

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0717
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Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 2 DP 402645, 101 Old Pittwater Road BROOKVALE NSW 2100 Lot 3 DP 402645, 101 Old Pittwater Road BROOKVALE NSW 2100 Lot 4 DP 402645, 101 Old Pittwater Road BROOKVALE NSW 2100 Lot 1 DP 402645, 99 Old Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Demolition works and construction of a mixed use development comprising self-storage units and industrial units including lot consolidation
Zoning:	Warringah LEP2011 - Land zoned IN1 General Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Veloday Pty Ltd
Applicant:	The Trustee For Brookvale Studios Unit Trust

Application Lodged:	02/06/2022
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Industrial
Notified:	13/06/2022 to 11/07/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 20.63%
Recommendation:	Approval

Estimated Cost of Works:	\$ 18,096,113.00
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### EXECUTIVE SUMMARY

The proposal seeks a height variation of up to 20.63%, with a maximum breach of 2.27m above the 11m height limit that applies to the site. The development application is for a self storage/industrial building and as it proposes a variation to the height standard of more than 10% it is referred to the

*Northern Beaches Local Planning Panel* for determination.

The Clause 4.6 request for the non-compliance with Building Height standard arises due to a non compliance with the building height standard at the rear of the proposed development as the land slopes from the front to the rear. It is noted the proposal is compliant at its frontage. The height variation is supported pursuant to the relevant objectives for the height of buildings development standard, and the IN1 General Industrial zone. Influencing factors in seeking the height variation principally relate to the natural cross-fall on site (being in the order of 3.0m fall to the rear) and typical floor to ceiling height use for industrial units.

No objections by way of public submissions were received for the proposal, and all Internal Referrals support the development application including development engineering, landscaping, environmental health, traffic and flood planning.

Some minor amendments and additional information was provided during the assessment period to address land contamination, streetscape, height and stormwater considerations.

The revised building design is recommended for approval subject to conditions.

## **PROPOSED DEVELOPMENT IN DETAIL**

The development application seeks consent for demolition of the existing building, the consolidation of the existing four allotments, excavation works and the construction of a mixed-use development for 46 self-storage units within the basement and 34 industrial units over two levels.

In detail, the proposed development includes:

### Self-storage units - RL9.6 (Basement Level)

- 45 self-storage units are proposed in the basement. The self-storage units' range in size from 26.1sqm to 106sqm.
- Four (4) car parking spaces are provided for the storage units.
- Vehicles associated with the storage units will also be able to park within the circulation aisles adjacent to the self-storage units. The storage units are arranged around a circulation space that includes sufficient space for vehicles to pass, should a vehicle be stopped for loading/unloading.
- The self-storage units will be accessible 24 hours a day, 7 days a week with electronic security access.

### Industrial units RL14.6 (Ground Level) and RL20.52 (Level 1)

- A total of 34 industrial/warehouse units (suitable for light industry or general industry, subject to future approval as required). The units are arranged over 2 levels located on the northern and southern sides of the site and separated by a access / parking area. Parking for each unit is located adjacent to the front of the unit.
- 16 units are proposed on the ground floor and 18 units are proposed on both the first floor. A mezzanine office space is proposed for most units.
- 65 car parking spaces are proposed for the industrial/warehouse units.
- Roof ridge / parapet level RL26.27
- The hours of operation for the industrial units will be 7am to 6pm, Monday to Sunday.

#### Ancillary works include:

- Site consolidation and strata subdivision.
- Demolition and site remediation, excavation, driveway, drainage, incidental works and landscaping.

## **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 - 5.21 Flood planning

Warringah Local Environmental Plan 2011 - 6.2 Earthworks

Warringah Development Control Plan - B6 Merit Assessment of Side Boundary Setbacks

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - B10 Merit assessment of rear boundary setbacks

Warringah Development Control Plan - C2 Traffic, Access and Safety

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - C4 Stormwater

Warringah Development Control Plan - C7 Excavation and Landfill

Warringah Development Control Plan - D9 Building Bulk

Warringah Development Control Plan - D23 Signs

## **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 2 DP 402645 , 101 Old Pittwater Road BROOKVALE NSW 2100 Lot 3 DP 402645 , 101 Old Pittwater Road BROOKVALE NSW 2100 Lot 4 DP 402645 , 101 Old Pittwater Road BROOKVALE
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	NSW 2100 Lot 1 DP 402645 , 99 Old Pittwater Road BROOKVALE NSW 2100
<b>Detailed Site Description:</b>	<p>The site is a rectangular shape comprising 4 lots with a total area of 4,211 square metres (sqm) including a combined frontage of 39.441 metre to Old Pittwater Road, a combined northern boundary length of 100.17 metres, a combined southern boundary of 100.88 metres and a combined eastern boundary of 42.05 metres. The land has a gradual fall from the western boundary (front) to the eastern boundary (rear).</p> <p>The site is currently contains a number of single storey different sized industrial buildings that are part masonry and metal clad with a central driveway area serving the existing complex of No.99 to No.101 Old Pittwater Road.</p> <p>There are two street trees in the road reserve in front of Lot 1 DP 402645 (No.99 Old Pittwater Road). The site does not have other any significant trees or rocky outcrops.</p> <p>A shared, central driveway provides vehicular access to the four allotments. The land is subject to minor flood levels at the rear due to the broad valley location of Brookvale industrial area.</p> <p>The site adjoins No.97 Old Pittwater Road to the north which contains a three-storey mixed use development and includes a childcare centre, self-storage units within the basement and light industrial units on levels one and two. To the south the site adjoins No.107 Old Pittwater Road. This property is improved by a single storey development with 'food and drink' promises and commercial premises facing Old Pittwater Road and industrial floorspace located to the rear of the building.</p> <p>To the south east of the site is the major centre of Warringah Mall and at the rear (east) the property is adjoined by No.75 Old Pittwater Road that is used primarily for manufacturing use with open parking areas also. A range of large warehouse / industrial style Unit complexes are situated along the western side of Old Pittwater Road opposite the site.</p>

Map:



## SITE HISTORY

A detailed site history is provided in Table 4.1 of the Environmental Site Report E34695PRrptRev1 by *JK Environments*. In summary, prior to 1961, the land was used for agricultural purposes. In 1961 the site had been redeveloped for commercial/industrial purposes. Three large warehouse-type buildings had been constructed in the north-east, north-west and south of the site. The southern building extended from near the road to the existing large shed in the south-eastern corner of the site. A variety of minor building changes and industrial style uses have occurred on the site up to the present time.

All structures are to be demolished and most of the land excavated. Therefore, consideration of past industrial uses adjacent and within the site are relevant to potential contamination issues. This includes the installation of underground storage tanks, spray painting operations, fabrication works miscellaneous industrial uses.

## 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 Matters for Consideration	Comments
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&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>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. The DA was not required to be reviewed by Council's <i>Design and Sustainability Advisory Panel</i>. Additional information was requested on 1.9.2022 in order improve streetscape presentation and reduce part of the building height non-compliance. The proposal was amended with revised plans and further information to address also internal traffic access, contamination considerations, stormwater and carparking. Final amended information / plans were received on 16.11.2022 to address traffic and parking considerations.</p> <p><u>Clause 61</u> of the EP&amp;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&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent as relevant for a new building. The proposal has been submitted with a BCA report.</p> <p><u>Clause 69</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 69</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 and a BCA report was provided as part of the assessment.</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. (Note: The site is within the geographic area of the <i>Brookvale Draft Structure Plan</i> (revised 2022) and the building is consistent with the economic goals to support industrial use and redevelopment in the area)</p>

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development subject to appropriate remedial work for contamination (as per the submitted environmental assessment) and conditions of consent to address assessment issues.
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 not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 13/06/2022 to 11/07/2022 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 of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><b>Supported - subject to conditions</b></p> <p>The application has been investigated with respects to aspects relevant to 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 requirements of the BCA and the <i>Premises Standards</i>. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Contaminated Lands)	<p><b>Supported - subject to conditions.</b></p> <p><u>General Comments</u></p> <p>The following contaminated land reports have been provided with the application:</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>Detailed Site Investigation by EI Australia dated 1 July 2022 (reference: E25568.E02_Rev0).</li> <li>Remediation Action Plan by EI Australia dated 8 July 2022 (reference: E25568.E06_Rev0).</li> </ul> <p>The Detailed Site Investigation has identified the following contamination:</p> <ul style="list-style-type: none"> <li><i>Friable and bonded asbestos were detected in shallow fill at BH7 (depths 0.1-0.2mBGL); and</i></li> <li><i>Asbestos was also identified in fill soils at two previous locations investigated by JKE (2022), being JKE-BH6 (depths 0.13-0.35 mBGL) and JKE-BH7 (depths 0.2-0.6mBGL).</i></li> <li><i>TRH-F1 concentrations above the laboratory practical quantitation limit (PQL) were detected at GW-BH1 (170 µg/L), while TRH-F2 concentrations were above the PQL were detected at GW-BH3 (72 µg/L).</i></li> <li><i>Chlorinated volatile organic compounds (CVOCs) were only detected in groundwater at GW-BH1. The detected contaminants included perchloroethylene (PCE) and its breakdown products cis-1,2-dichloroethene (cis-DCE) and Trichloroethylene (TCE).</i></li> </ul> <p>The RAP concluded that the site can be made suitable for the proposed land use through the implementation of the site remediation and validation process outlined within the RAP.</p> <p>The RAP identified that given the proposed development, dewatering of the site is considered likely. Due to the identified contaminants an appropriate Dewatering Management Plan will be required. This will also need to take into consideration any requirements by Water NSW.</p> <p>Given the presence of volatile compounds that may require ongoing management along with the proposed basement level carpark, Environmental Health recommends that a Site Auditor be appointed for the development.</p>
Environmental Health (Industrial)	<p><b>Supported - subject to conditions</b></p> <p>General Comments Proposal for demolition of existing structures, excavation, and construction of 24/7 self-storage units and miscellaneous industrial operations -7am to 6pm.</p> <p>Located in the centre of an industrial area, amenity impacts are foreseen to be minimal. We have no objections to 24 hr access to the storage units, nor the daytime (as per <i>Noise Policy for Industry (2017)</i> definitions) use of industrial units. We view this as an effective 'self-regulating' system, and have no objections or conditions to offer other than operating hours for industrial units.</p>
Landscape Officer	<p><b>Supported - subject to conditions.</b></p> <p>The development application is for demolition works and construction of a mixed</p>



Internal Referral Body	Comments
	<p>use development comprising self-storage units and industrial units, including lot consolidation, as described and illustrated in the reports and plans.</p> <p>The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2011 and the following Warringah Development Control Plan 2011 controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• D1 Landscaped Open Space and Bushland Setting</li> <li>• E1 Preservation of Trees or Bushland Vegetation and E2 Prescribed Vegetation</li> </ul> <p>An Arboricultural Impact Assessment (AIA) and Landscape Plan is included in the application and will be assessed as part of the Landscape Referral. No trees are proposed to be removed, however works are required within the tree protection zone and structural root zone of two street trees. Should the development application be approved, Landscape Referral supports the tree protection recommendations in the AIA, subject to the imposed conditions. A Project Arborist shall be engaged to supervise all works around the existing street trees to be retained. The landscape proposal is generally supported and all proposed planting shall be installed in accordance with the conditions of consent. An amended Landscape Plan shall be provided, coordinated with architectural drawing DA01.02, and in particular the planter adjacent to the pedestrian entry/main lobby and kiosk substation location, subject to the imposed conditions.</p>
NECC (Development Engineering)	<p><b>Supported - subject to conditions.</b></p> <p><u>Updated Engineering Comments 7/11/22:</u> The DRAINS model was reviewed and the On Site Stormwater Detention is satisfactory , the proposed industrial development is satisfactory subject to conditions.</p> <p>Previous Comments 16/9/22 The applicant has not submitted the DRAINS model for the OSD system for Councils review . Increments file ,depths etc submitted however this information is not required. The application requires further information.</p> <p><u>Previous Comments</u> The stormwater drainage concept plan and report has been reviewed and the following further information is required.</p> <p>1) Submission of a DRAINS model to Council for review and verification of the on site stormwater detention volume and post discharge flows .</p>
NECC (Stormwater and Floodplain Engineering –	<p><b>Supported, without conditions.</b></p> <p>The development proposes to demolish the existing industrial building and construct a new multi-level storage facility with a basement carpark.</p>

Internal Referral Body	Comments
Flood risk)	<p>The site is not affected by mainstream flooding and Flood Planning Level is not required for this site. However, the site is affected by the overland flow. The development proposes a combination of concrete hobs and flood gate systems across the frontage of the site to protect the driveway and the basement from the overland flow flooding.</p> <p>There are no flood related objections. Please refer to development engineer comments for the overland flow assessment.</p>
NECC (Water Management)	<p><b>Supported - subject to conditions.</b></p> <p>The proposal was assessed under the current creek and water management legislation framework, the relevant parts of the LEP, DCP and Council Water Management for Development Policy. The supplied reports, plans and documentation were considered.</p> <p><u>Water Quality</u></p> <p>The proposed stormwater system is integrating gross pollutant filters and stormwater filtration cartridges.</p> <p>The system will capture the pollutant loading (sediment and nutrient) and is a conforming water quality treatment chain, subject to conditions.</p> <p><u>Dewatering</u></p> <p>1. Tailwater (surface water, rainwater, minor seepage): Please contact <a href="mailto:catchment@northernbeaches.nsw.gov.au">catchment@northernbeaches.nsw.gov.au</a> for advice on Council's water quality requirements for a single instance of dewatering tailwater that collects in an excavation during works. A Council dewatering permit application must be made for expected multiple instances or continuous dewatering of tailwater.</p> <p>2. Groundwater:</p> <p>The geotechnical report from (JK geotechnics Date: 28 February 2022 Ref: 34695PHrpt) is indicating that the water table is with the depth of the proposed excavation level for the basement.</p> <p>The report is stating that an approval for the dewatering and for the proposed development is required from WaterNSW, which will require detailed investigation of the site and modelling to be carried out.</p> <p>Approval for the dewatering and for the proposed development will be required from WaterNSW, which will require detailed investigation of the site and modelling to be carried out. This will need to comply with "Minimum Requirements for Building site Groundwater Investigations and Reporting" DPIE, January 2021.</p> <ul style="list-style-type: none"> <li>• A permit from Council is required for any dewatering of groundwater (Contact <a href="mailto:catchment@northernbeaches.nsw.gov.au">catchment@northernbeaches.nsw.gov.au</a> for more information about Council permits).</li> <li>• An application for interference with an aquifer is required to WaterNSW</li> </ul>

Internal Referral Body	Comments
	<p> <a href="https://www.waternsw.com.au/__data/assets/pdf_file/0003/155424/Dewatering-information-for-councilsand-applicants.pdf">https://www.waternsw.com.au/__data/assets/pdf_file/0003/155424/Dewatering-information-for-councilsand-applicants.pdf</a>  <a href="https://www.waternsw.com.au/__data/assets/pdf_file/0005/167279/Geotechnical-Investigation-Reports-Minimum-Requirements-fact-sheet.pdf">https://www.waternsw.com.au/__data/assets/pdf_file/0005/167279/Geotechnical-Investigation-Reports-Minimum-Requirements-fact-sheet.pdf</a>  <a href="https://www.waternsw.com.au/customer-service/water-licensing/dewatering">https://www.waternsw.com.au/customer-service/water-licensing/dewatering</a> </p> <p><u>Sediment management</u></p> <p>Due to the sensitivity of the downstream environment it is imperative that an erosion and sediment management strategy is developed and implemented to ensure protection of this area during construction.</p>
Traffic Engineer	<p><u>Additional comments 17/11/22</u></p> <p>The applicants response to the traffic and parking issues and revised basement, ground floor and level 1 plans dated 11/11/22 have been reviewed.</p> <p>In regard to the issues raised in the original traffic referral comments it is noted that:</p> <ul style="list-style-type: none"> <li>- the level 1 and ground floor plans have been amended to show one accessible parking space on each of these levels. This is acceptable</li> <li>- swept path plots have been provided to demonstrate that B85 vehicles can enter and exit spaces 5,6,7, 21 &amp; 22, a column adjacent to space No.22 has been relocated</li> <li>- swept path plots have been provided to show that a B99 car and long trailer can negotiate its way to and from the basement storage area in a forwards direction albeit requiring a lengthy reversing movement from some storage units. It is noted that the applicant intends to instruct tenants and lessees that access to the basement storage facility is to be for cars and small commercial vehicles only with car and trailer access not to be permitted. The turning movements for car and trailer combinations would therefore only be required for the odd occasion when a trailer was inadvertently driven into the basement.</li> <li>- the plans have been amended to show convex mirrors placed at critical turning locations to provide inter-visibility between opposing vehicles.</li> </ul> <p>The plans are now considered supportable from a traffic perspective subject to conditions</p> <p><u>Original comments 25/10/22</u></p> <p>The proposal is for demolition of existing structures on 99 &amp; 101 Old Pittwater Road and construction of a new industrial/warehouse development comprised of 2780m<sup>2</sup> of light industrial warehouse units, 1035m<sup>2</sup> of office space and 1916m<sup>2</sup> of self storage units.</p> <p><u>Parking</u></p> <p>The Warringah DCP parking requirement for industrial/warehouse uses is 1.3 spaces per 100sqm of GFA. The DCP outlines that up to 20% of the warehouse floor area that may be calculated at the warehouse rate. This means that 2780 + 556m<sup>2</sup> of warehouse and included office requires parking at a rate of 1.3 spaces</p>

Internal Referral Body	Comments
	<p>per 100m<sup>2</sup> of GFA i.e 43.4 spaces</p> <p>The remainder of the office space (1035-556) is calculated at the office rate i.e 479m<sup>2</sup> requires parking at a rate of 1 space per 40m<sup>2</sup> (11.9 spaces). The warehouse unit component therefore requires 43.4 + 11.9 spaces = 55.4 (55) spaces.</p> <p>The applicant's traffic consultant has calculated the parking requirements based upon the superseded plans however the resultant parking requirement is the same.</p> <p>The self-storage component does not have a parking rate in the DCP but advises that the parking requirement should be determined by surveys of similar facilities. Survey's conducted by the Self-Storage Association of Australia found that the peak parking demand for facilities up to 3000m<sup>2</sup> was 6 parking spaces. For a GFA of 1916m<sup>2</sup> this would equate to 4 parking spaces.</p> <p>The total carparking requirement would therefore equate to 59 spaces.</p> <p>The developer is proposing to provide a total of 66 parking spaces which exceeds DCP requirements and is deemed adequate to serve the needs of the development. The parking spaces will be distributed as follows:</p> <p>4 spaces in the basement for the storage units</p> <p>30 spaces on the ground floor</p> <p>32 spaces on level 1</p> <p>The quantum of parking and its distribution is acceptable.</p> <p>The development is required to provide bicycle parking at a rate of 1 space for every 200m<sup>2</sup> for light industry uses and 1 space per 600 sqm for visitors. Bicycles can be stored within each industrial unit to satisfy these requirements.</p> <p>The traffic report advises that accessible parking spaces will be provided on the ground floor and level 1 however these are not shown on the plans. As the Building Code of Australia suggests that accessible parking should be provided at a rate of 1 space for every 100 spaces for a building for the storage or display of goods. As parking is in excess of DCP requirements at least 1 accessible parking space is required however a space on both the ground floor and level 1 would better suit the needs of disabled drivers.</p> <p><u>Carpark design</u></p> <p>Carparking spaces are sized in accordance with AS2890.1 and the layout of the carpark allows for satisfactory forwards ingress and egress from the carpark by B99 vehicles as demonstrated by swept path plots provided in the Traffic and Transport Impact Assessment prepared by Colston Budd Rogers &amp; Kafes Pty Ltd.</p>

Internal Referral Body	Comments
	<p>Parking spaces 5,6 &amp; 7 will be difficult to access with spaces 21 &amp; 22 also potentially difficult to access. Swept path plots demonstrating that ingress and egress from these spaces are able to be achieved should be provided.</p> <p>Given that there are some 45 self storage units on the basement level it is reasonable to assume that there will be regular visits to some of those units by drivers towing box trailers. Swept path plots should be provided to confirm that turning around is feasible to allow forwards entry and exit by a car and trailer combination.</p> <p>There are several tight bends within the basement storage unit area and sight lines around these bends will be poor. Convex mirrors will be required at the bends near units S21, S42 &amp; S32 &amp; S38 to provide adequate warning of an approaching vehicle.</p> <p><u>Truck Access</u></p> <p>The basement has been designed to be accessible by a 3.5m Small Rigid Vehicle (SRV) and swept path plots demonstrate that these vehicles can turn around on site allowing entry and egress in a forwards direction. There is overhead clearance of 3.5m into the basement level allowing access by SRV's</p> <p>The ground floor and level 1 have been designed to allow access by an 8.8m Medium Rigid Vehicles (MRV) and swept path plots demonstrate that these vehicles can turn around on site allowing entry and egress in a forwards direction. There is overhead clearance of 4.5m for access into the ground floor and into level 1 allowing access by MRV's &amp; SRV's</p> <p><u>Traffic Generation</u></p> <p>The site has conservatively been estimated to generate up to 40 vehicles per hour in the morning and afternoon peak periods over and above the traffic generated from the existing development on the site. This volume of traffic would be predominantly inbound in the morning and outbound in the evening. SIDRA analysis undertaken by the applicants traffic consultant has revealed no change to the level of service of the Old Pittwater Road/Cross Street and Old Pittwater Road/Condamine Street intersections as a result of the additional traffic. The development is acceptable in terms of its potential to generate traffic.</p> <p><u>Summary</u></p> <p>Prior to further consideration of the DA additional details are requested to confirm the following:</p> <ol style="list-style-type: none"> <li>1. The location and design of accessible parking parking spaces one on the ground floor and one on level 1</li> <li>2. swept path plots to confirm that ingress and egress is possible by a B85 vehicle to parking spaces 5,6,7, 21 &amp; 22</li> <li>3. swept path plots to demonstrate that a car and trailer combination can enter circulate and exit in a forwards direction through the basement storage unit area</li> </ol>

Internal Referral Body	Comments
	4. the location of convex mirrors or other means of improved sight lines at the bends outside storage units S21, S42 & S32 & S38

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to <i>Ausgrid</i> for the purpose of any substation requirements or safety aspects or changes to associated with <i>Ausgrid</i> assets. <i>Ausgrid</i> provided a response on 29.6.2022 stating that the proposal is acceptable subject to compliance with the relevant overhead powerline safe clearances. These recommendations may be included as a condition of consent, as applicable.
Nominated Integrated Development - WaterNSW - Water Management Act 2000, s90(2) - Water management works approval to construct and use a specified water supply/drainage/flood work at a specified location	The proposal was referred to <i>WaterNSW</i> , pursuant to the <i>Water Management Act 2000</i> due to basement excavation and likely need for a submersible pump to extract / manage groundwater. <i>General Terms of Approval</i> (GTA'S) were issued by <i>WaterNSW</i> on 12.7.2022 and are included with recommended conditions.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

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

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

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

### SEPP (Transport and Infrastructure) 2021

#### Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.

- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who provided a response on 29.6.2022 stating that the proposal is acceptable subject to compliance with the relevant overhead powerline safe clearances. These recommendations may be included as a condition of consent, as applicable.

Other Service Authority Infrastructure

The proposal was not required to be referred to *Transport for NSW* and no other service infrastructure authority issues are raised pursuant to the SEPP. *Sydney Water* asset requirements are addressed by separate processes administered directly through *Sydney Water*.

**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.

A preliminary (Phase) site investigation was conducted by JK Environments, dated

Based on the findings of the investigation, JKE is of the opinion that the site can be made suitable for the proposed development. The following is recommended:

- Undertake a *Detailed Site Investigation* (DSI) to fully characterise the risks associated with the AEC/potential sources of contamination and CoPC.
- The DSI must address the data gaps identified in Section 10.4 of this report; and
- Prepare a Remediation action plan (RAP) to address the contamination issues identified at the site.

Therefore, as the Investigation indicates that there is a potential for contaminants to exist on the site, sub-section 4.6 (1)(b) and 7(1)(c) of this chapter must be considered.

Sub-section 4.6(1)(b) stipulates that "*if the land is contaminated, it [Council] is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out*".

In response to the above requirements of Chapter 4, the applicant has submitted a *Detailed Site Investigation* dated 1.7.2022 was prepared by EI Australia. In its conclusion, the phase 2 investigation states:

*EI provides the following recommendations in relation to the proposed development:*

- *Before commencement of demolition works, a Hazardous Materials Survey (HMS) shall be completed by a suitably qualified consultant, to identify any hazardous materials present within the existing building fabrics.*

*Preparation and implementation of a Remediation Action Plan (RAP), which will include the design and/or outcomes of supplementary investigations to close data gaps remaining at the site, including:*

- Delineation of the vertical and lateral extent of detected soil impacts (asbestos) at various locations as detailed in Section 8.2;*
- Chase-out, excavation and removal of all impacted soils identified during the delineation works;*
- Soil vapour assessment at depths comprising the vadose zone immediately below the future basement slab; and*

*Preparation of a sampling and analysis quality plan (SAQP) for a post-remedial validation assessment aimed at confirming that site remediation was effective.*

- Implementation of the remediation and validation works for the site, as outlined in the RAP.*
- Preparation of a validation report by a suitably qualified environmental consultant, confirming site suitability for the proposed land use.*
- Any material being removed from site (including potential virgin excavated natural materials (VENM)) be classified for off-site disposal in accordance the NSW EPA (2014) Waste Classification Guidelines.*
- Any material being imported to the site should be validated as suitable for the intended use in accordance with NSW EPA (2014) guidelines.*

Given the claimed potential of contamination on the site as noted in the Phase 1 Investigation, a Phase 2 Environmental Site Assessment has been provided to confirm whether contamination is actually present, at what levels and at what locations. A Phase 2 Environmental Site Assessment confirms the location and type of contaminants on the site and provides recommendations for the remediation of the site to enable the development to be safely carried out. In this regard, Council is satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the Recommendation of this report.

Sub-section 4.6 (1)(c) stipulates that *"if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose"*.

Council is satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the Recommendation of this report.

## **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



### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	11.0m - 13.27m	20.63%	No

The site has not been deeply excavated and NGL is consistent with the existing building ground floor presently on the site.

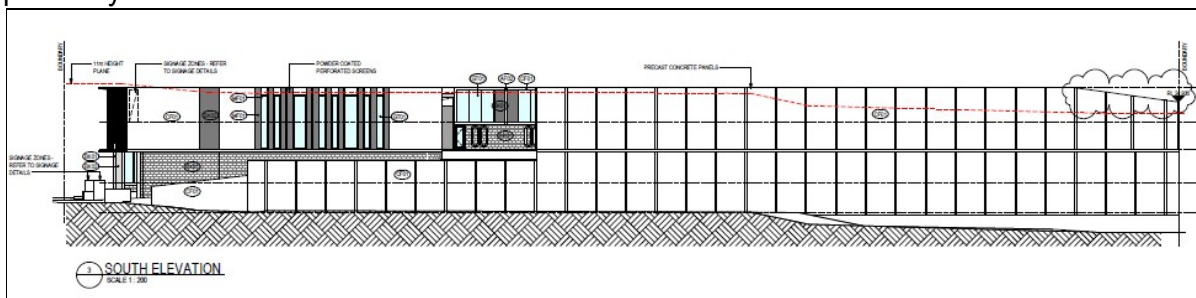


Image: The 11m height line is shown in red on the south elevation image.

### Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
5.21 Flood planning	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

### Detailed Assessment

#### 4.6 Exceptions to development standards

##### Description of non-compliance:

Development standard:	Height of buildings
Requirement:	11m
Proposed:	13.27m
Percentage variation to requirement:	20.63%

##### 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 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 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 (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, considering 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, in part (as summarised):

- *A "clause 4.6" request for the development at 97 Old Pittwater Road noted that an 11-metre height limit applied to the locality under the now repealed Warringah Local Environmental Plan 2000 (WLEP 2000).*
- *The proposed building complies with the height limit on the western side of the building and as such the building will not result in excessive building bulk or adverse impact on the streetscape.*
- *The proposed development generally complies with the 11 metre height limit as it previously applied in that the variation generally relates to the roof structure.*
- *Many of the buildings which have been constructed in the locality were approved under WLEP 2000 and therefore include parapets and other rooftop structures above a height of 11 metres.*
- *The greatest variation to the development standard occurs to the rear of the site and will not be able to be viewed from the public domain."*

Assessment Comments

- These reasons have been considered in justifying that strict compliance with the *Height of Buildings* development standard as *unreasonable or unnecessary* and the Objects of the Act to "*promote good design and amenity*". Initially the proposal had a limited response to the planning controls in so far as partly relying on reference to adjacent buildings as the basis of breaching the development standard. The proposal was deemed to be promoting further height variation as this approach tends to cause "development creep" to ever increasing building heights against the unchanged standard and ultimately abandonment of the development standard on a site by site basis. An amended design was made to provide a more responsive solution in maintaining better consistency, rather than promoting further inconsistency to the height of buildings standard. The eastern end of the building now tapers down to be 0.72m to 1.12m above the 11m height plane along the eastern end. The middle aisle is substantially below the building height plane.
- In this case the site has a gentle slope to the rear but across the length of the building the ground level variation is nearly 3.0m. While the slope is minor it is reasonable to expect the building maintain a flat / single level floor plate and not be sloping or have a split levels. The variation sought is commensurate with the variation in height between the front to the rear of the land. Additionally the floor levels and driveway gradients are consistent with design limitations needed to allow for light truck and internal racking heights that are typical of industrial warehouse units.
- The overall built form of the surrounding area is typified by functional buildings designed to accommodate industrial and warehouse uses. In comparing examples of non-compliance with similar building height these height variations area located behind the front boundary setback zone, so that they do not compromise other built form controls for setbacks and landscaping.
- The building has no height non-compliance along within the front portion of the building and non-compliant elements toward the back half of the building will not be read as being substantially over-height from the street.
- Focusing on this upper level height variation, the design have been amended to taper down the rear section to the eastern wall to reduce the non-compliant are where it would otherwise be at its highest variation.
- The height blanket image below illustrates the proposed building in context with the building scale and bulk across the width of the 11m height plane and elements of the building proportions that exceed the control along either side of the centre aisle.

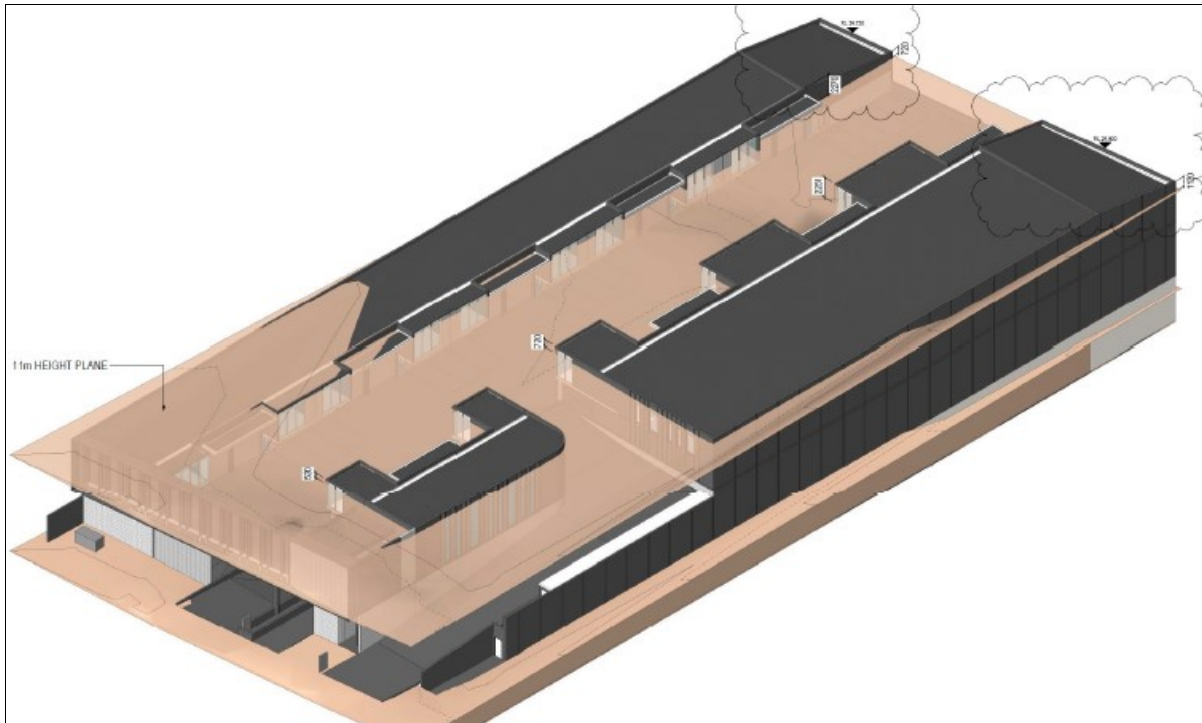


Image: Height blanket depicting the extent of non-compliance above the 11m height control.

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' in accommodating site constraints in combination with minimising the visual appearance of non-compliance to the planning controls 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.

As such, 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), and Council can be 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 *IN1 General Industrial* 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 proposal has been designed to present largely as a compliant wall plane to Old Pittwater Road and has integrated the use of landscaped facade screens to soften the appearance of the building and provide visual interest and a contemporary architecture with a 'business park' style entry area. The walls and boxed hood facade is compliant with the building height. Ensuring buildings are compatible the height and scale of surrounding and nearby development should be in reference to the height control to ensure future development maintain general continuity with the height plane. In the circumstances the site has followed a similar format to No.97 Old Pittwater Road. In this regard, the change in height from the front to the rear of the site influences the non-compliance when taking account for the need for a flat floor plate and the floor to ceiling height normally used for industrial units. It is considered that the amended design has addressed this objective.

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

Comment:

In the context of the adjacent industrial buildings, separation from other commercial offices and there being no residential dwellings in close proximity to the site, there is no loss of coastal views, residential privacy or unreasonable solar access impact to adjacent industrial office space.

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

Comment:

There are no significant coastal or bush environments in close proximity to the site. Allenby Park bushland area is approximately 200m to the west and the coastal area more than 2.9km to the east. The extent of the proposed variation, when viewed from these areas, is likely to have negligible impact given the extensively developed land between these bushland or coastal areas and the subject site.

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

Comment:

As detailed previously, the overall design of the proposal has achieved an acceptable visual impact when viewed from the adjoining public domain along Old Pittwater Road, including community facilities within Warringah Mall (Council library).

## **Zone objectives**

The underlying objectives of the IN1 General Industrial zone are:

- *To provide a wide range of industrial and warehouse land uses.*

Comment:

The proposed storage / warehouse premises are a permissible use in the zone and will be able to service the surrounding area.

- *To encourage employment opportunities.*

Comment:

The industrial / warehouse units will enable association with various small business uses that generate employment in the local area. This continues the previous industrial style use of the site and will make a contribution to the employment generating potential of the Brookvale industrial area.

- *To minimise any adverse effect of industry on other land uses.*

Comment:

The proposed storage premises will have a minimal impact on the operations of other land uses (commercial / residential / recreational / special uses) in the surrounding area, including service opportunities to Warringah Mall.

- *To support and protect industrial land for industrial uses.*

Comment:

The proposal will result in no loss of existing industrial land, as the storage premises is a complimentary land use to industry. However, use of industrial land requires responsive design to achieve associate land use planning requirements for drainage, public amenity, streetscape character and the like. In this regard efficient design has been provided to accommodate area for infrastructure, stormwater and landscaping.

- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

Comment:

The proposal provide for a mix of light industrial / warehouse space that are in demand, being industrial/warehouse Units (suitable for small business operators in the Warringah area) and self storage that are also suited to domestic storage or as 'off site storage' for small business operators within the Brookvale area.

- *To enable a range of compatible community and leisure uses.*

Comment:

Not relevant to the application as no community or leisure uses are within the proposed development.

- *To maintain the industrial character of the land in landscaped settings.*

Comment:

The proposed building represents a sufficient industrial character and the height and bulk has not been over-accentuated above the height control. The character of the area includes an 11m height limit and while there is no storey limit there is a mix of lower single storey and two and three storey buildings present also nearby. The proposal has been amended to taper down the rear wall and non-compliant elements in terms of the upper section of Unit 26 and Unit 34 that extend above the height line. The proposal will be able to establish a landscape setting within the full 4.5m setback and sustain trees at the front that are commensurate with the scale of the building to ensure the development does not have an adverse effect on the streetscape and future character of Brookvale.

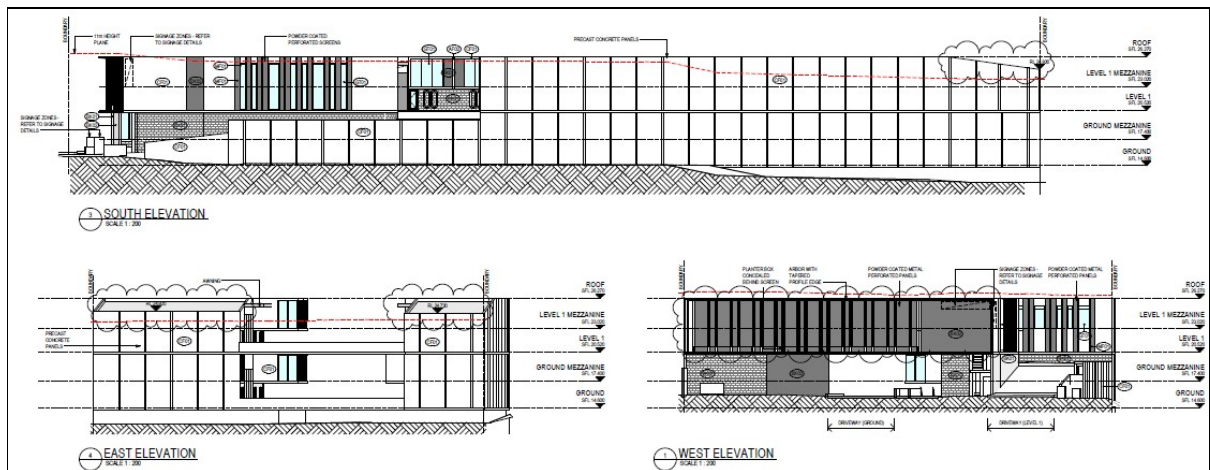


Image: Height of building is limited to the rear section of the land and is commensurate with natural ground level variation.

### Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the IN1 General Industrial 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 PS 20-002 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*.

### **5.21 Flood planning**

The objective of this clause seeks to minimise flooding risks, allow development that is compatible with floor function and behaviors on the land, avoid adverse and cumulative flood impacts and enable safety to during flood events.

As consent authority Council must be satisfied that the proposed development addresses these objective as well as to also not result in detrimental increases in potential flood affectation of other development and not adversely affect the natural environment erosion or degrade riparian areas. Details provided with the development application satisfy this requirement regarding potential impact on adjacent land in consideration of the building footprint and minimal potential displacement of flood waters, including the ability direct water along the eastern setback and minimal interaction with the 1 in 100 PMF considerations. Council Flood Engineers have reviewed the proposal and sufficient design information has been provided to address *Clause 5.21 Flood Planning* of the Warringah LEP 2011.

Therefore, the proposal is supported pursuant to this clause.

### **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, including dilapidation survey.

- (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 site is not mapped as being a potential location of Aboriginal or other relics.

- (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.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B5 Side Boundary Setbacks	Merit assessment (North)	0.0m Basement	N/A	Yes (Merit*)
		0.0m Wall plane GL and L1	N/A	Yes (Merit*)
	Merit assessment (South)	0.0m Basement	N/A	Yes (Merit*)
		0.0m Wall plane GL and L1	N/A	Yes (Merit*)
B7 Front Boundary Setbacks	4.5m	4.5m Basement	N/A	Yes
		4.5m Ground Level and L1	N/A	Yes
		3.5m Side blade wall / facade screen	22%	No*
B10 Rear Boundary Setbacks	Merit assessment (East)	2.0m to 0.0m Basement (stormwater line / easement)	N/A	Yes (Merit*)
		0.0m Ground Level and L1	N/A	Yes (Merit*)

\*Refer to detailed merit assessment within this report under the heading 'Built Form Controls' .

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B10 Merit assessment of rear boundary setbacks	Yes	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
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
D15 Side and Rear Fences	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
D23 Signs	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
E11 Flood Prone Land	Yes	Yes

#### Detailed Assessment

#### **B6 Merit Assessment of Side Boundary Setbacks**

##### Description of inconsistency

The DCP allow for a side setback based on merit assessment. In this case a nil setback is proposed, including the basement excavation.

##### Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying

Objectives of the Control as follows:

- *To provide ample opportunities for deep soil landscape areas.*

Comment:

The existing buildings on the site are constructed on a nil setback which is common for industrial buildings. There is no residential interface along the side boundaries and therefore deep soil landscaping is allocated to the front 4.5m setback zone only. The side walls have no window openings and to the north abut a similar concrete panel fireproof wall at No.97 Old Pittwater Road. To the south it is likely that a similar concrete panel a minimal setback would be required along the adjacent driveway or with the redevelopment of No.111 Old Pittwater Road.

- *To ensure that development does not become visually dominant.*

Comment:

The development will be of similar height and width to No.97 Old Pittwater Road and the buildings opposite the site are generally larger or of similar scale. Where side setbacks are used buildings for similar style industrial uses they are commonly allocated for driveway structures. In this case the driveway is integrated to the building and partly concealed by the side wall on the southern side of the building. The proposal is consistent with this objective.

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

Comment:

The proposed nil setback to the side boundaries allows the building to be designed to include suitable vehicle aisles and similar layout to No.97 Old Pittwater Road. The nil setbacks also allow industrial units to face inwards and provide functional access for future uses, including ease of visitor access by way of the central aisle for vehicle access. The basement area is constructed to the boundary and as a single level does not create unreasonable intensity of use in the redevelopment of the site.

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

Comment:

The proposal maintains adequate amenity to adjacent land and does not obstruct solar access to any commercial office space or residential land.

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

Comment:

The proposal does not create any unreasonable impact on coastal or district views from residential land. The proposal does not create any unreasonable impact on public views or general outlook from adjacent industrial land that is inconsistent with the pattern of surrounding development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **B7 Front Boundary Setbacks**

### Description of non-compliance

The subject building has a single road frontage which the proposal is required to maintain a minimum 4.5 metre landscape setback. The building includes minor elements encroaching within the Old Pittwater Road frontage that are considered on merit.

### Merit consideration:

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:

In achieving this objective *Part B7 Front Boundary Setbacks* requires that *development is to maintain a minimum setback to road frontages*. The proposal has been amended to address this objective and provide a suitable facade treatment.

To achieve a sense of openness the DCP requires that the front boundary setback area is to be landscaped and *generally free of any structures, basements, carparking or site facilities other than driveways, letter boxes, garbage storage areas and fences*. With a wide 4.5m landscaped setback the space required for any minor structures of pathways, retaining walls, steps, ramps and the like is easier to be accommodate while ensuring deep soil landscaping for substantial trees and other suitable planting and assist to soften the appearance of building bulk, and minor upper element that projects forward into the landscape zone. Adequate open area is provided for canopy trees in front of the building of commensurate height to the building and in consideration of services such as fire booster or electrical kiosk.

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

#### Comment:

The site is within a busy sector of Brookvale and the extent of non-compliance into the front setback is minimal for part of the street façade elements. At ground level the building is positioned behind a 4.5m width of landscape elements. The proposal is consistent with recent development that have provided landscaped setbacks to the street and ensured meaningful landscaped elements along the streetscape for their re-developed frontages. (examples include No.117 Old Pittwater Road, No.1 to 15 Green Street and No.2 Cross Street).

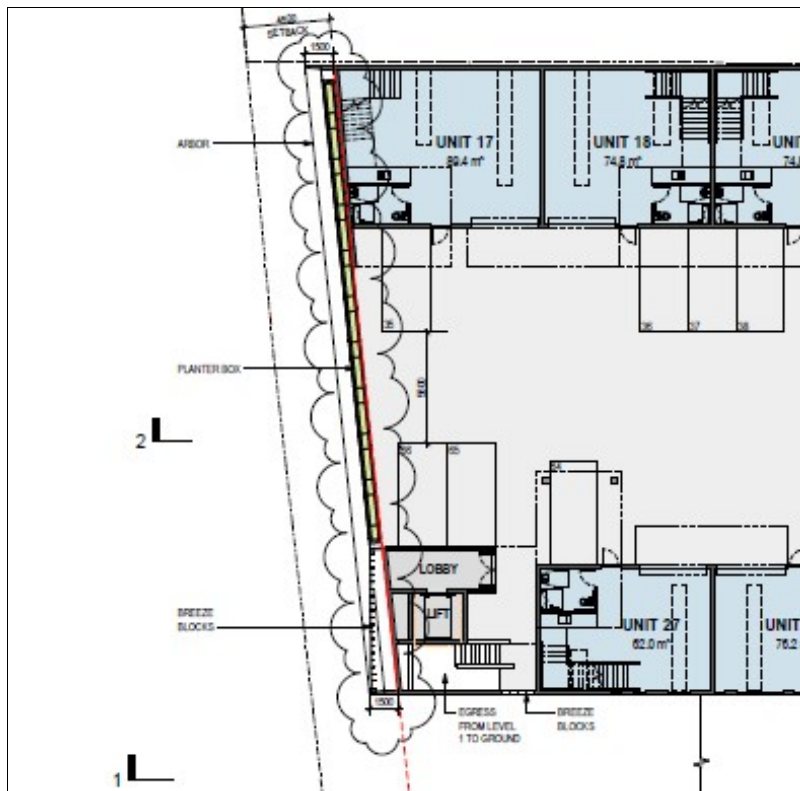


Image: Extent of non-compliance along the 4.5m line shown with limited encroachment of fa

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

Comment:

The Brookvale Draft Structure Plan (August 2017) (BDSP) has identified future investigations to create landscaping initiatives for enhancement of the pedestrian environment whilst maintaining vehicle connectivity throughout the Brookvale industrial precinct. The objective will be to create tree lined streets that provide workable and attractive access for the east and west precincts of the Strategic Centre and also link the 'green grid' assets across Brookvale. While the BDSP is not yet adopted it outlines the future direction being considered and its aims and objectives are consistent with the objectives of Part B7.

In order to '*protect and enhance*' the streetscape the 4.5m setback should be used appropriately to maximise landscaping along frontage with Old Pittwater Road for the site. The visual impact on the streetscape by the proposed non-compliance within the front boundary setback is minimal for the minor angled mesh wall on the upper level. The ground floor and basement levels comply.

The design of facades contributes to the visual interest of the building and the character of the local area. High quality facades are a balanced composition of good integration of building elements, textures, materials and colour selections. Well designed facades also reflect the use, internal layout and structure of the building without being jarring to the street (and may include appropriate "retro" styling). The proposed elevation treatment to create interest (appropriate aesthetic treatment) without unreasonably accentuating bulk and increasing non-complying elements.



- *To achieve reasonable view sharing.*

Comment:

This objective is not raised in association with the proposal for the site location or any surrounding land.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **B10 Merit assessment of rear boundary setbacks**

### Description of inconsistency

The proposal has a nil setback to the rear, including the basement element.

### Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

As with the side setbacks the proposed building seeks to extend the basement to a nil setback (except for a stormwater easement zone) and above this the building wall is setback on a nil boundary. This is consistent with building to the immediate north and south of the site.

- *To create a sense of openness in rear yards.*

Comment:

The site does not have a residential interface with adjacent land and therefore does not require

to have to maintain a normal residential setback (generally 6.0m minimum). A minor setback is maintained across part of the ground level for existing stormwater drainage infrastructure. The rear of the building has been amended to taper down to remove any excessive height at the rear setback.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

The proposal does not raise any privacy or amenity issues for adjacent land in terms of overlooking or noise impact as the industrial units face inwards and the driveway ramp access is enclosed within the building side walls.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The proposal does not have a residential interface at the rear and therefore this objective is maintained by the reduced height at the rear however the setback to the rear boundary is consistent with adjacent land to the north and south of the site.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

This objective relates to dwellings and there are no adjacent dwelling houses.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **C2 Traffic, Access and Safety**

### Merit consideration

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

- *To minimise traffic hazards.*

Comment:

The proposal has been assessed by Council Traffic Engineering section and a Traffic report was provided by a consultant traffic engineer for the proposal. Minor amendments were made to refine the traffic safety for the development including parking provision and basement changes as per amended plans received on 16.11.2022.



- *To minimise vehicles queuing on public roads.*

Comment:

To minimise vehicle queuing on public roads the basement has been designed to be accessible by a 3.5m Small Rigid Vehicle (SRV) and swept path plots demonstrate that these vehicles can turn around on site allowing entry and egress in a forwards direction. There is overhead clearance of 3.5m into the basement level allowing access by SRV's. The ground floor and level 1 have been designed to allow access by an 8.8m Medium Rigid Vehicles (MRV) and swept path plots demonstrate that these vehicles can turn around on site allowing entry and egress in a forwards direction. There is overhead clearance of 4.5m for access into the ground floor and into level 1 allowing access by MRV's & SRV's which also minimises the need for small trucks to stop for deliveries and enables them to enter the site and be clear of Old Pittwater Road.

- *To minimise the number of vehicle crossings in a street.*

Comment:

The entry ramps are co-located and enable at grade entry to then access the ramps for the basement or upper level. The proposal will comply with safety sight distances.

- *To minimise traffic, pedestrian and cyclist conflict.*

Comment:

The proposal includes separate pedestrian access and bicycle parking as well as suitable width, including minor splays in the basement aisle corners so assist visual safety for drivers going into or out of the basement storage area.

- *To minimise interference with public transport facilities.*

Comment:

The site has suitable access to public transport bus services along Old Pittwater Road and is within walking distance (to the bus interchange at Warringah Mall.)

- *To minimise the loss of "on street" kerbside parking.*

Comment:

The driveway areas proposed will be require 2 laybacks and crossover areas. The loss of kerbside parking is acceptable given the sufficient on-site car parking.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **C3 Parking Facilities**

#### Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking (part car spaces are rounded up):

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Industrial Units / Warehousing	1.3 spaces per 100sqm of Gross Floor Area (including 20% floor area for office space) (extra office are calculated at "office" rate.	2,780sqm light industrial warehouse and (20%) 762sqm of office floor. <b>45 spaces</b>	33 Ground Level 32 Level 1  56 spaces	11
Office space	1 space per 40sqm	340sqm additional office space (mezzanine). <b>8.5 (=9) spaces</b>	9 spaces	0
Self Storage	No specified rate. Comparable study required.*	2 spaces per 1000sqm <b>4 spaces</b>	4 spaces	0
<b>Total</b>		57.5 (=58)	<b>65</b>	<b>+11</b>

\*The applicant has provided supporting information that surveys undertaken on behalf of the *Self-Storage Association of Australia Pty Ltd* (SSAA) found the peak parking demand for self storage facilities up to 3,000sqm was measured as 6 parking spaces. The proposed self storage facility of 1,916sqm would therefore require at least 4 parking spaces.

Suitable space is also provided at ground floor level for bicycle parking (4 bicycles indicated) near the pedestrian entry area at ground level.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The proposal includes driveway entry point that is clearly defined with internal ramp system to access the upper and lower floors. The driveway areas are within the curtilage of the building and therefore do not create an unreasonable visual impact on Old Pittwater Road.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

All parking is within the curtilage of the building and is provided for each industrial unit and

distributed in the basement area for the self storage units. The proposal maintains a landscape setback adjacent the driveway area and the front of the building includes screening and landscape elements to ensure the main carparking is not readily visible to the street frontage.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **C4 Stormwater**

### Merit consideration

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

- *To ensure the appropriate management of stormwater.*

#### Comment:

The proposal meets this objective in addressing stormwater management issues raised by Council's Development Engineering assessment in the completion of additional information required for DRAINS modelling and additional stormwater information received on 31.10.2022. This includes ensuring connection to appropriate Council pits and site levels within the area around the main line along the western side of the property that will require a 3m wide easement. Details are provided within the Development Engineering assessment under the heading 'Internal referrals' in this report.

- *To minimise the quantity of stormwater run-off.*

#### Comment:

The proposal has demonstrated it can meet this objective in addressing stormwater management issues raised by Council Development Engineering assessment under the heading 'Internal referrals in this report. The site will be connected to Sydney Water Sewer system and appropriate conditions for water management address this part of the WDCP for the OSD discharge.

- *To incorporate Water Sensitive Urban Design techniques and On-Site Stormwater Detention (OSD) Technical Specification into all new developments.*

#### Comment:

The proposal is able to comply with Council's *On-Site Stormwater Detention (OSD) Technical Specification* as detailed within the Development Engineering assessment under the heading 'Internal referrals' in this report.

- *To ensure the peak discharge rate of stormwater flow from new development is no greater than the Permitted Site Discharge (PSD).*

#### Comment:

The proposal meets this objective in addressing the limits on discharge rates for the stormwater runoff as detailed by Council's Development Engineering assessment. Amended details were provided that adequately address this issue to the satisfaction of Council's engineering stormwater assessment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **C7 Excavation and Landfill**

### Merit consideration

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

- *To ensure any land excavation or fill work will not have an adverse effect upon the visual and natural environment or adjoining and adjacent properties.*

#### Comment:

The basement excavation extends one level below ground and due to potential ground water seepage and residual contamination fumes in the surrounding soil the basement will be tanked or protected / ventilated to ensure no unreasonable environmental or health impacts. The use of one basement level only is consistent with development in the surrounding area where basement carparks or part of the building may be below ground.

- *To require that excavation and landfill does not create airborne pollution.*

#### Comment:

The excavation of the site will require construction management to ensure no unreasonable environmental impacts. This includes the preparation of a remedial action plan for removal of material from the site as part of site preparation for the basement and building foundations. This objective is appropriately satisfied by conditions and site management during excavation and construction works.

- *To preserve the integrity of the physical environment.*

#### Comment:

The use of a single basement level does not create an unreasonable impact on the environment. The Brookvale area near Warringah Mall is low lying and subject to flooding / stormwater inundation in parts due to the broad catchment of Brookvale Creek.

- *To maintain and enhance visual and scenic quality.*

#### Comment:

The proposal maintains a landscape setting to the street and will not excavate deeply below the front setback area. The proposal does not seek to use landfill to raise floor levels or building height due to flood / stormwater and will maintain the easement space at the rear as shown on the plans and section diagrams.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## D9 Building Bulk

### Merit consideration

The development is considered against the underlying Objectives and requirements of the DCP *Part D9 Building Bulk Control* as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

#### Comment:

The requirements of this part of the DCP seeks that large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief. While the proposal is a warehouse / industrial / self-storage building and situated within an industrial area the streetscape presentation requires consideration. The side wall elements are matched with the adjacent buildings for function / fire separation or situated on adjacent driveway only. The side setbacks are subject to merit consideration of the circumstances (similarities and differences) of adjacent industrial buildings.

The front façade has been amended to ensure semi-transparent (grille) and wall frame only elements protrude to a minor extent forward of the 4.5m setback area. The majority of the front façade complies with the front setback control. This allows for opportunities for suitable trees and landscape elements and minor elements of ramps, stairs, retaining walls and pathways as required in front of the building.

The submitted plans and amended plans are consistent with this objective.

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

#### Comment:

Addressing Part D9 of the DCP seeks that the use of colour, materials and surface treatment is used to reduce building bulk. In this regard, the building design has created a suitable approach to this requirement and used colours minor articulation (for the amended plans) that assist to break up visual bulk. This includes overhanging elements that are semi-transparent and incorporate a "green-wall" with landscape planting that can be maintained a sustainable way and enhances the building appearance when viewed from the public streetscape.

Achieving Part D9 of the DCP requires that landscape plantings are to be provided to reduce the visual bulk of new building and works. This outcome has been done and the building allowing available space for suitable canopy trees of 10m to 12m height along Old Pittwater Road.

Given the above reasons and requirements the submitted plans and amended plans are consistent with this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in

this particular circumstance.

## D23 Signs

### Description of non-compliance and/or inconsistency

The application proposes building identification of signage consisting of the following:

Sign	Requirement	Width	Height	M <sup>2</sup>	Complies
Wall sign (painted onto a wall of a building or attached to the wall of a building, not being a sign elsewhere listed in this table)	Shall not extend within 200mm of the top and sides of the wall. Shall not cover any window or architectural projections; Must be of a size and shape that relates to the architectural design of the building to which it is attached; Where illuminated, shall not be less than 2.7 metres above the existing natural ground level ground; and Shall not project more than 300mm from the wall.	7.0m	1.5m	10.5sqm	Yes

### Merit consideration

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

- To encourage well designed and suitably located signs that allow for the identification of a land use, business or activity to which the sign relates.*

#### Comment:

The signage indicated is suitable for the wall size and position and easily identifies the industrial building. Landscaping does not obstruct the sign. The sign is not distracting to motorists or traffic safety, including the ground level directory boards.

- To achieve well designed and coordinated signage that uses high quality materials.*

#### Comment:

The signage will reduce clutter and redevelopment of the sign will enable a single directory board (at the entry area) and main generic sign identifying the industrial building as the address as a single development (similar to other larger complexes near the site along Old Pittwater Road). This singular signage is easier to identify the building and less confusing (less visual clutter) for traffic, deliveries and customers visiting the site. The generic simple sign regime is suitable for the proposal.

- To ensure that signs do not result in an adverse visual impact on the streetscape or the surrounding locality.*

Comment:

The signage is limited to generic space identifying the building at the front and with a smaller generic sign on the side of the building with directory boards at ground level entry points. This is indicated in the photomontage of the building.



Image: Generic signage on building façades and directory boards at ground level entries.

- *To ensure the provision of signs does not adversely impact on the amenity of residential properties.*

Comment:

The building and signage space is not facing any residential buildings.

- *To protect open space areas and heritage items or conservation areas from the adverse impacts of inappropriate signage.*

Comment:

The building is not adjacent or part of any open space facility or within a conservation area.

An assessment of the application has also found the development to be consistent with the requirements of *State Environmental Planning Policy No. 64 - Advertising and Signage*.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **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 \$180,961 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$18,096,113.

## **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 EPIs
- 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.

The application has raised a number of concerns with regard to the facade treatment, internal traffic access, stormwater drainage and land contamination which required additional information and amended plans. These matters have been resolved to the satisfaction of Council to support the proposal, including the building height variation.

The development does not comply with the numerical *Height of Buildings* Development Standard contained in the Warringah LEP 2011 and subject to the amendments made and reasons provided in seeking the variation to the 11m height control the cl 4.6 Exceptions to development standards for the height is supported. In this regard, the proposal is consistent with the underlying objectives of cl 4.3 Height of Buildings and development standard of the *IN1 General Industrial* zone under the Warringah *LEP 2011*.

The development is consistent with the environmental planning objectives within the WDCP 2011 relating to height, setbacks, parking, traffic, drainage, built form, amenity, environmental health and streetscape. The use of the building for self storage facility (basement) and light industrial units / warehouse units is consistent the *IN1 General Industrial* zone.

Accordingly, the development application is recommended for approval, subject to conditions. 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 vary clause *4.3 Height of Building* development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and 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 DA2022/0717 for Demolition works and construction of a mixed use development comprising self-storage units and industrial units including lot consolidation on land at Lot 2 DP 402645, 101 Old Pittwater Road, BROOKVALE, Lot 3 DP 402645, 101 Old Pittwater Road, BROOKVALE, Lot 4 DP 402645, 101 Old Pittwater Road, BROOKVALE, Lot 1 DP 402645, 99 Old Pittwater Road, BROOKVALE, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

#### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA00.01 Proposed Site Plan	21.4.2022	Rothe Lowman
DA00.03 Existing Demolition Plan	21.4.2022	Rothe Lowman
DA01.01 C Basement	11.11.2022	Rothe Lowman
DA01.02 A Ground Floor	11.11.2022	Rothe Lowman
DA01.03 Ground Mezzanine	21.4.2022	Rothe Lowman
DA01.04 B Level 1	11.11.2022	Rothe Lowman
DA01.05 A Level 1 Mezzanine	29.9.2022	Rothe Lowman
DA01.06 A Roof	29.9.2022	Rothe Lowman
DA02.01 A Elevation Sheet 1	29.9.2022	Rothe Lowman
DA02.02 A Elevation Sheet 2	29.9.2022	Rothe Lowman
DA03.01 A Sections	29.9.2022	Rothe Lowman
DA06.02 Signage Details	21.4.2022	Rothe Lowman
DA07.01 A Exterior Finishes	29.9.2022	Rothe Lowman
Consolidation Plan Lots 1 to 4 DP402645	3.5.2022	Land Partners Pty Ltd

Engineering Plans		
Drawing No.	Dated	Prepared By
DA C000 03 Cover Sheet Drawing Schedule Notes and Locality Sketch	11.4.2022	Henry & Hymas
DA C101 01 Basement Detail Plan	7.04.2022	Henry & Hymas

DA C102 02 Ground Floor Detail Plan	7.04.2022	Henry & Hymas
DA C103 02 Level 1 Detail Plan	7.04.2022	Henry & Hymas
DA C200 02 Stormwater Miscellaneous Details and Pit Lid Schedule	7.04.2022	Henry & Hymas
DA C201 03 OSD Tank Plan Section and Details	11.04.2022	Henry & Hymas
DA C250 03 Drains Catchment Plan	11.04.2022	Henry & Hymas
DA C251 02 Music Catchment Plan	7.04.2022	Henry & Hymas
DA SE01 02 Sediment and Erosion Control Plan	7.04.2022	Henry & Hymas
DA SE02 02 Sediment and Erosion Control Typical Sections and Details	7.04.2022	Henry & Hymas
Stormwater Drainage Asset Plan SY075462.000.10 - 2	23.5.2022	Land Partners Pty Ltd

<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>
Sustainability Assessment Report 1.1	14.4.2022	IGS
Stormwater Strategy Report	12.4.2022	Henry & Hymas
Preliminary Geotechnical Investigation 34695PHrpt	28.2.2022	JK Consulting
Engineering Assessment 222015rpt20220524_DW	24.5.2022	Demlakian
BCA Assessment Report 115586-BCA-r03	22.4.2022	BCA Logic
Access Assessment Report 115586-Access-r02.1	22.4.2022	BCA Logic
Arboricultural Impact Assessment 5439/B	March 2022	Tree Talk
Detailed Site Investigation E25568.E02	1.7.2022	EI Australia

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>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
000.B Landscape Coversheet	14.4.2022	Site Image
101.B Landscape Plan	14.4.2022	Site Image
501.B Landscape Details	14.4.2022	Site Image

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Operational Waste Management Plan 3891-D	11.4.2022	Elephants Foot

Construction and Demolition Waste Management Plan Revision B	11.7.2022	Elephants Foot
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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	Ausgrid Referral Response	29.6.2022
WaterNSW	Water NSW Referral Response - General Terms of Approval IDAS1144380	12.6.2022

(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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond use of the building accommodating "self-storage units" and "industrial / warehouse units" as shown on the approved plans.

- **Self Storage premises** is defined as:

*"a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any industry, business premises or retail premises on the same parcel of land, and includes self-storage units, but does not include a heavy industrial storage establishment or a warehouse or distribution centre."*

The occupation of the approved "self-storage units" in the Basement Level does not require further development consent where no hazardous, restricted or potentially contaminating / dangerous goods are to be stored.

b) The approved "industrial / warehouse units" are permitted to cater for only "general or light industrial" activity or warehouse activity:

- **Light Industrial** activity is defined as:

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

*(a) high technology industry,*

(b) home industry,  
(c) artisan food and drink industry."

- **General Industry** activity is defined as:

*"a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity."*

- **Warehouse** activity is defined as:

*"a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made, and includes local distribution premises."*

b) The first use, fit-out and occupation of the approved "industrial / warehouse units" on the Ground Level and Level 1 will not require further development consent if there is no associated "industrial retail outlet" component and no added or larger external signage structures to that shown on the approved plans.

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

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

#### 4. **Signage**

Approval is granted under this Development Consent for the generic signage shown (style and size) on the approved plans that may be interchanged / replace for the same or similar style (as defined under Warringah Local Environment Plan 2011 and State Environmental Planning Policy No. 64).

A separate Development Application for any additional signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

#### 5. **No Approval for any Signage above the parapet / roof line**

No approval is granted under this Development Consent for the erection of any advertising or business identification signage located above the roof/parapet line. All signage above the roof/parapet shall be deleted.

Reason: Compliance with Warringah Local Environment Plan.

#### 6. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) Where applicable, 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) Where applicable, all 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.

## 7. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 8. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$180,961.13 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 \$18,096,113.00.

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.

### 9. **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](http://www.northernbeaches.nsw.gov.au)).

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

10. **Construction, Excavation and Associated Works Bond (Councils stormwater drainage line)**

The applicant is to lodge a bond of \$30,000 as security against any damage to Councils stormwater drainage line located at the rear of the site during excavation/construction works and stormwater drainage works 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.

11. **Construction, Excavation and Associated Works Security Bond (Concrete footpath / Kerb)**

The applicant is to lodge a Bond of \$25,000 as security against any damage or failure to complete the construction of any 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.

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

A bond of \$15,000 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.

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.

13. **Amended Landscape Plan**

An Amended Landscape Plan shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to include the following details:

- i) coordination with the architectural plans, and in particular the kiosk location and the planter adjacent to the pedestrian entry/main lobby,
- ii) although a cultivar, Council considers *Raphiolepis indica* 'Oriental Pearl' an environmental concern and as such all *Raphiolepis indica* 'Oriental Pearl' shall be replaced with a suitable

alternative.

Certification shall be provided to the Certifying Authority that these amendments have been documented.

Reason: Landscape amenity.

14. **On Slab Landscape Works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- i) 300mm for groundcovers and native grasses,
- ii) 600mm for shrubs.

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

15. **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 RMS 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.

16. **Overland Flow Mitigation**

The overland flow mitigation/ protection devices including the flood barrier gate is to be installed in accordance with the report as prepared by Henry and Hymas dated 12 April 2022. Engineering details are to be prepared by a suitably qualified Civil engineer. Certification is to be provided by the design engineer that the overland flood mitigation /protection devices have been installed on accordance with the approved design plans.

17. **Erosion and Sediment Control Plan**

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

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)

- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

#### 18. **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 Stormwater plans (Henry&Hymas, 21W12\_DA rev 2 07.04.2022) and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

#### 19. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by a TfNSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

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
- 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 the 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
- 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 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.

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

20. **Separation between Driveways**

A plan showing a minimum of 6m separation between the sites driveways shall be submitted to and approved by the Certifier prior to the issue of the Construction Certificate.

Reason: To retain an appropriately sized parking space between the driveways.

21. **Removal of Redundant Driveways**

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

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

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

22. **Pedestrian sight distance at property boundary**

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

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

Reason: To maintain pedestrian safety.

23. **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 BCA Logic, dated 22/4/2022 , Ref No.11586-BCA-r03 including any Fire Engineered Solutions are to be considered as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of the Construction Certificate..

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

24. **Light and Ventilation**

The proposed building is to be provided with light and ventilation in accordance with Part F4, Volume 1 of the Building Code of Australia.

In particular Mechanical Ventilation complying with AS1668.2 is required for the Basement Carparking areas.

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

25. **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 POLICY for DEVELOPMENT, and generally in accordance with the concept drainage plans prepared by Henry and Hymas, drawing number 21W12 DA C101 Rev 01, 21W12 DA C102 REV 02, 21W12 DA DA C103 REV 03, 21W12 DA DA C200 REV 02, 21W12 DA DA C 201 REV 03, 21W12 DA DA C250 REV 03, dated 11/4/22. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) or Professionals Australia and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

26. **Tanking of Basement Level**

The basement area is to be permanently tanked. The Applicant is to submit structural details of

the tanking, prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water are to be complied with and a copy of the approval must be submitted to the Certifying Authority. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements.

**27. Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

**28. Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the *Local Government Act 1993* to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the connection to Council's stormwater drainage system which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au) > Council Forms > Stormwater Drainage Application Form.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

**29. Dewatering Management Plan**

Prior to the issue of any Construction Certificate, a site-specific Dewatering Management Plan is to be prepared. The plan and water quality parameters are to be in accordance with relevant guidelines, any requirements from WaterNSW and take into consideration any contaminants identified within the site contamination reports that may impact on the receiving environment.

The plan is to include but not limited to the following:

- Any requirements from WaterNSW including but limited to the General Terms of Approval Reference Number: IDAS1144380, Issue date of GTA: 12 July 2022;
- Water quality parameters complying with the standards for freshwater ecosystems; and
- Frequency of testing and maintenance of any required equipment.

The Dewatering Management Plan is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification

Policy. The Dewatering Management Plan is to be reviewed and approved by appointed Site Auditor and submitted to satisfaction of Council.

Reason: Protection of the Environment.

30. **Appointment of Site Auditor & Review of Contamination Reports by a Site Auditor**

Prior to the issuing of the construction certificate, a NSW EPA accredited Site Auditor is to be appointed for the duration of the works until the issue of a Site Audit statement.

The Detailed Site Investigation by EI Australia dated 1 July 2022 (reference: E25568.E02\_Rev0) & the Remediation Action Plan by EI Australia dated 8 July 2022 (reference: E25568.E06\_Rev0) are to be submitted to the appointed Site Auditor for review and approval prior to issuing the construction certificate.

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

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

31. **Hazardous Building Materials Survey**

A hazardous building materials survey is to be conducted by a suitably qualified and experienced person. The survey is to include a survey of hazardous building materials including but not limited to asbestos, lead, SMF and PCBs. Following the survey a Hazardous Building Materials Register is to be prepared for the premises providing recommendations for the safe management/removal of hazardous building material.

Reason: Protection of the Environment.

32. **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.

33. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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.

34. **Access and Facilities for Persons with Disabilities**

Access and facilities to and within the building are to be provided for Persons with a Disability in

accordance with the Building Code of Australia and AS1428 are to be included as part of the Construction Certificate assessment. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

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

**35. Sydney Water "Tap In"**

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

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

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

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

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

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

**36. Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:

- i) tree protection measures under section 10 Recommendations, and Appendix A4,
- ii) works under section 6 Protection Measures and Modified Distances for Retained Trees, section 7 Possible Impact Upon Retained Trees, section 8.1 Standard Protection for Retained Trees and 8.2 Standard Protection at Work Phases,
- iii) additionally, the Project Arborist shall be in attendance and supervise any landscaping works within the TPZ of all existing trees to be retained.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all 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:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) 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.

**37. 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.

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

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

**38. 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.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

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 ##### 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.
- 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.

#### 39. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition, both internally and externally, including walls, ceilings, roof, structural members and other similar items of the properties listed below:

- No.97 Old Pittwater Road, Brookvale;
- No.107 Old Pittwater Road, Brookvale;
- No.145 Old Pittwater Road, Brookvale;
- No.75 Old Pittwater Road, Brookvale;
- Any other private property assets or public property likely to be affected near side boundaries / demolition work.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Any properties in the same ownership as the person/s or entities who are the owners of the land subject to this consent will not require reports.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

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

### **40. Protection of Existing Street Trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited.

No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Street tree protection.

### **41. Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an 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 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 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 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 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 Certifying Authority,
- 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 Australian Standard 4970-

2009 Protection of Trees on Development Sites,

ix) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Certifying Authority must ensure that:

c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Reason: Tree and vegetation protection.

42. **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 the Project Arborist 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.

Any mitigating measures and recommendations required by the 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.

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 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. **Substitution of Stormwater Treatment Measures**

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must be submitted to the Principal Certifying Authority for approval prior to installation.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

45. **Dewatering Management**

Tailwater (surface water and rainwater): Please contact [catchment@northernbeaches.nsw.gov.au](mailto: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.

Groundwater: A permit from Council is required for any dewatering of groundwater. An application for interference with an aquifer is required to the Natural Resources Access Regulator. Contact [catchment@northernbeaches.nsw.gov.au](mailto:catchment@northernbeaches.nsw.gov.au) for more information about permits.

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources.

46. **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.

47. **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.

48. **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.

49. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

50. **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.

51. **Footpath Construction**

The applicant shall construct a new 1.5m wide concrete footpath for the full frontage of the site. The footpath works shall in accordance with the following:

(a) Councils standard engineering drawings.

(b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in with Councils standard engineering drawings.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate,

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

52. **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.

53. **Vehicle Crossings**

The Applicant is to construct 2 vehicle crossing 7 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/Normal and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

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

Any new information revealed during remediation, demolition or construction works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to Council, the NSW EPA accredited Site Auditor and the Principal Certifier.

Any variations to the approved Remediation Action Plan shall be submitted to and approved in writing by the Site Auditor and Council prior to the continuing of such work.

Reason: To protect human health and the environment.

55. **Dewatering Requirements**

Prior to commencing any excavation works, a Council issued Groundwater Dewatering permit will be required.

The dewatering and water to be discharged must be compliant with the following:

- Terms within Council's Dewatering Permit;
- WaterNSW requirements including but limited to the General Terms of Approval Reference Number: IDAS1144380, Issue date of GTA: 12 July 2022;
- The approved Dewatering Management Plan;
- Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book); and
- Protection of the Environment Operations Act 1997.

The ongoing testing of the water to be discharged is to be carried out as per any WaterNSW requirements, the approved Dewatering Management Plan and within forty-eight (48) hours of request by Council.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources and to ensure discharges remain within the capacity of the local stormwater system or waterway.

56. **Contamination management**

All remediation and validation works are to be carried out in accordance with the Remediation

Action Plan (RAP) that has been reviewed and approved by the Site Auditor.

Any Recommendations within the approved RAP must be followed during works.

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

**57. Hazardous Building Materials**

Any recommendations within the Hazardous Building Materials Register are to be implemented during works.

All removal, repair or disturbance of or to asbestos materials must comply with the relevant guidelines and legislation including the following:

- The Work Health and Safety Act 2011;
- The Work Health and Safety Regulation 2017;
- NSW SafeWork Code of Practice - How to Safely Remove Asbestos; and
- NSW SafeWork Code of Practice - How to Manage and Control Asbestos in the Workplace.

All asbestos waste must be disposed of at a lawful waste disposal facility that accepts asbestos waste.

Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Following the removal of asbestos containing materials an asbestos clearance certificate is to be issued by a suitably qualified and experienced professional such as an Occupational Hygienist or Licenced Asbestos Assessor before the recommencement of any work.

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

Reason: To protect human health.

**58. Dust Control Measures**

Dust control measures, including best practice and in accordance with NSW Workplace Health and Safety Regulations and the Protection of the Environment Operations Act 1997, shall be implemented to minimise dust to neighbouring residents and businesses and ensure any airborne substance is kept within the boundaries of the site.

Measures may include but not be limited to:

- Water sprays
- Bunker storage
- Limiting size of stockpiles and covering stock piles
- Vertical barriers e.g. fencing with fine mesh attached
- Exhaust and capture

Reason: To minimise dust to neighbouring residents and businesses and avoid air pollution.

**59. 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**

### **60. Landscape Completion**

Landscaping is to be implemented in accordance with the approved amended Landscape Plan, and inclusive of the following conditions:

- i) all tree planting shall be a minimum planting size of 75 litres or as otherwise scheduled if greater in size, and shall meet the requirements of Natspec - Specifying Trees,
- ii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, 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, 2.0 metres from structures, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- iii) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for grasses/groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,
- iv) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

Prior to the issue of an Occupation Certificate, details from a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

### **61. Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, 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 protection.

62. **Stormwater Disposal**

The stormwater drainage/on site stormwater detention works shall be certified as compliant with the approved construction certification drawings and Council's Water Management Policy for Development. Details demonstrating compliance are to be submitted to the Principal Certifying Authority by the design engineer prior to the issue of any interim / final Occupation Certificate.

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

63. **Post-Construction Road Reserve 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.

64. **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 approved at construction certificate. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

65. **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 Certifying Authority prior to the issue of any Occupation Certificate.

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

66. **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 Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

67. **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 Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

68. **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.

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:

- Vehicle access and egress.
- Through-site circulation of vehicle movements.
- Management of car parking areas.
- measures to prevent access to the basement storage area by vehicles larger than small rigid vehicles
- measures to prevent access to the basement storage area by cars towing trailers
- The location and content of directional signage.
- Complaints management.
- Noise management.
- Truck delivery times and methods of control to manage multiple concurrent truck arrivals.
- 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 Construction**

The footpath, in accordance to Council's standard specifications, shall be reconstructed along the property frontage 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 pedestrian access to and from the property.

71. **Convex Mirror at Ramps**

Convex mirrors are to be installed and maintained at the locations shown on the approved plans. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To minimise vehicular conflicts at ramps.

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

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

73. **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 Certifying Authority prior to the issue of the final Occupation Certificate.

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

74. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification). Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted) - Structural details and or certification prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure

75. **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), hydraulic 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 Certifying Authority prior to the issue of final Occupation Certificate.

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

76. **Long-term Environmental Management Plan (EMP)**

On completion of remedial works, if ongoing management of any residual contamination is required a long-term Environmental Management Plan (EMP) is to be prepared for the long-term

management of any residual contamination remaining onsite. The EMP is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification Policy.

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

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

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

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

**77. Site Audit Statement**

Upon completion of the works, a Site Audit Statement must be submitted to Council and the Principal Certifying Authority on completion of remediation works. The Site Audit Statement must be prepared by a Site Auditor registered with the NSW Department of Planning, Industry and Environment (DPIE) and must be in accordance with the EPA's Site Audit Scheme and the protocol outlined in the NSW EPA (1997) document entitled Guidelines for Consultants Reporting on Contaminated Sites, and the NSW EPA (2017) Guidelines for the NSW Site Auditor Scheme. The Site Audit Statement must state the following:

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

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

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

**78. Validation for Remediation**

At the completion of remediation works a validation report is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification Policy and submitted to the satisfaction of the Principal Certifying Authority.

The Validation Report must be in accordance with the requirements of the following:

- State Environmental Planning Policy (Resilience and Hazards) 2021 compliance;
- Contaminated Land Management Act 1997;
- Relevant NSW EPA guidelines including the NSW EPA Guidelines for Consultants reporting on contaminated Land: Contaminated land guidelines 2020

The report shall document the following:

1. The extent of validation sampling, and the results of the validation testing; and
  2. That the remediation and validation of the site has been undertaken in accordance with the Remediation Action Plan (RAP) that has been reviewed and approved by the Site Auditor.
- Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

79. **Positive Covenant for encapsulated contamination**

If there is any residual contamination remaining onsite, the applicant must register a covenant on the title of the land under Section 88E of the Conveyancing Act 1919, to indicate that contamination is being managed under a management plan onsite.

The covenant shall be binding upon the registered proprietors of the subject land and successors on the title, binding the owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the residual contamination. This covenant shall also include, but not necessarily be limited to, the following;

- i) Survey delineating the position, depth and dimensions of any containment cells.
- ii) The Environmental Management Plan as reviewed by the NSW EPA accredited site auditor, as required by the development consent.

Details demonstrating compliance are to be submitted to Council and the Principal Certifier, prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure any residual contamination is managed appropriately in a way that protects environmental and human health.

80. **Street Building Number**

The street address number is to be affixed to the building adjacent the front entry or similar suitable sign position to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

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

81. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. 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.

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 and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

82. **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.

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.

83. **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 1mm

Reason: To maintain unobstructed sight distance for motorists.

84. **Parking Spaces**

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

Reason: To ensure accessibility is maintained.

85. **Ongoing Occupancy and Use**

Occupancy, use and general operations within the Units and building are not to create unreasonable impacts on other Units or occupancies within or adjacent the site. This includes, but is not limited to, storage of miscellaneous items in common areas, excessive noise or air pollution, waste product mismanagement, removal / destruction of landscape elements, obstruction of: footpath areas, parking, loading or fire accessways.

Reason: To ensure occupancy and uses are consistent with the approved use.

86. **Compliance with Long-term Environmental Management Plan (EMP) – If Required**

If a long-term Environmental Management Plan (EMP) is required for the long-term management of any residual contamination remaining onsite, the requirements of the EMP are to be fully implemented in perpetuity from the issue of any interim / final occupation certificate.

Any future intrusive ground works carried out that have the potential to conflict with any residual contamination remaining onsite must only be carried out in accordance with the EMP.

Reason: To ensure any residual contamination is managed appropriately in a way that protects environmental and human health.

87. **Allocation of Spaces**

The 66 car parking spaces shall be provided, made accessible, and maintained, at all times.

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

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

Reason: To ensure that adequate parking facilities to service the development are provided on site.



88. **Illumination Intensity and design**

The level of illumination and/or lighting intensity used to illuminate the signage is to be minimised and the design is to be such to ensure that excessive light spill or nuisance is not caused to any nearby premises.

Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties. (DACPLG12)

89. **Commercial Waste Collection**

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

Reason: To protect the acoustic amenity of surrounding properties.

90. **Deliveries**

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

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

91. **Operating Hours for Industrial / Warehouse Units**

Industrial units are only to operate between the hours of 7am to 6pm on any day.

Reason: Restrict noise impacts according to the NPfI (2017).

92. **Access to the Basement Storage Units by trailers**

The rental lease agreement for users of basement storage units must stipulate that access to the basement storage level is restricted to cars and small rigid vehicles only, up to 6.4m in length. Access by car and trailer combinations is to be prohibited

Reason: to prevent access by vehicles/combinations that cannot safely access and turn around in the basement