

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/0022
<b>Responsible Officer:</b>	GAT & Associates
<b>Land to be developed (Address):</b>	120 South Creek Road, Cromer
<b>Proposed Development:</b>	Installation of sportsfield lightning within an educational establishment (Northern Beaches Secondary College – Cromer Campus)
<b>Zoning:</b>	SP2 Educational Establishment
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	N/A
<b>Owner:</b>	Cromer High School, NSW Department of Education
<b>Applicant:</b>	Northern Beaches Council

<b>Application Lodged:</b>	17/01/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Not Advertised
<b>Notified:</b>	24/01/2023 to 07/02/2023
<b>Advertised:</b>	Community Facility
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Yes
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$176,000.00

### EXECUTIVE SUMMARY

Northern Beaches Council is in receipt of a development application which seeks the installation of sportsfield lighting within an educational establishment (Northern Beaches Secondary College – Cromer Campus).

The subject site is zoned SP2 (Educational Establishment) under the Warringah Local Environmental Plan 2011. Development for the purpose shown on the Land Zoning Map (Educational Establishment), including any development that is ordinarily incidental or ancillary to development for that purpose is permitted with consent. The proposal relates to installation of lighting to an existing educational establishment sportsfield.

The application was notified to surrounding properties in accordance with the Environmental Planning and Assessment Act 1979, the Environmental Planning and Assessment Regulation 2021 and Council's Community Participation Plan between 24/01/2023 to 07/02/2023. No submissions were received.

The preparation of this report follows an inspection of the site on 30/03/2023 and a detailed review of the proposal against the relevant planning controls. The application is supported by a detailed statement of

environmental effects, Clause 4.6 variation statement, lighting plans and associated technical plans and reports.

As the applicant of the development application is Northern Beaches Council and the proposal contravenes an Environmental Planning Instrument (EPI) development standard by more than 10%, referral is required to the Northern Beaches Local Planning Panel (NBLPP). The NBLPP will act as the consent authority for this application.

Accordingly, it is recommended that the NBLPP, as the determining authority, approve the application subject to the conditions detailed in the Recommendation section of this report.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposed development relates to the erection of four (4) lighting structures to an existing sportsfield. The proposed times of operation of the sportsfield lighting is as follows:

- **Monday – Friday:** 4.30pm – 10.00pm.
- **Saturday – Sunday:** Until 10.00pm.
- **School Holidays/Public Holiday:** Until 10.00pm.

The proposal will also involve associated excavation and site works to facilitate the proposed erection of lighting structures.

As outlined in the submitted Site Operating Guidelines and Conditions of Use plan, the use of the sportsfield will fall under the care, control and management of Northern Beaches Council.

## **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 – Clause 4.3 Height of Buildings.

## **SITE DESCRIPTION**

<b>Property Description:</b>	<p>Lot 623 DP 752038, 120 South Creek Road CROMER NSW 2099</p> <p>Lot 624 DP 752038, 120 South Creek Road CROMER NSW 2099</p> <p>Lot 625 DP 752038, 120 South Creek Road CROMER NSW 2099</p> <p>Lot 626 DP 752038, 120 South Creek Road CROMER NSW 2099</p>
<b>Detailed Site Description:</b>	<p>The subject site consists of four (4) allotments located on the northern and eastern side of South Creek Road and western side of Inman Road. The allotments are generally rectangular in shape.</p> <p>The site is located within the SP2 Educational Establishment zone and accommodates Northern Beaches Secondary College – Cromer Campus. School buildings are concentrated towards the western portion of the site while the sportsfield is situated within the eastern portion of the site.</p> <p>The site generally slopes in a north to south direction. The gradient of the slope is considered gentle with the existing playing surface and immediate area surrounding the sportsfield generally level.</p> <p>The subject site is bounded by industrial developments to the north, east and west and public recreation areas to the south (Cromer Park).</p>

Map:



Source: Northern Beaches Mapping

## Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by industrial development and public recreation areas. The existing development surrounding the site is reflective of the land zoning under the Warringah LEP 2011.

## SITE HISTORY

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

- **DA2000/4556:** Development application for extensions to the school including an addition to an industrial arts workshop. Approved 08/08/2000.
- **DA2017/0224:** Development application for the installation of signage. Approved 15/06/2017.
- **DA2022/0022:** Development application for the installation of sportsfield lighting. This application is the subject of this assessment report.

The land has been used as an educational establishment for an extended period of time.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Northern Beaches Community Participation Plan 2019.

No submissions were received during the formal notification period.

## REFERRALS

Internal Referral Body	Comments
Building Assessment	The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.
Environmental Health	Environmental Health has reviewed the proposal and find two areas of concern that can be addressed by conditions.  The proposal is therefore supported subject to conditions of consent.
Heritage	No objections are raised on heritage grounds and no conditions required.
Landscape Officer	The proposal is supported with regard to landscape issues.  The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011 controls.  The Arboricultural Impact Assessment (AIA) concluded that no trees will be detrimentally impacted by the proposed works, and the tree protection requirements recommended in the AIA are supported, subject to the imposed conditions.

External Referral Body	Comments
Ausgrid (SEPP Transport and Infrastructure 2021).	<p>Ausgrid has no objection to this development application, however the design submissions must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.</p> <p>The "as constructed" minimum clearance to Ausgrid's infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.</p>

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p><u>Division 8A</u> of the EP&amp;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 50(1A)</u> of the EP&amp;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 54 and 109</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the RL's of the lighting structures. The applicant has provided the requested information to Council.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is</p>



Section 4.15 'Matters for Consideration'	Comments
	<p>not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;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 98</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> 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.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

All Environmental Planning Instruments (SEPPs, REPs 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, REPs 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)**

### **State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 relates to the remediation of land. Clause 4.6 states that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and, if it is contaminated, the consent authority is satisfied that the land is suitable for the purpose. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

Council Environmental Health Officer has imposed a condition requiring the exportation of fill and/or soil from the site to be tested and classified in accordance with the relevant provisions. In this instance, the installation of lighting structures do not require any further consideration in regard site contamination. The land is considered to be suitable for the continuation of the existing land use.

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to the clearing of vegetation in non-rural areas. No trees are required to be removed to facilitate the proposed development. Council's Landscape Officer has reviewed the proposal and recommended conditions of consent to ensure tree protection measures are undertaken during the construction stage.

### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

Chapter 2, Division 5, Subdivision 2 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 relates to development that is likely to affect an electricity transmission or distribution network. Ausgrid has reviewed the proposal and raises no objection provided the design submission complies with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.

Additionally, Chapter 3, Part 3.4 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 outlines exempt and complying development controls for development within educational establishments. However, as the proposed installation of lighting structures is sought through a development application, no further consideration to Part 3.4 of the SEPP is required.

## **WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011**

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

### Compliance Assessment

Clause	Compliance with Requirements
2.1 Land use zones (SP2 Educational Establishment)	Yes
4.3 Height of Buildings	No, variation sought
5.10 Heritage Conservation	Yes
6.2 Earthworks	Yes
6.4 Landslip Risk Map	Yes

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	11m
Proposed:	18.5m
Percentage variation to requirement:	68.2%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the recent judgement 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 development standard 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 cl 4.6(3). There are two separate matters for consideration contained within cl 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 cl 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.'*

s 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.*

The applicants written request argues the following environmental planning grounds to justify contravention of the building height standard:

- Ground 1 – Slimline, utilitarian structures that are compatible with surrounding industrial and sportsfield setting.
- Ground 2 – Large, visually dominant, mature canopy trees screen the proposed structures.
- Ground 3 – Public benefit through increased utilisation of existing infrastructure.

- Ground 4 – State Environmental Planning Policy (Transport and Infrastructure) 2021 permits structures up to 20m high on the land under complying development which the proposal complies with.
- Ground 5 – Appropriate amenity outcomes are achieved.
- Ground 6 – The proposal is of good design and satisfies the relevant objectives of the Environmental Planning and Assessment Act.

It is considered that grounds 1, 2, 3, 5 and 6 are sufficient environmental planning grounds which justify variation to the building height development standard. The proposed lighting structures are similar to the existing lighting structures provided to the adjacent sportsfields to the south. The proposed lightning structures will not have a significant visual impact to the public domain noting that the structures are adequately setback from the site boundaries and will be partially concealed by the existing mature canopy trees which run along the boundaries of the site. The installation of lighting structures will be in the public interest as it will allow for the community use of the sportsfield up until 10pm without impacting the amenity of any residential properties.

A condition has been imposed outlining the maximum allowable height for the lighting structures to ensure the height of the lighting structures is consistent with the submitted documentation.

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, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) 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 cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

#### **Clause 4.6 (4)(a)(ii) (Public Interest) assessment:**

cl 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 SP2 Educational Establishment zone. An assessment against these objectives is provided below.

#### **Objectives of development standard**

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2011 are:

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

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

#### Comment:

The proposed development is limited to the installation of four (4) lighting structures. The proposed lighting

structures will be of a similar height to the lighting structures provided to the adjacent Cromer Park playing fields.

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

Comment:

The proposed lighting structures are significantly separated along the playing field and do not result in any visual impact, disruption of views, loss of privacy or loss of solar access. The lighting structures are significantly setback from the site boundaries and not located in proximity to any residential properties.

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

Comment:

The proposed lighting structures are located within an existing sportsfield surrounded by industrial developments and public recreation areas. The subject site is not located within or in proximity to a coastal or bush environment.

*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 lighting structures will service the existing sportsfield, allowing the sportsfield to be utilised by the community after sunset. The proposed lightning structures will not have a significant visual impact to the public domain noting that the structures are adequately setback from the site boundaries and will be partially concealed by the existing mature canopy trees which run along the boundaries of the site. Furthermore, the proposed lighting structures are considered compatible with the character of the area with existing lighting structures provided to the adjacent Cromer Park playing fields also visible to the public domain.

*e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

## **Zone objectives**

The underlying objectives of the SP2 Infrastructure (Educational Establishment) zone are:

- To provide for infrastructure and related uses
- To prevent development that is not compatible with or may detract from the provision of infrastructure.

Comment:

The proposed development relates to the installation of sportsfield lighting to an existing educational establishment sportsfield. Therefore, the proposal will provide for infrastructure which supports the existing use of the site.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the SP2 Infrastructure (Educational Establishment) zone.

#### **Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:**

cl. 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, 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.

### **WARRINGAH DEVELOPMENT CONTROL PLAN**

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
C7 Excavation and Landfill	Yes	Yes
D3 Noise	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes

#### Detailed Assessment

##### **Part C7 Excavation and Landfill**

Minor excavation works are required to accommodate the structural supports for the lighting structures.

The Warringah Development Control Plan (DCP) states that excavation and landfill areas must not result in any adverse impact on adjoining land and shall not create siltation or pollution of waterways and drainage lines, or degrade or destroy the natural environment.

The proposed earthworks are limited to a small portion of the site and will be significantly setback from all site boundaries. As the proposed lighting structures will be located within an existing sportsfield, the proposed excavation will not result in any impacts to the adjoining land, waterways or natural environment.

Council's Environmental Health Officer has reviewed the proposal and recommended a condition be imposed requiring the testing and classification of excavated material in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part 1: Classification of Waste (November 2014) prior to off-site disposal.

##### **Part D3 Noise**

The provision of lighting will allow for the extended use of the sportsfield and thus will result in increased noise generation. However, it is important to note that the subject site does not adjoin any residential properties and is surrounded by industrial and recreational land uses. Therefore, it is considered that no further acoustic assessment is required in this instance.

##### **Part D12 Glare and Reflection**

The applicant has submitted lighting plans which indicate that the proposed illuminance levels comply with Australian Standards. The proposed lighting is not dissimilar to the lighting provided to the adjacent sportsfield at Cromer Park. Considering, the site is surrounded by industrial and recreational land uses, the addition of lighting to an existing sportsfield will not result in any impacts to the amenity and functionality of adjoining sites. Nevertheless, the proposed lighting has been directed within the boundaries of the site.

Council's Environmental Health Officer has recommended a condition requiring all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises and that outdoor lighting complies with the relevant Australian Standards.

### **D21 Provision and Location of Utility Services**

Electricity via a below ground system will be provided to the lighting structures. Ausgrid have reviewed the proposal and raised no objections subject to conditions of consent.

## **7.12 CONTRIBUTIONS**

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

A monetary contribution of \$880.00 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$176,000.00.

## **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.

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

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

### **1) Council is satisfied that:**

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.**

## **RECOMMENDATION**

THAT the Northern Beaches Local Planning Panel as the consent authority grant Development Consent to DA2022/0022 for the installation of sportsfield lightning within an educational establishment (Northern Beaches Secondary College – Cromer Campus) on land at Lot 623 DP 752038, 120 South Creek Road, CROMER, Lot 624 DP 752038, 120 South Creek Road CROMER, Lot 625 DP 752038, 120 South Creek Road CROMER, Lot 626 DP 752038, 120 South Creek Road CROMER, subject to the conditions printed below:



## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
CL-100 Sports Lighting Calculation Results Illuminance – 100 lx Average	Issue P1, 11.05.22	Lighting, Art & Science Pty Ltd
CL-101 Sports Lighting Calculation Results Illuminance – 100 lx Average	Issue P1, 11.05.22	Lighting, Art & Science Pty Ltd
CL-102 Sports Lighting Calculation Results Glare Rating	Issue P1, 11.05.22	Lighting, Art & Science Pty Ltd
CL-103 Sports Lighting Calculation Results Obtrusive Lighting Assessment	Issue P1, 11.05.22	Lighting, Art & Science Pty Ltd
CL-104 Sports Lighting General Arrangement	Issue P1, 15.06.22	Lighting, Art & Science Pty Ltd
Boundary Identification and Detail & Level Survey Over Lots 623, 624, 625 & 626 in DP752038 No.120 South Creek Road Cromer, NSW, 2099 0 Sheets 1-11	26.04.2022	C.M.S Surveyors Pty Limited.

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
S01 Structural Plan and Footing Detail	August 2022	Woolacotts Consulting Engineers

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Arboricultural Impact Assessment	May 2022	Bluegum Tree Care and Consultancy
Report on Geotechnical Investigation – Project No. 214170.00	July 2022	Douglas Partners Pty Ltd

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

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

<b>Reports/ Documentation</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste and Sedimentation Management Plan – No.120 WMP-2022	November 2022	Unknown

Site Operating Guidelines and Conditions of Use Northern Beaches Secondary College (NSBC) – Cromer Campus	Undated	Unknown
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In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

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

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

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

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

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

## 3. **Height of Lighting Structures**

The proposed lighting structures from existing ground level to the top of the lightning protection antennae are restricted to a height of 19.2m.

Reason: To ensure the height of the lighting structures is consistent with the submitted documentation.

## 4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority 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 Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

Reason: Legislative requirement.

## 5. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

- (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.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

## **FEES / CHARGES / CONTRIBUTIONS**

### **6. Policy Controls**

#### **Northern Beaches Section 7.12 Contributions Plan 2022**

A monetary contribution of \$880.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2022. The monetary contribution is based on a development cost of \$176,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2022 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

### **7. Security Bond**

A bond (determined from cost of works) of \$2,000.00 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 Certifying Authority 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](http://www.northernbeaches.nsw.gov.au)).

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

### **8. Construction, Excavation and Associated Works Security Bond (Crossing/Kerb)**



The applicant is to lodge a Bond of \$30,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

### **9. 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 Certifying Authority 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.

### **10. Utilities Services**

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

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

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

Reason: To ensure that services have been provided as required by this Consent.

### **11. Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer.

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

Reason: To provide public and private safety.

### **12. Compliance with Standards**

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

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

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

13. **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 Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

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

- i "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- i 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.

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

14. **Works on Land Owned or Managed By Council**

No encroachments are to be carried out on Land owned or managed by Council.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.), and landscaping works on Land owned or managed by Council.

Reason: To protect the land owned or managed by Council.

15. **Installation and Maintenance of Sediment and Erosion Control**

Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period. Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

16. **Public Liability Insurance – Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

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

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

17. **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

18. **Wildlife Protection**

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

Reason: To protect native wildlife.

19. **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 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.

20. **No Access Through Land Owned or Managed by Council**

Site access is not approved for delivery of materials no construction of the development through adjacent land owned or managed by Council, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

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

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

Reason: Public safety and environmental protection.

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

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

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

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

Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately contact Council's Tree Services Business Unit to resolve the matter to Council's satisfaction.

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

23. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- i Work Health and Safety Act;
- i Work Health and Safety Regulation;
- i Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- i Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- i Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- i The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

**24. Geotechnical Requirements**

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

**25. 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 Certifying Authority.

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

**26. Traffic Control During Road Works**

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

Reason: Public Safety.

**27. Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation not included in landscape plan and/or watercourses, are to remain undisturbed during the construction works.

All storage, stockpiling and parking of vehicles must be within the existing hard stand area or designated area outside Tree Protection Zones. Tree protection measures are to be in place should construction works impinge on canopy trees or their root plate zones.

Reason: To protect wildlife habitat.

## 28. **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 AS4970-2009 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 zones 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 of 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 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 AS4970-2009 Protection of trees on development sites,
  - ix) the activities listed in section 4.2 of AS4970-2009 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 AS4373-2007 Pruning of amenity trees,
  - xi) the tree protection measures specified in this clause 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.

The Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

## 29. **Condition of Trees**

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:

- a) a general decline in health and vigour,



- b) damaged, crushed or dying roots due to poor pruning techniques,
- c) more than 10% loss or dieback of roots, branches and foliage,
- d) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- e) yellowing of foliage or a thinning of the canopy untypical of its species,
- f) an increase in the amount of deadwood not associated with normal growth,
- g) an increase in kino or gum exudation,
- h) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- i) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

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

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

Reason: Protection of trees.

**30. Classification of Waste & Off-site Disposal of Waste (fill and/or soil material)**

Prior to the exportation of waste (fill and/or soil) from the site, the waste materials must be tested and classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part 1: Classification of Waste (November 2014).

Testing is required prior to off-site disposal. In accordance with DECC Waste Classification Guidelines (2014) materials identified for off-site disposal must be removed by a suitably qualified contractor to an appropriately licensed waste facility.

'Chain of Custody' documentation including receipts shall be kept for the exportation of waste (fill and/or soil material) from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority within seven (7) days of transport and made available to Council upon request.

Reason: Appropriate disposal of waste and protection of the environment.

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

**31. No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

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

**32. Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

33. **Control of Light Spill**

The Certifying Authority must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of Australian Standard 1558.3:2005 Pedestrian area (Category P) lighting – Performance and design requirements and Australian Standard 4282:1997 Control of the obtrusive effects of outdoor lighting.

Reason: To protect public health and amenity.

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

34. **Usage of Lighting**

The proposed operation for the lighting structures is restricted to the following timeframe:

- 4.30pm – 10.00pm.

Reason: To protect public health and amenity.

### FINAL DECLARATION

Consultant Name: GAT & Associates

In submitting this report to Council, I declare that I do not have a conflict of interest in making this recommendation.