



<b>DATE OF DETERMINATION</b>	27 August 2024
<b>DATE OF PANEL DECISION</b>	26 August 2024
<b>PANEL MEMBERS</b>	Nicole Gurran (Acting Chair), Brian Kirk, Susan Budd, Annelise Tuor, Graham Brown
<b>APOLOGIES</b>	Peter Debnam
<b>DECLARATIONS OF INTEREST</b>	None

Panel Briefing held by teleconference on 21 August 2024, opened at 12pm and closed at 2:20pm.  
Papers circulated electronically on 7 August 2024.

#### **MATTER DETERMINED**

PPSSNH-446 - Northern Beaches -DA2023/1708 – 431 Pittwater Rd, North Manly – Demolition works and construction of a Recreation Facility (indoor) with signage.

#### **PANEL CONSIDERATION AND DECISION**

The panel considered: the matters listed at item 6, the material listed at item 7, and the material presented at briefings.

#### **Application to vary a development standard**

The application does not include a written request to vary a development standard.

#### **Development application**

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The Panel determined to approve the application for the reasons outlined in the Council Assessment Report, which the Panel notes was prepared by an independent planning consultant.

In particular, the Panel is satisfied that the proposed land uses (including the indoor recreation facility, café and associated business identification signage) are permissible in the RE1 Public Recreation zone, and consistent with the zone objectives under the Clause 2.3 of the Warringah Local Environmental Plan (LEP) 2011.

The proposal will deliver a new gymnastics training facility that will contribute to the breadth of recreation activities in the broader recreational precinct within which the site is situated. Although the proposal requires the removal of some trees and vegetation, as conditioned, the works will not have a detrimental impact on the surrounding natural environment.

The proposal meets all of the applicable LEP controls. The Panel notes that the gymnastics training facility itself has been elevated above ground to meet the flood planning level required for the medium risk flood precinct, with the exception of the waste room which has been designed to ensure bins are stored above the flood planning level, but can be lowered to allow collection from the adjacent loading bay.

The proposal is consistent with all of the applicable objectives and controls of the Warringah Development Control Plan 2011.

The Panel notes that the proposed number of car parking spaces for the facility (105) is lower than standard gym parking rates. This is supported by a Traffic Report prepared by Colston Budd Rogers & Kafes which included an analysis of the existing operation and other comparable sites. The Panel concurs with the independent planner's assessment that the reduced parking space provision is acceptable and appropriate for the nature of this proposal. The Panel notes that the proposal includes provision for 31 bicycle parking spaces.

Potential overshadowing impacts of the proposal were considered as part of the independent assessment, and on balance determined to be acceptable. The facility has been designed to minimise potential overshadowing impacts which are limited to a late period of the day on June 21. The Panel notes that the majority of the adjoining Nolan Reserve is unaffected by these impacts.

The bulk and scale of the building are deemed to be appropriate, and the independent assessment concludes that the development is of good design, having adopted passive design and sustainability initiatives which minimise the need for artificial lighting and ventilation. The design of the facility has incorporated advice from the Council's Design and Sustainability Advisory Committee, which has endorsed the proposal.

The facility is consistent with the provisions of the applicable District Park Plan of Management.

The Panel notes the advice of the independent planning consultant endorsing the memo prepared by Council's Manager Environmental Health dated 22 August 2024. This memo concludes that the Preliminary Site Investigation by GEOTESTA dated 9 October 2023, the hazardous building materials survey by Hibbs & Associates Pty Ltd dated November 2015 and Council's previous referral response in relation to contaminated land concerns confirms that the site will be able to be suitably remediated through the development process and will be suitable for its proposed use subject to specified conditions of consent.

Overall, the Panel is of the view that the proposal positively responds to its site and delivers a positive landscape outcome while delivering an important additional recreation facility to North Manly.

### **CONDITIONS**

The Development Application was approved subject to the conditions submitted in the Council Assessment Report/memo with amended/additional conditions imposed by the Panel to address contamination and the Plan of Management. The final conditions are Schedule 2.

### **CONSIDERATION OF COMMUNITY VIEWS**

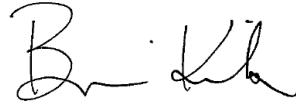
In coming to its decision, the panel considered written submissions made during public exhibition. The Panel notes that issues of concern included the location of the café and activation of the area; landscape buffering; the location of the car park; the visibility of solar panels; the public accessibility of the facility; boundary fencing; the "sports medicine" component of the facility (for physiotherapy treatments, which are an ancillary use); and traffic.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and the conditions of consent.

PANEL MEMBERS



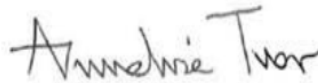
Nicole Gurran (Chair)



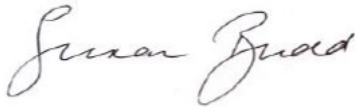
Brian Kirk



Graham Brown



Annelise Tuor



Susan Budd

## SCHEDULE 1

1	PANEL REF – LGA – DA NO.	PPSSNH-446 - Northern Beaches -DA2023/1708
2	PROPOSED DEVELOPMENT	Demolition works and construction of a Recreation Facility (indoor) with signage
3	STREET ADDRESS	431 Pittwater Road NORTH MANLY NSW 2100
4	APPLICANT/OWNER	Ian Hardy/ Northern Beaches Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>○ State Environmental Planning Policy (Planning Systems) 2021</li> <li>○ State Environmental Planning Policy (Industry and Employment) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ Warringah Local Environmental Plan 2011</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Warringah Development Control Plan 2011</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>• Coastal zone management plan: Coastal Management Act 2016</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council Assessment Report: <b>17 July 2024</b></li> <li>• Council memo dated 22 August 2024.</li> <li>• Written submissions during public exhibition: 18</li> <li>• Unique objections: 2</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 13 March 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam, Nicole Gurrán, Brian Kirk</li> <li>○ <u>Council assessment staff</u>: Peter Robinson, Gareth David, Steven Findley, Heidi Young, Darren Laybutt (external consultant)</li> <li>○ <u>Department staff</u>: Adam Iskander and George Dojas</li> <li>○ <u>Applicant representatives</u>: Ian Hardy, Melinda Stuart, Chris Mc Que, Greg Boston</li> </ul> </li> <li>• Assessment briefing: 1 May 2024  <u>Panel members</u>: Peter Debnam (chair), Nicole Gurrán, Brian Kirk, Graham Brown, Annelise Tuor</li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Council assessment staff</u>: Peter Robinson, Gareth David, Steven Findley, Heidi Young, Darren Laybutt (external consultant)</li> <li>○ <u>Department staff</u>: Adam Iskander and Suzie Jattan</li> <li>• Council Briefing: 21/8/2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Nicole Gurran (Acting chair) , Brian Kirk, Susan Budd, Graham Brown and Annelise Tuor</li> <li>○ <u>Council assessment staff</u>: Rodney Piggott , Maxwell Duncan, Darren Laybutt (external consultant)</li> <li>○ <u>Department staff</u>: Adam Iskander, George Dojas and Joel Burgess</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	<b>Approval</b>
10	<b>DRAFT CONDITIONS</b>	See Schedule 2

## SCHEDULE 2

### ATTACHMENT 1

#### Terms and Reasons for Conditions

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

#### GENERAL CONDITIONS

##### 1. Approved Plans and Supporting Documentation

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

Approved Plans – Architectural Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
004	1	Demolition Plan	Carr	25/05/2024
100D	3	Ground Floor – Dimensioned	Carr	25/05/2024
101	3	First Floor	Carr	25/05/2024
102	3	Roof	Carr	25/05/2024
200	3	Material Palette	Carr	25/05/2024
201	3	Elevations	Carr	25/05/2024
202	3	Elevations	Carr	25/05/2024
300	3	Section	Carr	25/05/2024
301	3	Section Details	Carr	25/05/2024
Stormwater Plans				
STORM-1	A	Stormwater Management Plan	Taylor Consulting	9 April 2024
STORM-2	A	Stormwater Management Details	Taylor Consulting	9 April 2024
Landscape Plans				
44_MGW C_01		Cover Page	Terraneo Landscape Design	04/05/2024
44_MGW C_02		Plant Schedule	Terraneo Landscape Design	04/05/2024
44_MGW C_03		Landscape Plan	Terraneo Landscape Design	04/05/2024
44_MGW C_12		General Specification and Typical Details	Terraneo Landscape Design	04/05/2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document

Manly Warringah Gymnastics Club Centre of Excellence – Acoustic Development Application	R0	Pure White Noise Acoustics	1 August 2023
Building Code of Australia Assessment Report	2	Fire Risk Solutions	10.10.23
Flood Risk Management Plan		Taylor Consulting	31 October 2023
Geotechnical Site Investigation Report		Geotesta	19 November 2021
Warringah Council Hazardous Building Material Survey		Hibbs & Associates	20 November 2015
Operational Plan of Management		Ian Hardy	21 August 2024
Targeted Preliminary Site Investigation Report		Geotesta	9 October 2023
Section J Compliance Report		Application Solutions	17/11 2023
Construction and Demolition Management Plan Manly Warringah Gymnastics Centre of Excellence		[no author]	[no date]
Waste Management Plan		Ian Hardy	27/07/2023

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

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

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

## 2. Design Amendment

The approved plans and documents must be amended in accordance with the following requirements:

- a) The rooftop solar panels are to be screened on the eastern side by:
  - a. A parapet of 1 metre in height above the eastern elevation gutter level, OR
  - b. A timber or non-reflective metal screen at a height of 1 metre.

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

Reason: To preserve visual amenity.

## 3. 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	[undated]

Department of Planning and Environment - Water	NSW DPE—Water Referral Response	18 June 2024
Transport for NSW	TfNSW Referral Response	12 January 2024

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

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

#### 4. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a recreation facility (indoor) and restaurant and cafe, in accordance with the Dictionary of the Warringah Local Environmental Plan 2011, as follows:

**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

**restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, but does not include the preparation and serving of food and drink to people that occurs as part of—

- (a) an artisan food and drink industry, or
- (b) farm gate premises.

Note—

Restaurants or cafes are a type of **food and drink premises**—see the definition of that term in this Dictionary.

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.

#### 5. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.



- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

## 6. 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, o 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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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.

- (e) 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.
- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
- i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
  - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) 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.

- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

## **FEES / CHARGES / CONTRIBUTIONS**

### **7. Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$103,554.02 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 \$10,355,402.00.

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.

## **8. 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.

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

### **9. Amended Landscape Plans**

Amended Landscape Plans shall be issued to Council for approval prior to the issue of a Construction Certificate to include the following details:

- a) the exit path connection to public open space shall ensure that proposed stairs shall be wholly contained within the lease area and that only an at-grade path beyond the lease area is to be constructed,
- b) the proposed lawn area shall be deleted and replaced as a planted landscape buffer continuing the planting along the eastern boundary, whereby the 3 metre landscape zone is planted as imposed by conditions,
- c) the 3 metre landscape zone along the eastern boundary shall not contain any subsurface nor above ground utilities and structures, except for the fire exit path connection to the public open space,
- d) the 3 metre landscape zone along the eastern boundary shall be mass planted with

small trees and other planting, including *Eleaocarpus reticulatus* at no more than 3 metre centres,

- e) all references to the 2 metre high 'spearhead' fencing shall be deleted from documents,
- f) the following nominated species shall be deleted: *Angophora*, *Westringia*, *Pimelea*, *Telopea*, and *Hibbertia*; and replaced with the following suggested species: trees - *Eucalyptus robusta*, *Tristaniopsis laurina*, *Melaleuca linariifolia*, *Callistemon salignus*, *Backhousia citriodora*, *Elaeocarpus reticulatus*, *Livistona australis*; shrubs - *Leptospermum laevigatum*, *Callistemon* species, dwarf *Melaleuca* varieties, *Baeckea linifolia*, *Doryanthes excelsa*; tall grasses - *Lomandra hystrix*, *Dianella caerulea*, *Ficinia nodosa*, *Juncus kraussii*.
- g) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located within garden beds,
- h) 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 minimum 6 plants per metre square for tall grasses 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 75mm depth of mulch.
- i) the following existing trees to be retained shall be documented: trees identified as number T17, T19, T21 x 2, T24 and T25, and the existing *Duranta* shrub hedge fronting Pittwater Rd / Kentwell Road. All trees outside of the lease area and in proximity to the proposed works shall be preserved as follows: trees identified as number T1 to T14 and T25,

Certification shall be submitted to the Principal Certifier that these amendments have been documented.

Reason: Landscape amenity.

#### **10. Flood effects caused by development**

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 3.71m AHD.

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

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

#### **11. Building components and structural soundness**

B1 - All new development below the Flood Planning Level of 3.71m AHD shall be designed and constructed from flood compatible materials.

B2 – The shelter in place refuge must be designed to ensure structural integrity up to the Probable Maximum Flood level of 5.7m AHD, with the remainder of the new development (including the proposed hydraulic lift) to be designed to ensure structural integrity up to the Flood Planning Level of 3.71 m AHD. The forces of floodwater, debris load, wave action, buoyancy and immersion must all be considered.

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 3.71m AHD, protected from flood water or have

residual current devices installed to cut electricity supply during flood events.

B4 - The proposed hydraulic bin lift proposed to access the waste room is to be designed and constructed from flood compatible materials. All electrical and hydraulic equipment, wiring and connections associated with the bin lift are to be protected from flood waters up to the FPL.

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

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

## **12. Floor levels**

C1 - Noting the approved architectural plans in Condition 1 identify the ground floor FFL of 4.5m AHD, the new floor levels within the development shall be set at or above the Flood Planning Level of 3.71m AHD and no higher than 4.5m AHD.

C3 - The underfloor area of the building below the 1% AEP flood level is to be designed to allow clear passage of floodwaters. At least 50% of the perimeter of the underfloor area must be of an open design from the natural ground level up to the 1% AEP flood level.

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

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

## **13. Car parking**

D1 - Open carpark areas and carports shall not be located within a floodway.

D2- The lowest floor level of open carparks shall be constructed no lower than the natural ground levels, unless it can be shown that the carpark is free draining with a grade greater than 1%.

D4 - Vehicle barriers or restraints such as bollards or railing are to be installed so as to prevent vehicle movement from the car parking area. Protection must be provided for all events up to the 1% AEP flood event.

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

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

## **14. Emergency response**

E1 - The shelter-in-place refuge must:

- a) Have a floor level at or above the Probable Maximum Flood level of 5.7m AHD; and
- b) Have a floor space that provides at least 2m<sup>2</sup> per person; and
- c) Be intrinsically accessible to all people on the site, plainly evident, and self-directing, with sufficient capacity of access routes for all occupants without reliance on electrical means.

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

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

#### **15. Fencing**

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

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

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

#### **16. Storage of Goods**

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level of 3.71m AHD unless adequately protected from floodwaters in accordance with industry standards.

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

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

#### **17. No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

#### **18. Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Brookvale Creek in accordance with Council's Coast and Catchment Team requirements.

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

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

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

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

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

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

Reason: To protect the receiving environment.

#### **20. Construction Environment Management Plan**

A Construction Environmental Management Plan (CEMP) must be prepared in accordance with the environmental risks and mitigation methods identified in the Waterway Impact Statement and must be kept in the site office.

An induction plan for site personnel must be prepared and implemented that addresses the CEMP. Induction records must be maintained and available onsite at all times.

The CEMP and site induction plan must be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate.

Reason: To protect native vegetation, wildlife, habitats and receiving waterways.

#### **21. Stormwater Outlet Structure to Creek**

Stormwater outlet structures to the creek must be designed in accordance with DPE Water's Guidelines for Outlet Structures on Waterfront land. Guidelines can be found on the DPE website.

All disturbed bank area to be revegetated with suitable local native riparian species at 8 plants by square meter. No mortar is to be used on the outlet scour protection. Rocks must be placed using an interlocking system with varying rock sizes. The surface should be a textured finish to break up and dissipate sheet flows.

This design is to be submitted to the Principal Certifier prior to the release of the Construction Certificate.

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

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

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



Site Boundaries and contours

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

Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)

Existing and proposed drainage patterns with stormwater discharge points

Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.

North point and scale.

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

Reason: Protection of the receiving environment.

### **23. 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 Plan from Taylor STORM 1A and STORM 2A dated 9 April 2024 and Council's Water Management for Development Policy.

The scour protection designs at the stormwater pipe outlets to the creek are to extent to the creek bed level.

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

Reason: Protection of the receiving environment.

### **24. Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:  
Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.  
Demonstrate that direct access from a public space/road is not viable for each stage of works.  
An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site  
via the Right of Carriageway during construction.

Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.

No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.

How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.

- If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
- A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
  - Compare the post-construction report with the pre-construction report,
  - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
  - Should any damage have occurred, identify remediation actions taken. ■ Be submitted to Council with the Occupation Certificate.

The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.

Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.

Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.

The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.

Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.

Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site. The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.

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

- o 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.
- o Proposed protection for Council and adjoining properties. o The location and operation of any on site crane.

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

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

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

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

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

#### **25. Vehicle Access & Parking**

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

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

- dimensioned plans be submitted for the driveway width to confirm that the driveways are appropriately sized.

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

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

#### **26. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

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

The application is to include Civil Engineering plans for the design of new footpath connection between the existing shared path along Pittwater Road frontage to the pedestrian entry at the corner of Pittwater Road and Kentwell

Road. which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer.

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

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

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

### **28. Mechanical ventilation Plans**

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

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

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

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

### **29. Acoustic Review**

Prior to the issue of any Construction Certificate details of all mechanical plant and the proposed locations are to be identified and an acoustic consultant is to review the plans and provide acoustic treatment recommendations to meet external noise levels at neighboring properties as per the Acoustic Report dated 1 August 2023 prepared by Pulse White Noise Acoustics.

Any recommendations provided by the acoustic consultant in relation to mechanical plant and other plant is to be implemented into the development.

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



Reason: To ensure potential noise impacts from plant operations are effectively managed

### **30. Data Gap Contamination Investigation**

A Data Gap Contamination Assessment post demolition of the existing structures/dwellings is to be undertaken by a suitably qualified person to address further potential areas of Environmental concern identified previously in the Preliminary Site Investigation prepared by GEOTESTA dated 9 October 2023 and to determine if any contamination hotspots exist within the footprint of the former sheds and dwellings.

This report is to be provided to the Principal Certifying Authority for review prior to Construction Certificate.

Reason: To ensure potential contamination is identified.

### **31. 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.

### **32. Data Gap Contamination Investigation**

A Data Gap Contamination Assessment post demolition of the existing structures/dwellings is to be undertaken by a suitably qualified person to address further potential areas of Environmental concern identified previously in the Preliminary Site Investigation prepared by GEOTESTA dated 9 October 2023 and to determine if any contamination hotspots exist within the footprint of the former sheds and dwellings.

Reason: To ensure potential contamination is identified.

### **33. Remedial Action Plan to be prepared if required**

A site-specific Remedial Action Plan (RAP) is to be prepared if the results of the data gap analysis identifies that contaminated material is required to be remediated/removed from site. The RAP must be prepared in accordance with the relevant guidelines and legislation including Managing Land Contamination Planning Guidelines, State Environmental Planning Policy (Resilience and Hazards) 2021 and NSW EPA Guidelines including Guidelines for Consultants reporting on contaminated Land.

The RAP 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.

Reason: Environmental Protections and State Environmental Planning Policy (Resilience and Hazards) 2021 compliance.

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

### **34. Tree Removal Within the Lease area**

This consent approves the removal of existing prescribed trees on the subject lease area as listed below and as identified in the Arboricultural Impact Assessment:

- a) trees identified as number T15, T16, T18, T20, T23, T27, T28, T29, T30 and T31,



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

Reason: To enable authorised development works.

### **35. Dilapidation Report of Land Owned or Managed by Council**

A dilapidation report established at the commencement of the works shall contain a survey of pre-existing land features including photographic record of the Land under Council's care control and management adjoining the development (Lease area), detailing the physical condition of items such as, but not exclusively limited to, physical assets such as crossovers, driveways, footpaths, utilities, furniture, play equipment, trees, gardens, lawn areas, bushland, and any rock outcrops.

This dilapidation report shall be submitted to Council and the Certifier prior to commencement of works, and shall be the basis for rectification of any damage to Council's assets as listed in the Post Construction Dilapidation report submitted prior to the issue of the Occupation Certificate.

Any damage to these assets during the works must be replaced like for like to the satisfaction of the Certifier, and shall be subject to acceptance by Council.

The applicant may be held liable to any damage to public infrastructures in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition. In this regard, where required, the damage deposit lodged by the applicant may be used by Council to repair such damage on Council's property. Reason: Protection of Council's assets.

### **36. 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 and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

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

### **37. Road Occupancy Licence (ROL) from Roads and Maritime Services**

The developer shall apply for a Road Occupancy Licence (ROL) from the TfNSW Transport Management Centre (TMC) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified with 'Prepare a Work Zone Traffic Management' accreditation or equivalent. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TMC.

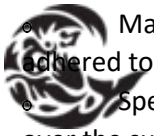
Reason: To inform the relevant Roads Authority of proposed disruption to traffic flows.

### **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.
- 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. Hazardous Building Materials Survey**

Hazardous building materials identified in the hazardous building materials survey by Hibbs and Associates PTY LTD report references as S8654-BUI00137 and dated November 2015 are to be removed in accordance with the recommended practices for removal specified in the report prior to demolition. Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To protect human health.

### **DURING BUILDING WORK**

### **40. Requirement to notify about new Acid Sulfate Soils evidence**

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

Reason: To protect the environment.





#### 41. Tree and Vegetation Protection

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

- i) all trees within the lease area not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment under section 6,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970- 2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

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

Reason: Tree and vegetation protection.

#### 42. Pre-clearance Survey

Any habitat for native wildlife (including tree hollows) approved for removal is to be inspected for native wildlife prior to its removal. If native wildlife is found within habitat to be removed, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.





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

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

Reason: To protect native wildlife.

#### **43. Wildlife Protection**

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

Reason: To protect native wildlife.

#### **44. Road Reserve**

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

Reason: Public safety.

#### **45. Aquatic environment protection**

Environmental safeguards are to be used during construction to protect the aquatic environment. Appropriate methods must be installed and secured to ensure damage to the aquatic environment is minimised. Actions and recommendations of the aquatic ecology report must be followed.

Reason: To protect the aquatic environment.

#### **46. 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.

#### **47. No Access Through Land Owned or Managed by Council**

Site access is not approved for delivery of materials nor construction of the development through adjacent land owned or managed by Council, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

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

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

Reason: Public safety and environmental protection.



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

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

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

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

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

#### **50. 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.

#### **51. 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.

#### **52. 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.

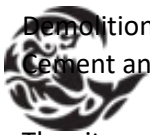
Reason: To ensure public safety.

#### **53. 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.

#### **54. Demolition Works - Asbestos**



Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

### **55. 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.

### **56. Waste/Recycling Requirements (Materials)**

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

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

### **57. Unexpected Finds**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning, Housing and Infrastructure.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning, Housing and Infrastructure.

Reason: Aboriginal Heritage Protection.



#### **58. Requirement to Notify about New Contamination Evidence**

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

Reason: To protect human health and the environment.

#### **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.

### **BEFORE ISSUE OF THE OCCUPATION CERTIFICATE**

#### **60. Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

#### **61. Toilet Facilities**

The WC for the cafe must be separated from areas where open food is handled, displayed or stored by an intervening ventilated space fitted with self-closing doors; or provided with self-closing doors and mechanical exhaust system that operate when the sanitary compartment is in use and for at least 30 seconds after the cubicle is vacated.

Reason: Legislative requirement.

#### **62. Registration of food Business**

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



Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

### **63. Landscape Completion**

Landscape works are to be implemented in accordance with the approved Amended Landscape Plans.

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

Reason: Environmental amenity.

### **64. Condition of Retained Vegetation**

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

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

Reason: Tree and vegetation protection.

### **65. Certification of Works as Executed**

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

1. Floor levels for ground floor, shelter in place refuge and garage are set at or above the required level
2. There has been no filling on the land other than what has been approved
3. Openings are provided under floor areas where required for the free passage of flood waters
4. Openings are provided in fencing where required for the free passage of flood waters
5. Vehicle barriers or restraints have been installed.

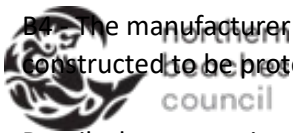
Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

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

### **66. Building Components and Structural Soundness**

B2 - A suitably qualified structural engineer is to certify the structural integrity of the shelter in place up to the Probable Maximum Flood level of 5.70m AHD, and the remainder of the new development (including hydraulic lift) up to the Flood Planning Level of 3.71 m AHD. The depth, velocity, debris load, wave action, buoyancy and immersion must all be considered.

B3 - A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level of 3.71m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.



The manufacturer of the proposed hydraulic bin lift is to certify that it has been designed and constructed to be protected from flood waters up to the flood planning level of 3.71m AHD.

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

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

#### **67. No Weeds Imported On To The Site**

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

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

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

#### **68. Priority Weed Removal and Management**

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

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

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

#### **69. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified Civil Engineer.

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

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

#### **70. Certification for Creek Works/stormwater outlets**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the creek works have been completed in accordance with the plans construction certificate plan.

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

Reason: To ensure creek works are completed in accordance with the consent approval.

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

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

Reason: Protection of the receiving environment.



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

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands.

Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

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

### **73. 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 visits Additionally 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





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- c) Work Health and Safety requirements
- d) Waste management and disposal
- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

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

Reason: Protection of the receiving environment.

#### **74. Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

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

Reason: Protection of the receiving environment.

#### **75. Post-Construction Dilapidation Report of Land Owned or Managed by Council**

Rectification works to Council's assets shall be contained in a Post Construction Dilapidation report submitted to Council prior to the issue of the Occupation Certificate.

The applicant is liable for any damage to public infrastructures in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition. In this regard, where required, the damage deposit lodged by the applicant may be used by Council to repair such damage on Council's property.

Reason: Protection of Council's assets.

#### **76. 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.

#### **77. Shared Zone Bollard**

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

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

Reason: To ensure compliance with Australian Standards.

#### **78. 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.

#### 79. Environmental Reports Certification

Written certification from a suitably qualified person(s) shall submit to the Principal Certifier and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

<b>Approved Reports and Documentation</b>			
<b>Document Title</b>	<b>Version Number</b>	<b>Prepared By</b>	<b>Date of Document</b>
Manly Warringah Gymnastics Club Centre of Excellence – Acoustic Development Application	R0	Pure White Noise Acoustics	1 August 2023
Building Code of Australia Assessment Report	2	Fire Risk Solutions	10.10.23
Flood Risk Management Plan		Taylor Consulting	31 October 2023
Geotechnical Site Investigation Report		Geotesta	19 November 2021
Warringah Council Hazardous Building Material Survey		Hibbs & Associates	20 November 2015
Operational Plan of Management		Ian Hardy	21 August 2024
Targeted Preliminary Site Investigation Report		Geotesta	9 October 2023
Section J Compliance Report		Application Solutions	17/11 2023
Construction and Demolition Management Plan Manly Warringah Gymnastics Centre of Excellence		[no author]	[no date]

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

Reason: To ensure compliance with standards.

#### 80. Kitchen Design, construction and fit out of food premises certification

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

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



### **81. Mechanical Ventilation certification**

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

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

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

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

### **82. Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

### **83. Compliance with Contamination Management**

Prior to the issue of an Occupation Certificate, if applicable, any contamination identified within the Data Gap Contamination Assessment required to be undertaken by condition 32 of this consent must be managed according to the recommendations of the report on the Data Gap Analysis prepared by a suitably qualified person. Details demonstrating compliance with the recommendations of the report are to be submitted to the Principal Certifier.

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

### **84. Validation for Remediation**

At the completion of any required remediation works (if the results of the data gap analysis identify that contaminated material is required to be remediated/removed from site) 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:



- Environmental Protections and 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:

- a. The extent of validation sampling, and the results of the validation testing; and
- b. That the remediation and validation of the site has been undertaken in accordance with the Remedial Action Plan.

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

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

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

#### **85. 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 Amended Landscape Plans and any conditions of consent.

Reason: To maintain local environmental amenity.

#### **86. Flood Management**

##### Flood Emergency Response (E1)

Appropriate access to the shelter in place refuge is to be maintained at all times from all areas within the development and it must contain as a minimum: sufficient clean water for all occupants; portable radio with spare batteries; torch with spare batteries; and a first aid kit.

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

#### **87. Maintenance of Stormwater Treatment Measures**

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.

#### **88. Geotechnical Recommendations**



Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

### **89. Hours of Operation**

The hours of operation are to be restricted to:

- o Monday to Friday – 6:30 am to 10:00pm o Saturday – 6:30 am to 10:00 pm
- o Sunday and Public Holidays – 8:00 am to 4:00 pm

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

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

### **90. Acoustic Requirements**

To ensure compliance with the project noise emission requirements identified within the acoustic report prepared by Pulse White Noise Acoustics

- Windows are to be closed after 9:30pm; and
- Music no louder than 75dB SWL to be played in the venue.

Reason: To ensure acoustic compliance in an operational situation.

### **91. Plan of Management**

Compliance with the Operational Plan of Management dated May 2024 and referenced in Condition 1 [Approved Plans and Supporting Documentation], is required in relation to noise management for the operation of the development.

The Plan of Management is to be reviewed at a minimum on an annual basis. Any amendments to the Plan of Management are not to be enacted without the written approval of Council's Executive Manager – Development Assessment.

Council will undertake to not unreasonably withhold its approval and to respond to requests to amend in a timely manner.

Any proposed amendments to the Plan of Management must not conflict with any other condition of consent. Should an amendment conflict, a Section 4.55 Modification Application may need to be submitted.

Reason: To ensure the noise amenity of the area

### **92. Hours of Illumination**

Illumination of signage at the subject premises shall cease between the hours of 10PM and 7AM daily. Signs must not flash, move or be constructed of neon materials.

Reason: To ensure residential premises are not affected by inappropriate or excessive illumination.

### **93. 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.



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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.

**94. Onsite Encapsulation of Contaminated Material**

No onsite encapsulation of contaminated material is to occur without approval under a separate DA or modification submitted to Council.

Reason: To allow for a proper evaluation of any proposed encapsulation works and to ensure that any contaminated material is effectively capped and managed long term.