

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1247
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 100 DP 628909, 940 Pittwater Road DEE WHY NSW 2099
Proposed Development:	Replace service station fuel storage tanks and associated works
Zoning:	Warringah LEP2011 - Land zoned R3 Medium Density Residential
Development Permissible:	No
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Dee Why RSL Club Ltd
Applicant:	7-Eleven Stores Pty Ltd

Application Lodged:	22/10/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	30/10/2020 to 20/11/2020
Advertised:	30/10/2020
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,077,439.00
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PROPOSED DEVELOPMENT IN DETAIL

The application is for the replacement of Underground Petroleum Storage System (UPSS) at the existing 7-Eleven Service Station. The works consists of the following:

- Removal of 6 x existing underground fuel tanks and associated fuel lines;
- Kerbing works and relocation of car park 6;
- Installation of 3 x new 60kL underground fuel tanks and associated fuel lines;
- Removal and reinstallation of the vent stack located at the eastern boundary of the site to the south eastern corner of the site;
- Removal and replacement of existing LPG Dispenser;
- Associated soil testing and removal and surface re-establishment works

The existing overhead fuel canopy and convenience store will remain unaffected by the proposed works.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R3 Medium Density Residential
 Warringah Local Environmental Plan 2011 - 6.2 Earthworks
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - C2 Traffic, Access and Safety
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - C7 Excavation and Landfill
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - E8 Waterways and Riparian Lands
 Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot 100 DP 628909 , 940 Pittwater Road DEE WHY NSW 2099
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Pittwater Road and the northern side of Hawkesbury Avenue.</p> <p>The site is irregular in shape with a frontage of 54.8m along Pittwater Road and secondary frontage of 25.9m along Hawkesbury Avenue. The site has a surveyed area of 1867m².</p>

The site is located within the R3 Medium Density zone and accommodates a single storey 7-Eleven service station with a convenience store occupying the central portion of the L-shaped site. A fuel canopy covering three (3) double sided fuel bowsers is located within the centre of the site and runs parallel with Pittwater Road. There are seven (7) existing underground storage tanks (UST) that are active across the site.

The site is at a surveyed elevation of 10 metres Australian Height Datum with a downward slope from South-West to North-East. The closest natural water body is the Dee Why Lagoon, located approximately 250m from the site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by medium density residential housing. The site is also adjacent to Dee Why RSL to the south.

Map:



SITE HISTORY

The land has been used for the purpose of a service station for an extended period of time. A search of Council's records has revealed the following relevant history:

- Development Consent **82/251** - Demolition of the existing service station and replacement by convenience store, ancillaries, petrol outlet and additional petrol tanks - Approved 1982
- Development Consent **1987/269** - Erection of signage associated with existing self serve petrol outlet and convenience store - Approved 1987
- Development Consent **DA1998/0793**- Installation of underground LPG vessel - Approved 1998
- Complying Development Certificate **CDC2011/0064** - Private SEPP Shop Fitout For "7 Eleven" -

Approved 2011

- Development Consent **DA2018/1506** - Installation of an advertising structure / sign - Approved 19/11/2018
- **DA2020/0197** - Replacement of Service Station fuel storage tanks - Withdrawn 17/06/2020

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	<p>Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for the purposes of a service station for an extended period of time. The proposed development retains the service station use of the site.</p> <p>In response to the requirements of the SEPP, the applicant has submitted Remediation Action Plan (RAP) prepared by WSP Australia Pty Ltd, dated 22 January 2020 .</p> <p>The report has been assessed by Council's Environmental Health Officers, whom are satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the Recommendation of this report</p>
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was</p>

Section 4.15 Matters for Consideration'	Comments
	<p>requested in relation to new swept paths</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

- Does the existing use satisfy the definition of "existing use" under the *Environmental Planning and Assessment Act 1979* (the 'Act')?

Section 4.65 of the Act defines an existing use as:

"(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use, and

(b) the use of a building, work or land:

- (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
- (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."*

This necessarily requires the following questions to be answered:

1. Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?

Comment:

The Applicant has not provided any evidence to substantiate that the use of the land as a service station commenced as a lawful purpose prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

2. Was the use of the land granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?

Comment:

The use of the land as a service station was lawfully approved by Council on 17 August 1982, prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

3. Has the use of the land been carried out within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?

Comment:

The Applicant has not provided any evidence to substantiate that the use of the land was carried out within one year from the date on which the provision having the effect of prohibiting the use commenced.

- **What is "the land on which the existing use was carried out" for the purposes of cl 42(2) (b) of the Environmental Planning and Assessment Regulation 2000 ("the Regulation")?**

Meagher JA in *Steedman v Baulkham Hills Shire Council* [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: "if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose".

Comment:

Having regard to the above case law, it is noted that the whole of the area of the land was physically used for the purpose in question and therefore, it is considered that the land was used for that purpose and that existing use rights apply to the whole of the subject site.

- **What are the planning principles that should be adopted in dealing with an application to alter enlarge or rebuild and existing use?**

The judgement in *Fodor Investments v Hornsby Shire Council (2005) NSWLEC 71*, sets out the planning principles that should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights.

The following four principles adopted by the NSW Land and Environment Court in this case will have general application in dealing with development applications that rely on existing use rights:

1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

Comment:

The proposed alterations consist of the replacement of underground fuel tanks and as such will not change the scale, setback, bulk or height of the site. The proposal will not increase the approved height and floor space on site. The proposed works aims to bring the service station systems up to current environmental standard and in turn, enhance the services provided.

2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Comment:

As above, the proposal seeks the replacement of underground fuel tanks majority of the works being underground, and therefore will not change the scale and bulk of the building. There is no change to the building floor area or envelope.

3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Comment:

As above, the majority of the proposed works will be underground and will not be visible after the

completion of works. Subject to recommended conditions and compliance with environmental reports, the proposed alterations will maintain an acceptable level of impact on neighbours.

4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Comment:

The proposed alterations uphold amenity and functionality within the site.

Conclusion

The use has been approved under a previous environmental planning instrument and, therefore, is a lawful use. Subsequently, the use can be retained under the current environmental planning instrument (WLEP 2011).

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Consulting Services, dated 21/01/2020) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

The proposal was also referred to NSW Rural Fire Service who has reviewed the proposal and provided a response stating that the proposal is acceptable subject to compliance with recommended conditions. These recommendations will be included as a condition of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 30/10/2020 to 20/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Richard Adam Buzas	14/84-88 Pacific Parade DEE WHY NSW 2099

The following issues were raised in the submissions and each have been addressed below:

- Traffic, Access and Safety

The matters raised within the submissions are addressed as follows:

- **Traffic, Access and Safety**

Comment:

An objection has been received in relation to safety concerns associated with the existing access arrangements of the site. In particular this objection raises concerns with the use of the site as a "shortcut" to avoid the traffic lights on the intersection of Pittwater Road and Hawkesbury Avenue and the associated pedestrian and traffic safety issues this creates. Concern was also raised regarding fuel tanker access and safety concerns associated with this.

These matters have been addressed within Section C2 (Traffic, Access and Safety) of this report. In summary, the proposal is supported by a traffic report and associated swept paths prepared by Colston Budd Rogers & Kafes Pty Ltd. This report demonstrates how fuel tankers will enter and exit the site and makes recommendations to address safety concerns associated with this process. The proposal has also been reviewed by Council's Traffic Engineer and Transport for NSW in relation to traffic and safety who have raised no objection to the proposal subject to recommended conditions. In order to minimise safety impacts associated with entry and exit driveways, Council's Traffic Engineers have recommended conditions of consent which require speed humps accompanied by appropriate signage to be installed by the applicant at all entry and exit driveways.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p>
Environmental Health (Acid Sulphate)	<p>General Comments</p> <p>Application is for Underground Petroleum Storage System (UPSS) replacement at 940 Pittwater Road in Dee Why, NSW 2099.</p> <p>Works will include removal of six (6) existing underground storage tanks (USTs) and their associated fuel and vent line, the installation of three (3) new USTs and associated fuel lines, removal and relocation of the LPG dispenser, soil excavation testing and re-establishment of surfaces.</p> <p>Applicant has provided a Remediation Action Plan (RAP) for the UPSS Replacement prepared by WSP Australia Pty Ltd, Dated 22 January 2020 (reference: PS107718-Dee Why-CLM-REP-RevB</p>

Internal Referral Body	Comments
	<p>Final.docx).</p> <p>The RAP advises the following regarding Acid Sulphate Soils:</p> <p><i>A review of the Commonwealth Scientific and Industrial Research Organisation (CSIRO) Australian Soil Resource Information System (ASRIS) database (http://www.asris.csiro.au/mapping/viewer.htm) and NSW Government Sharing and Enabling Environmental Data (SEED) (geo.seed.nsw.gov.au/Public_View) conducted on 2 December 2019 showed that the site is located within an area where there is an extremely low probability of the occurrence of acid sulfate soils. The site is listed as Class 5 in the Warringah Local Environmental Plan 2011, and is directly adjacent to Class 3 listed land. However, as the UPSS replacement program is not anticipated to include a lowering of the groundwater table, and with groundwater standing water levels at 5 m below surface, an acid sulfate soils management plan is not considered to be required for the works.</i></p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Contaminated Lands)	<p>General Comments</p> <p>Application is for Underground Petroleum Storage System (UPSS) replacement at 940 Pittwater Road in Dee Why, NSW 2099.</p> <p>Works will include removal of six (6) existing underground storage tanks (USTs) and their associated fuel and vent line, the installation of three (3) new USTs and associated fuel lines, removal and relocation of the LPG dispenser, soil excavation testing and re-establishment of surfaces.</p> <p>Applicant has provided a Remediation Action Plan (RAP) for the UPSS Replacement prepared by WSP Australia Pty Ltd, Dated 22 January 2020 (reference: PS107718-Dee Why-CLM-REP-RevB Final.docx).</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>Application is for Underground Petroleum Storage System (UPSS) replacement at 940 Pittwater Road in Dee Why, NSW 2099.</p> <p>Works will include removal of six (6) existing underground storage tanks (USTs) and their associated fuel and vent line, the installation of three (3) new USTs and associated fuel lines, removal and relocation of the LPG dispenser, soil excavation testing and re-establishment of surfaces.</p>

Internal Referral Body	Comments
	<p>The design and installation of the new UPSS will need to comply with the requirements of <i>Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019</i>.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 The subject land has been included on the 'Coastal Environment Area' map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clauses 13 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Warringah LEP 2011 and Warringah DCP 2011 No other coastal related issues identified. As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.</p>
NECC (Development Engineering)	Development Engineering approval subject to conditions.

Internal Referral Body	Comments
NECC (Stormwater and Floodplain Engineering – Flood risk)	The property is affected only by the Low Flood Risk Precinct, and there are no applicable flood related development controls.
NECC (Water Management)	The excavation for the proposed replacement tanks is not expected to intercept groundwater. If any seepage occurs during construction, the tailwater must be extracted and removed to a facility able to process contaminated water, due to the likelihood of hydrocarbon contamination.
Traffic Engineer	<p>The proposed development application (DA) is to replace the existing underground petrol tanks at the 7-Eleven petrol station in Dee Why.</p> <p>The proposal is supported subject to the applicant to satisfy the Transport for NSW requirements raised in the Transport for NSW concurrence dated 5 March 2021, as well as the conditions below.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
NSW Rural Fire Service – local branch (s4.14 EPAA)	The proposal was referred to referred to NSW Rural Fire Service who has reviewed the proposal and provided a response stating that the proposal is acceptable subject to compliance with recommended conditions. These recommendations will be included as a condition of consent.
Concurrence – NSW Roads and Maritime Services - SEPP Infrastructure (cl 100 Development on proposed classified road)	The proposal was referred to referred to Transport for NSW (TfNSW) for concurrence in accordance with Section 138 of the Roads Act, 1993. TfNSW has reviewed the proposal and provided a response stating that the proposal is acceptable subject to compliance with recommended conditions. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 33 - Hazardous and Offensive Development

Clause 13 of SEPP 33 requires the consent authority to consider (in addition to any other matters specified in the Act or in an environmental planning instrument applying to the development):

- (a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and*
- (b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and*
- (c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and*
- (d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and*
- (e) any likely future use of the land surrounding the development.*

Comment:

The applicant has submitted a SEPP 33 Risk Screening Assessment and Preliminary Hazard Analysis (PHA) by accredited dangerous goods consultant HAZKEM Pty Ltd in relation to the proposed development in accordance with the current circulars and guidelines.

The SEPP 33 Risk Screening Assessment found the site to be "potentially hazardous". Therefore a Preliminary Hazard Analysis (PHA) was completed to determine if the proposal is acceptable for the site.

The submitted Preliminary Hazard Analysis found societal risk from the development to be negligible and the equipment on site has an acceptable risk provided all relevant design factors as detailed within the SEPP 33 report and in the relevant standards are met.

The proposal and submitted reports have been reviewed by Council's Environmental Health Officers who have raised no objection to the proposal subject to recommended conditions.

Given the above recommendation of the report, the proposal is found to be consistent with the requirement of SEPP 33 subject to compliance with the recommendations of the submitted reports and recommended conditions of consent.

SEPP 55 - Remediation of Land

Clause 7(1)(a) of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) states that a consent authority must not consent to the carrying out of any development on land unless;

- It has considered whether the land is contaminated, and
- If the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out, and
- If the land requires remediation to be made suitable for the development proposed to be carried out, it is satisfied that the land will be remediated before the development is carried out.

Council records indicate the site has been in continuous use as a service station for well over 20 years. In this regard, it is likely the site would contain some subsurface contamination. Further, the removal and replacement of underground storage tanks are subject to statutory monitoring under the provisions of the Protection of the Environment Operations Act 1997 and associated regulations.

Clause 7(1)(a) of SEPP 55 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of the SEPP, the applicant has submitted a Remediation Action Plan dated 22 January 2020 and prepared by WSP. This investigation states:

Based on the results of previous environmental investigations and the ongoing storage of fuels at the site, the contaminants of potential concern for the site were identified as:

- *total recoverable hydrocarbons (TRH)*
- *benzene, toluene, ethylbenzene, xylene and naphthalene (BTEXN)*
- *PAHs.*

Analysis of PAHs and heavy metal concentrations (arsenic, cadmium, chromium, copper, lead, mercury, nickel and zinc) may be necessary for waste classification purposes.

Therefore, as the Investigation indicates that there is a potential for contaminants to exist on the site, Clauses 7(1)(b) and 7(1)(c) of the SEPP must be considered.

Clause 7(1)(b) stipulates that *"if the land is contaminated, it [Council] is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out"*.

Given the claimed potential of contamination on the site as noted in the Phase 1 Investigation, Remediation Action Plan has been provided which confirms the location and type of contaminants on the site and provides recommendations for the remediation of the site to enable the development to be safely carried out. In this regard, Council is satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the Recommendation of this report.

Clause 7(1)(c) stipulates that *"if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose"*.

The report has been assessed by Council's Environmental Health Officers, whom are satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the Recommendation of this report. As the site is to remain as a service station, the site is considered suitable for its intended use subject to conditions.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections subject to recommended conditions.

Roads and Maritime Service (RMS)

Clause 101 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment:

The application was referred to the Transport for NSW who did not raise any objection to the proposal subject to recommended conditions. These recommended conditions will imposed within any consent.

Clause 104 and Schedule 3 of the SEPP requires that the following development(s) are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Service stations (including service stations which have retail outlets)	200 or more motor vehicles	Any size or capacity

Note: Under Clause 104(2) of the SEPP, 'relevant size of capacity' is defined as meaning:

- “(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road - the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
- (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection - the size or capacity specified opposite that*

development in Column 3 of the Table to Schedule 3."

Comment:

The application was referred to the Transport for NSW who did not raise any objection to the proposal subject to recommended conditions. These recommended conditions will imposed within any consent.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
 - (d) *any other development.*

Comment:

N/A

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

N/A

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as "coastal vulnerability area" on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of*

- the building or works, and*
- (b) *the proposed development:*
- (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
 - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.*

Comment:

N/A

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*

- (f) *Aboriginal cultural heritage, practices and places,*
- (g) *the use of the surf zone.*

Comment:

The proposal would maintain the existing use of the site. The proposal has been assessed by Council's Environmental Health, Water Management and Coast & Catchment Officers who are satisfied that the proposal would create adverse impact to the coastal environment area subject to recommended conditions and compliance with submitted Environmental and Remediation Action reports. The proposal would not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

Council is satisfied the proposed works are designed, and can be managed, to avoid adverse impacts based upon the matters identified in this clause.

14 Development on land within the coastal use area

- (1)
 - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposal does not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space will not be adversely effected by the proposal. The proposed

works are not likely to cause an adverse impact upon the matters identified in this clause subject to recommended conditions.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

Council is satisfied that the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	12m	No change	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R3 Medium Density Residential

The proposal seeks an alteration and addition to an existing service station. Service stations are prohibited within the R3 Medium Density Residential Zoning within Warringah LEP 2011. However, as discussed elsewhere within this report (See Existing Use Rights), the use has been approved under a previous environmental planning instrument and, therefore, is a lawful use. Subsequently, the use can be retained under the current environmental planning instrument (WLEP 2011).

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

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

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

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

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality. The proposal has been reviewed by Council's Development Engineer and Water management Officer who have raised no objection subject to recommended conditions.

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

Comment: The proposal will retain the existing service station use of the the site and will not unreasonably limit the likely future use or redevelopment of the land given its current usage.

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

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

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

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

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

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

- (f) the likelihood of disturbing relics*

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or*

environmentally sensitive area

Comment: The proposal has been reviewed by Council's Water Management and Riparian Officer and Coast and Catchments Officer who have raised no objection subject to recommended conditions and compliance with the submitted Environmental Reports and Remediation Action Plan

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

6.4 Development on sloping land

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

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

Comment: The proposal has been reviewed by Council's Development Engineers who have raised no objection subject to recommended conditions. The area subject to the excavation is over flat ground that has been previously disturbed. It is unlikely that the excavation works will result in landslip hazards, given the site is within landslip "Area A". To ensure this, a suitable condition has been included with this consent requiring the applicant to submit a Preliminary Geotechnical Report prepared by a suitably qualified geotechnical expert to the Certifying Authority prior to the issue of a Construction Certificate. The report is to identify any potential geotechnical risks and determine whether a full geotechnical investigation is required prior to the commencement of works.

Appropriate conditions have also been imposed on the consent to sure the stability of adjoining land, good engineering practice and no adverse impact on existing subsurface flow conditions.

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

Comment: The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

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

Comment: The application has also been assessed by Council's Development Engineers and Water Management Officer in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Number of storeys	3	1	N/A	Yes

B3 Side Boundary Envelope	5m	No encroachment	N/A	Yes
	5m	No encroachment	N/A	Yes
B5 Side Boundary Setbacks	4.5m - North	28.0m (new dispenser)	N/A	Yes
	4.5m - East	7.7m (fuel tank)	N/A	Yes
B7 Front Boundary Setbacks	6.5m - Pittwater Road	Nil (Staff car parking) 5.2m (Fuel tank)	100%	No
B7 Front Boundary Setbacks	3.5m - Hawkesbury Road	6.7m (Fuel tank)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	21.1% (No change)	N/A	No Change

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B2 Number of Storeys	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

Clause B7 of the WDCP 2011 requires development to be setback at least 6.5m from front boundaries. The proposed new staff parking space will have a nil setback from the front boundary (adjoining Pittwater Road) and the proposed underground fuel tank would be 5.2m from the front boundary (adjoining Pittwater Road) which fails to satisfy the numeric requirement.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The staff carparking space will not have an associated structure and the proposed fuel tank will be located underground. As such, the proposal will not unreasonably detract from a sense of openness of the site.

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

Comment:

The proposal would not result in a substantial change to the appearance of the site as viewed from the street and areas of existing landscaping will be maintained. The existing building, canopy and signage will not be altered by the proposal.

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

Comment:

As above, the proposal would not result in a substantial change to the appearance of the site as viewed from the street or public place. As such it would not impact upon the visual quality of streetscapes and public spaces.

- *To achieve reasonable view sharing.*

Comment:

The proposal would not impact upon existing views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the objectives of this control. Therefore, the application is supported on merit in this particular circumstance.

C2 Traffic, Access and Safety

The proposal is supported by a traffic report and associated swept paths prepared by Colston Budd Rogers & Kafes Pty Ltd. This report demonstrates how fuel tankers will enter and exit the site and makes recommendations to address safety concerns associated with this process. Such measures include:

- Tanker deliveries would occur between when the petrol station is not busy, between 12.00am and 6.00am;
- The tanker would enter the site via the northern driveway on Pittwater Road, park on the southern part of the site, unload fuel and then exit via a left turn onto Hawkesbury Avenue;
- The northern driveway will be widened (as suggested in the second point of the TfNSW letter).
- Between 12.00am and 6.00am (or after the tanker has entered the site), the fuel pumps on the northern side of the northern bowser would have "not use signs" and cones would be placed on the northern side of this bowser (to stop cars parking on this side of the bowser). This is to keep this area clear so that the tanker can travel through the site.

The proposal has been reviewed by Council's Traffic Engineer and Transport for NSW who have raised no objection to the proposal subject to recommended conditions.

An objection has been received in relation to safety concerns associated with the existing access arrangements of the site. In particular this objection raises concerns with the use of the site as a "shortcut" to avoid the traffic lights on the intersection of Pittwater Road and Hawkesbury Avenue and the associated pedestrian and traffic safety issues this creates. The proposal has been reviewed by Council's Traffic Engineer and Transport for NSW in relation to traffic and safety who have raised no objection to the proposal subject to recommended conditions. In order to minimise safety impacts associated with entry and exit driveways, Council's Traffic Engineers have recommended conditions of consent which require speed humps accompanied by appropriate signage to be installed by the applicant at all entry and exit driveways.

Concern was also raised fuel tanker access and safety concerns associated with this. As specified above the proposal is supported by a traffic report and associated swept paths prepared by Colston Budd Rogers & Kafes Pty Ltd. This report demonstrates how fuel tankers will enter and exit the site and makes recommendations to address safety concerns associated with this process. The proposal has been reviewed by Council's Traffic Engineer and Transport for NSW in relation to traffic and safety who

have raised no objection to the proposal subject to recommended conditions.

Having regard to the above assessment and considering that the site retains existing access arrangements, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance subject to recommended conditions of consent.

C3 Parking Facilities

Merit consideration

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

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Service Station	5 spaces per 100 m2 GFA of convenience store	eight (8)	six (6)	-2
Total		8	6	2

The existing service station includes six (6) car parking spaces. Based on the DCP requirements, the service station would require a total of eight (8) parking spaces. The site currently contains six (6) parking spaces. These proposal seeks to relocate an existing parking space from the eastern boundary to the western boundary, in order to allow for sufficient space for the maneuvering of the fuel tanker and the ingress and egress of vehicles. The car space relocation ensures that the fuel delivery can take place whilst allowing vehicles to simultaneously exit the site. The relocated space will be a dedicated staff space. As the proposal retains a net of six (6) parking spaces the proposal it will be short by two (2) spaces.

Despite the shortfall in car parking, the five (5) visitor and (1) staff car parking space is considered to be sufficient to accommodate the demand associated with the Service Station and 7-Eleven convenience store.

The subject site will be primarily used for the purchase of fuel as the 7-Eleven convenience store retail section of the service station offers limited goods for sale. Two major supermarkets and Dee Why town Center is located approximately 300m south of the site that would accommodate customers that required a larger range of items to purchase. Furthermore, it is considered that majority of customers would undertake linked trips, where they refuel and visit the 7-Eleven retail shop for goods. As such, the fuel bays act as additional temporary parking bays. Therefore, the six spaces is considered sufficient in this instance.

Council's Traffic Engineers and Transport for NSW have reviewed the proposal and raise no objection subject to recommended conditions.

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

Comment:

The proposed new single staff parking space located on the western boundary (adjoining Pittwater road). This parking space would be over existing hard surface area and would not contain any associated structure. As such it is considered that a single hardstand space would have minimal visual impact on the street, particularly given the nature of the existing site.

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

Comment:

As above, the proposed new parking space would be over existing hard surface area and would not contain any associated structure. As such it is considered that a single hardstand space would have minimal visual impact on the street and would not dominate the street frontage, particularly given the nature of the existing site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C7 Excavation and Landfill

The proposal incorporates excavation and landfill works in order to facilitate the removal and replacement of underground storage tanks. The application is supported by a Remediation Action Plan dated 22 January 2020 and prepared by WSP. This report makes a number of recommendations and contingency plans in relation to excavation and landfill of the site. These include (but are not limited to):

- Assessment of groundwater
- Soil sampling and remediation
- Site safety and contingency management plan including odour and vapour, waste; dust, noise, water and sediment management, incident response.

The report has been assessed by Council's Environmental Health Officers, Development Engineer and Water Management Officer who are satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the Recommendation of this report. A condition has been imposed ensuring a Health, Environmental and Safety Plan (HESP) is prepared for the proposed remedial works in accordance with the requirements of the Remedial Action Plan (RAP),

The proposal has been reviewed by Council's Development Engineers who have raised no objection subject to recommended conditions. The area subject to the excavation is over flat ground that has been previously disturbed. It is unlikely that the excavation works will result in landslip hazards, given the site is within landslip "Area A". To ensure this, a suitable condition has been included with this consent requiring the applicant to submit a Preliminary Geotechnical Report prepared by a suitably qualified geotechnical expert to the Certifying Authority prior to the issue of a Construction Certificate. The report is to identify any potential geotechnical risks and determine whether a full geotechnical investigation is required prior to the commencement of works.

In order to ensure that there are no adverse impacts on the adjoining neighbours, conditions have been imposed which:

- Ensure structural adequacy of landfill and excavation work;
- Ensure no damage to adjoining properties through the provision of pre and post construction dilapidation reports;
- Ensure the Waste Management Plan is adhered to;
- Ensure the Remediation Action Plan is adhered to;
- Ensure the proper installation and maintenance of sediment and erosion control;
- Ensure topsoil is stockpiled on site and stabilised during construction works;
- Advise no works are permitted on adjoining land;

The proposal has been assessed by Council's Water Management and Riparian Officer, and Environmental Health Officers who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance subject to recommended conditions.

D1 Landscaped Open Space and Bushland Setting

The proposed development is predominantly under ground and would not alter the existing amount of landscaped open space on the site. As the proposed development does not change the amount of landscaped open space provided on the site, does not seek the removal of any trees or vegetation and does not alter the overall landscape character of the existing site, the maintenance of the non-compliant landscaped open space is considered to be acceptable in this instance.

E8 Waterways and Riparian Lands

The proposal was referred to Council's Water Management and Riparian Officer who raised no objection to the proposal subject to recommended conditions.

E10 Landslip Risk

The proposal has been reviewed by Council's Development Engineers who have raised no objection subject to recommended conditions. The area subject to the excavation is over flat ground that has been previously disturbed. It is unlikely that the excavation works will result in landslip hazards, given the site is within landslip "Area A". To ensure this, a suitable condition has been included with this consent requiring the applicant to submit a Preliminary Geotechnical Report prepared by a suitably qualified geotechnical expert to the Certifying Authority prior to the issue of a Construction Certificate. The report is to identify any potential geotechnical risks and determine whether a full geotechnical investigation is required prior to the commencement of works.

Appropriate conditions have also been imposed on the consent to ensure the stability of adjoining land, good engineering practice and no adverse impact on existing subsurface flow conditions.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$10,774 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,077,439.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/1247 for Replace service station fuel storage tanks and associated works on land at Lot 100 DP 628909, 940 Pittwater Road, DEE WHY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
HAZ-2563-A02 Rev.2 (Demolition Layout)	31/07/2020	Hazkem
HAZ-2563-A03 Rev.3 (Site Plan)	29/09/2020	Hazkem
HAZ-2563-T01 Rev.3 (Fuel System Layout)	29/09/2020	Hazkem
HAZ-2563-G01 Rev.3 (LPG System Layout)	29/09/2020	Hazkem
HAZ-2563-E01 Rev.3 (Electrical Layout)	29/09/2020	Hazkem
HAZ-2563-C01 Rev.3 (Concrete Replacement Plan)	29/09/2020	Hazkem
2212-FT Rev.A (Tank Sections)	19/05/2020	Hazkem

Engineering Plans		
Drawing No.	Dated	Prepared By
HAZ-2563-A05 Rev.3 (Erosion and Sediment Control Plan)	29/09/2020	Hazkem
HAZ-2563-H01 Rev.3 (Site Drainage Plan)	29/09/2020	Hazkem

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
HAZ-2563-D02 (General notes)	16/12/2019	Hazkem
HAZ-2563-HZ01 Rev.3 (Hazardous Area Layout)	29/09/2020	Hazkem
HAZ-2563-HZ02 (Hazardous Area Elevations)	16/12/2019	Hazkem
HAZ-2563-G02 Rev.3 (Population and Exclusion Zones)	29/09/2020	Hazkem
Bushfire Assessment Report (19/0909)	21/01/2020	Bushfire Consulting Services Pty Ltd
Remediation Action Plan for UPSS Replacement 7-Eleven Dee Why Service Station Rev.B (Project No PS107718)	22/01/2020	WSP
SEPP 33 - Risk Screening Documentation and Preliminary Hazard Analysis	20/02/2020	Hazkem

Fuel Delivery Management Plan	September 2020	7-Eleven Stores Pty Ltd
Waste Management Plan	March 2020	KDC
Traffic and Access Report and Vehicle Swept Path (TR/11577)	10/02/2021	Colston Budd Rogers & Kafes Pty Ltd

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	March 2020	KDC

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

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

2. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	26/11/2020
NSW Rural Fire Service	RFS Referral Response (CNR-5649)	19/01/2021
Transport for NSW	tfNSW Referral Response (SYD20/01230/02)	05/03/2021

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

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

3. No Approval for any Signage

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2011 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

4. Prescribed conditions (Demolition):

(a) 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 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
(ii) 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.

(b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

(c) 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.

Reason: Legislative Requirement.

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 Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

Reason: Legislative requirement.

6. **General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 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) At all times after the submission a Notice of Commencement to Council, a copy of the

Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

(c) 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.

(d) 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.

(e) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

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

7. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.

- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

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

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

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

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

8. **Transport for NSW Conditions/Requirements**

The development shall be carried out in accordance with all conditions and requirements raised by TfNSW in their correspondence (Ref. SYD20/01230/02) dated 05 March 2020.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of the Construction Certificate and final Occupation Certificate.

Reason: To ensure the development is carried out with the requirements of TfNSW.

9. **No Works on adjoining land**

No Approval is granted under this consent for any works on adjoining land or on property boundaries.

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

10. **Restriction on delivery tankers and entry / exit driveways**

Delivery tanker shall enter the site via the northern entry on Pittwater Road and exit via Hawkesbury Avenue as shown on the swept path plans provided. Vehicle over 8.8 meter long shall not enter/exit the site via the southern access point on Pittwater Road. Signposting to this effect shall be provided at the point where the driveway meets the property boundary.

Tanker deliveries shall occur only between 12.00am and 6.00am. This is to minimise any adverse impact on the signalised intersection of Hawkesbury Avenue and Pittwater Road, given the swept path plans showing the delivery tankers exiting the driveway in Hawkesbury Avenue will take the entire width of Hawkesbury Road.

Reason: to minimise adverse impact on public roads.

FEES / CHARGES / CONTRIBUTIONS

11. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$10,774.39 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 2019. The monetary contribution is based on a development cost of \$1,077,439.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

12. 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 Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

13. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

14. **Construction Traffic Management Plan**

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

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 7.00-9.30am and 4.00-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the on site 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 traffic

- 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 Seven (7) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

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

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

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

15. **Structural Adequacy and Excavation Work**

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

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

16. Shoring of Council's Road Reserve (Temporary road anchors)

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

17. Health, Environmental and Safety Plan for Remediation

Health, Environmental and Safety Plan (HESP) must be prepared for the proposed remedial works in accordance with the requirements of the Remedial Action Plan (RAP) for the UPSS Replacement prepared by WSP Australia Pty Ltd, Dated 22 January 2020 (reference: PS107718-Dee Why-CLM-REP-RevB Final.docx). The HESP must be prepared by an appropriately qualified and experienced environmental consultant and provided to the satisfaction of the Principal Certifying Authority.

The HESP for Remediation must include how the requirements within the Remedial Action Plan will be implemented and including but not be limited to, the following:

- Project Contact Information
- Site Security Details
- Site Soil and Water Management Plan
- Noise and Vibration Control Plan.
- Dust Control Plan
- Odour Control Plan
- Health and Safety Plan
- Waste Management Plan
- Incident Management Contingency
- Unexpected Finds Protocol

The HESP must be prepared and implemented to the satisfaction of the supervising environmental consultant.

The environmental site management measures must remain in place and be maintained throughout the period of the remediation works, until completion of site remediation and the site has been validated.

Reason: To protect human health and the environment.

18. Plans of Underground Petroleum Storage System Design & Construction

Prior to any Construction Certificate (CC) being issued certification is to be provided from a duly qualified person (as defined under Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019) that the design of the Underground Petroleum Storage System is compliant with relevant legislation and standards including the following:

- The Protection of the Environment Operations Act 1997
- Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019
- AS4897–2008: Design, installation and operation of underground petroleum storage systems

The certification by a duly qualified person is to be submitted to the satisfaction of the Principal Certifying Authority.

Prior to engagement proof of qualifications demonstrating that the persons engaged are a duly qualified are to be provided to the satisfaction of the Principal Certifying Authority.

Reason: To ensure compliance with legislation and environmental protection. (DACHPCPC6)

19. **Pre-commencement Dilapidation Report**

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

20. **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;
- North point and scale.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

21. **Compliance with standards (Demolition):**

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 Council prior to the commencement of demolition works.

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

22. **Compliance with Standards**

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

Standards.

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

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

23. **Sydney Water "Tap In"**

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

Please refer to the website www.sydneywater.com.au for:

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

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

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

24. **Fuel Management Plan Update**

The Fuel Management Plan shall be updated to reflect the traffic report and swept path prepared by Colston Budd Rogers & Kafes Pty Ltd (Ref: TR/11577) dated 10 February 2021 and the Transport for NSW referral response (Ref: SYD20/01230/02) date 06 March 2021.

Details shall be submitted to the Certifying Authority prior to the issue of the Construction certificate.

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

25. **Preliminary Geotechnical Assessment Report**

A preliminary geotechnical assessment report, prepared by a suitably qualified geotechnical engineer/ engineering geologist is to be completed and submitted to the Certifying Authority prior to the issue of the Construction certificate.

If the preliminary assessment determines that a geotechnical report is required, a geotechnical report shall be prepared by a suitably qualified geotechnical engineer / engineering geologist and must be submitted to the Certifying Authority prior to the issue of the Construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

26. **Widening of the northern vehicular crossing**

In review of the amended plan and swept path, TfNSW has provided concurrence to the proposed widening of the existing northern vehicular crossing (entry only) on Pittwater Road under Section 138 of the Roads Act 1993, subject to the following development consent:

The design and construction of the gutter crossing on Pittwater Road shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to developerworks.sydney@rms.nsw.gov.au. Detailed design plans of the proposed gutter crossing widening are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works. All documentation shall be sent to development.sydney@rms.nsw.gov.au.
A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

Reason: To ensure compliance with TfNSW requirements (DACTRCPC1)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

27. 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 7.00-9.30am and 4.00-6.00pm.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Specify that 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.

28. **Pre-Construction Dilapidation Report areas within 10.0m of work**

A dilapidation report must be prepared for all areas on adjoining properties within 10.0m of any proposed works. The report must be sufficiently detailed to determine the state of these areas on adjoining properties prior to construction, in order to identify any damage caused by the construction of the development.

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

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

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

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

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

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

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

30. **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.

31. **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 RMS 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.

32. **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 RMS 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.

33. **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.

A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Pittwater Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

The existing stormwater pit and Bus Zone sign located within close proximity to the proposed driveway widening works are to be retained, unless TfNSW approval is obtained for their relocation.

All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A Works Zone will not be permitted on Pittwater Road.

Reason: To ensure public safety.

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

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

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005;

- and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

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

35. **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 Certifying Authority, 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.

36. **Stormwater Disposal**

The Applicant shall submit a certificate from a suitably qualified person that the stormwater drainage works have been constructed/installed in accordance with all relevant Australian Standards and Codes.

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

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

37. **Site filling - Virgin Excavated Natural Material (VENM)**

Where site fill material is necessary, fill materials must:

1. Be Virgin Excavated Natural Material (VENM) only, as defined in: The Protection of the Environment Operations Act 1997
2. Be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.
3. The Applicant shall provide certification by a N.A.T.A. approved laboratory to the Principal Certifying Authority for approval prior to importation of material.

Reason: To ensure protection of the natural environment.

38. **Installation and Maintenance of Sediment Control**

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

39. **Dewatering Management – Contaminated water**

All groundwater and tailwater extracted from the site must be tanked and transported to an authorised contaminated waste facility. No discharges to Council's stormwater system will be allowed. All discharges must be compliant with the relevant permits and approvals from TfNSW, RMS, WaterNSW (if applicable), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Tankers must be contained within a bunded area while being filled and any spills cleaned up before removing any temporary bunding.

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

Reason: Protection of the receiving environment

40. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

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

41. **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.

42. **Requirement to notify about new Acid Sulfate Soils evidence**

Any new information revealed during works, that has the potential to alter previous conclusions about Acid Sulfate Soils, must be immediately notified to the Council and the Principal Certifying Authority prior to further commencement.

Reason: Protection of the environment.

43. **Compliance with Health, Environmental and Safety Plan and Remedial Action Plan**

The requirements of the Health, Environmental and Safety Plan (HESP) and Remedial Action Plan required by this consent are to be fully implemented from commencement of any excavation, demolition or development works until the issue of any interim / final occupation

certificate.

Reason: Protection of the environment, SEPP 55 compliance.

44. **UPSS decommissioning requirement**

Decommissioning and removal of underground storage tanks are to be supervised by a duly qualified person (as defined under Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019) and in accordance with, but not limited to:

- Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019.
- AS 1940:2017 The Storage and Handling of Flammable and Combustible Liquids.
- AS 4976-2008 The removal and disposal of underground petroleum storage tanks.
- SafeWork NSW requirements.

Reason: To ensure compliance with legislation and protection of human and environmental health. (DACHPEDW5)

45. **Tree protection**

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.

ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.

iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on

development sites, with particular reference to Section 4 Tree Protection Measures.

iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause

E1 Private Property Tree Management and AS 4373 Pruning of amenity trees

v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

46. **Amenity**

The implementation of this development shall not adversely affect the amenity of the

neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely.

47. **Aboriginal Heritage**

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 Environment and Climate Change (DECC).

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 DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

48. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by Hazkem 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.

The discharge of sediment-laden waters from the site may result in clean-up orders and/or fines under Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Reason: Protection of the receiving environment

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

49. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

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

50. **Post-Construction Dilapidation Report (Major Development)**

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.

51. **Environmental Reports Certification**

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

(a) SEPP 33 - Risk Screening Documentation and Preliminary Hazard Analysis, dated 20/02/2020, prepared by Hazkem.

(b) Remediation Action Plan for UPSS Replacement 7-Eleven Dee Why Service Station Rev.B (Project No PS107718), dated 22/01/2020, prepared by WSP.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To ensure compliance with standards.

52. **Validation for Remediation**

At the completion of remediation works a validation report is to be prepared by a suitably qualified and experienced environmental consultant specialising in land contamination and submitted to Council within 60 of completing remediation works. The Validation Report must be prepared by an appropriately qualified and experienced environmental consultant in accordance with the requirements of the following:

- State Environmental Planning Policy No 55—Remediation of Land;
- Contaminated Land Management Act 1997;
- Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019; and
- Relevant NSW EPA guidelines including the NSW EPA Guidelines for Consultants reporting on contaminated Land: Contaminated land guidelines 2020

The report shall document the following:

1. The extent of validation sampling, and the results of the validation testing,
2. That the remediation and validation of the site has been undertaken in accordance with the approved Remedial Action Plan, prepared by WSP Australia Pty Ltd, Dated 22 January 2020 (reference: PS107718-Dee Why-CLM-REP-RevB Final.docx).

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, SEPP 55 compliance.

53. Underground Petroleum Storage System Certification

Prior to the issuing of any interim / final occupation certificate certification is to be provided from a duly qualified person (as defined under Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019) that the Underground Petroleum Storage System is compliant with relevant legislation and standards including the following:

- The Protection of the Environment Operations Act 1997
- Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019
- AS4897–2008: Design, installation and operation of underground petroleum storage systems

The certification by a duly qualified person is to be submitted to the satisfaction of the Principal Certifying Authority.

Prior to engagement proof of qualifications demonstrating that the persons engaged are a duly qualified are to be provided to the satisfaction of the Principal Certifying Authority.

Reason: To ensure compliance with legislation and environmental protection.(DACHPFPOC6)

54. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management. (DACPLF01)

55. Waste Management Confirmation

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

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

56. Speed hump installation

Speed humps accompanied by appropriate signage shall be installed by the applicant at all entry and exit driveways. The speed humps are to be installed within the site and to be maintained by the service station. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: to improve traffic and pedestrian safety (DACTRFPOC1)

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

57. Landscaping adjoining vehicular access

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1,140mm

Reason: To maintain unobstructed sight distance for motorists.

58. **Noise general**

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

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

Signed



Gareth David, Planner

The application is determined on 19/03/2021, under the delegated authority of:



Lashta Haidari, Manager Development Assessments