between 8:00am and 9:30am or between 2:30pm and 4:00pm Mon-Fri, due to higher traffic and pedestrian volumes during School Zone hours.
2. Semi-trailers are only to access the site via a right turn in off Myoora Road and a left turn out to Myoora Road
3. All Delivery vehicles are only to ingress and egress the site to from the Myoora Road driveway

Reason: Pedestrian safety and compliance with Council's expectations within a School Zone.

88. Landscaping adjoining vehicular 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 1,140mm

Reason: To maintain unobstructed sight distance for motorists.

89. Traffic Management

Traffic management procedures and systems must be in place and practised during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A plan of traffic management is to be submitted to and approved by the Northern Beaches Council Traffic Team

Reason: To ensure pedestrian safety and continued efficient network operation.

90. Staff and Contractor Parking

The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the on-site parking once available. All necessary facilities are to be provided to accommodate this requirement including lighting in the basement, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity.

91. **Signage Illumination**

Signage must only be illuminated during the hours of operation approved under this consent.

Reason: To prevent excessive illumination.

92. **External Lighting**

External lighting shall operate in accordance with the approved external lighting plans and report.

Reason: To prevent excessive illumination.

93. **Noise From Plant and Equipment**

Noise from combined operation of all mechanical plant and equipment must not generate noise levels that exceed the ambient background noise level by more than 5dB(A) when measured in accordance with the NSW Industrial Noise Policy within a habitable room of another property.

Reason: To ensure noise from plant and equipment does not affect the amenity of another property.

94. **Asbestos Management Plan**

The Asbestos Management Plan dated 6 April 2022 prepared by JKEvironments is to be implemented into the operation of the proposed development. A copy of the Plan is to be made available to owner and operator of the property and the owner/operator of the business onsite.

All recommendations within the report are to be adhered to during the operation and use of the property.

Reason: To ensure effective management of asbestos onsite

95. **Hours of Operation**

The hours of operation for all premises on site are 7:00am to 7:00pm, seven days a week including public holidays.

During winter months (June, July and August), the garden centre hours are reduced to 7:00am to 5:30pm, seven days a week including public holidays.

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

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

96. **Service Vehicle Area**

The area designated as manoeuvring areas must be kept clear of obstructions at all times. Vehicles must not be required to queue on public roads at any time.

Reason: To ensure compliance with Australian Standards and prevent obstructions to traffic flows.