

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2024/1701
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<b>Responsible Officer:</b>	Kye Miles
<b>Land to be developed (Address):</b>	Lot 103 DP 1247294, 145 Old Pittwater Road BROOKVALE NSW 2100
<b>Proposed Development:</b>	Construction of a sewage reticulation system as ancillary development to the Warringah Mall Shopping Centre
<b>Zoning:</b>	Warringah LEP2011 - Land zoned E2 Commercial Centre Warringah LEP2011 - Land zoned E4 General Industrial
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Applicant:</b>	Scentre Management Ltd

<b>Application Lodged:</b>	17/12/2024
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	13/01/2025 to 27/01/2025
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 3,185,930.00
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### PROPOSED DEVELOPMENT IN DETAIL

Development application for a new inground sewer pump station, macerator and holding pit. The proposed works include:

- Demolition of existing bitumen car-park area to allow in-ground sewer works.
- Various in-ground and above-ground hydraulic services.
- Installation of concrete in-ground pump station well and tank.
- Reinstate car-park area.
- Relocate existing trolley bay.

The development subject area is located on the eastern side of the shopping centre adjacent to the

car park.

## 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 - 5.21 Flood planning  
Warringah Local Environmental Plan 2011 - 6.1 Acid sulfate soils  
Warringah Local Environmental Plan 2011 - 6.2 Earthworks  
Warringah Development Control Plan - G4 Warringah Mall

## SITE DESCRIPTION

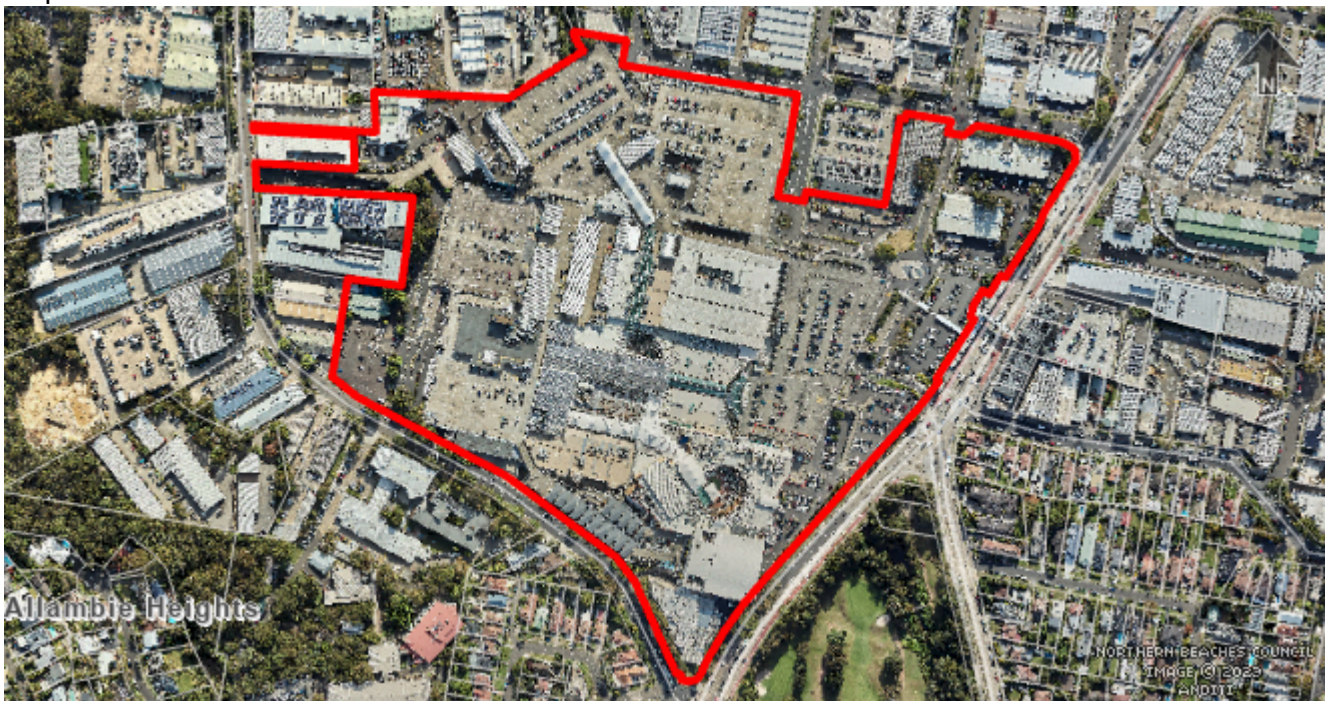
<b>Property Description:</b>	Lot 103 DP 1247294 , 145 Old Pittwater Road BROOKVALE NSW 2100
<b>Detailed Site Description:</b>	<p>The site is described as Lot 100, DP 1015283, No. 145 Old Pittwater Road, Brookvale.</p> <p>The site is occupied by the Westfield Warringah Mall Shopping Centre which is commonly known as 'Warringah Mall'.</p> <p>The site has an area of 17.008 hectares. It is bounded to the north by Cross Street, to the south by Old Pittwater Road and to the East by Condamine Street / Pittwater Road. The principal street frontage is to Condamine/Pittwater Road and secondary street frontages are to Old Pittwater Road and Cross Street.</p> <p>Warringah Mall contains various commercial tenancies and</p>

including an entertainment precinct incorporating a Hoyts Cinema Complex as well as fitness facilities and some other non-retail facilities.

The site is extensively built upon with bituminised and concrete hard surface areas located around the perimeter of the buildings to facilitate car parking and traffic flow.

Topographically, the site has a gradual natural slope that falls from the north-west to the south-east of the site. Vehicular access to the site is currently available at various locations along Pittwater Road, Old Pittwater Road, Green Street, Dale Street and Cross Streets.

Map:



## SITE HISTORY

A search of Council's records has revealed that there is an extensive history of retail and commercial land uses on the site, however, none of these are directly relevant to the proposed development.

## 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	<p>See discussion on “Environmental Planning Instruments” in this report.</p> <p>The NSW employment zones reforms have been made and will come into force on 26 April 2023. These reforms will result in this property changing from a B3 Commercial Core zone to a E2 Commercial</p>

Section 4.15 Matters for Consideration	Comments
	Centre zone. The proposed use will remain permissible in the new zone.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the location of Council's stormwater asset.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

#### Designated Development - Environmental Planning and Assessment Act 1979 and Associated Regulations



The following tables discuss those matters that are relevant to the proposed development under the Designated development provisions of both the Act and its associated Regulations.

<b>Environmental Planning &amp; Assessment Act 1979 (Part 4, Division 4.3)</b>	<b>Comments</b>
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<p>Section 4.10 (1) Designated development - Designated development is development that is declared to be designated development by an environmental planning instrument or the regulations.</p>	<p>The proposal seeks consent for a sewage reticulation system that is located on a floodplain. However, the proposed development has an intended capacity of approximately 18,000 litres and is considered ancillary development as per Environmental Planning and Assessment Regulation 2021 (Schedule 3, Part 3, Section 49). Therefore, the proposal is not declared to be designated development.</p>
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<b>Environmental Planning and Assessment Regulation 2021 (Schedule 3, Part 3, Section 42)</b>
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42 Sewerage systems and sewer mining systems

(1) Development for the purposes of a sewerage system or works is designated development if the system or works have an intended processing capacity of more than 2,500 persons equivalent capacity or 750 kilolitres per day.

(2) Development for the purposes of a sewerage system or works is designated development if the system or works—

(a) have an intended processing capacity of more than 20 persons equivalent capacity or 6 kilolitres per day, and

(b) are located—

- (i) on a floodplain, or
- (ii) in a coastal dune field, or
- (iii) in a drinking water catchment, or
- (iv) within 100 metres of a natural waterbody or wetland, or
- (v) within 250 metres of a dwelling not associated with the development.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 13/01/2025 to 27/01/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulfate)	<p><b>General Comments</b></p> <p>The proposal is intended to be undertaken upon land classed as acid sulphate soils class 4.</p> <p>The proposal is accompanied by an acid sulphate soils management plan formulated by a specialist consultancy which outlines the method in which acid sulphate soils shall be managed during the course of the development.</p> <p>Environmental Health supports the proposal and recommends a number of conditions of consent.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Contaminated Lands)	<p><b>General Comments</b></p> <p>The purpose of the proposal is to replace the existing temporary AVAC sewer system vacuum pump with a permanent solution at Westfield Warringah. The works require a new inground sewer pump station, macerator and holding pit. The existing temporary pump station is located on the eastern side of the shopping centre adjacent to the car park, and visible as a brick 'box' structure with a small doorway on one side</p> <p>The site has been previously contaminated and a report has been submitted.</p> <p><b>Recommendation</b></p>

Internal Referral Body	Comments
	APPROVAL - subject to conditions
Environmental Health (Industrial)	<p><b>General Comments</b></p> <p>It appears that most of the noise generating equipment is below ground</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
NECC (Development Engineering)	<p>The proposed development is in Region 2. A geotechnical report has been provided.</p> <p>The proposed development is near Council infrastructure present within the site (Stormwater Pipe). To demonstrate compliance with the Northern Beaches Council's Water Management for Development Policy. It is required that following details are submitted with the application:</p> <ol style="list-style-type: none"> <li>1. Accurately locate, confirm dimensions including depth and plot to scale Council's Public drainage system and associated infrastructure on the DA site plans that outline the proposal. This should be carried out by service locating contractor and registered surveyor. (Evidence of methodology adopted used for locating stormwater system should be provided). Show the stormwater pipe on plans and produce a longitudinal section.</li> <li>2. All structures are to be located clear of any council pipeline, pit or easement and comply with minimum vertical and horizontal clearances.</li> </ol> <p><b>Engineering Comments 12.03.25</b></p> <p>Survey information on the stormwater assets on the site has been provided. Development engineering raises no further objections to the proposed development, subject to conditions.</p>
NECC (Flooding)	<p>The proposal is for the removal of an existing temporary sewer pump system and installation of a permanent sewer pump system. The proposal is assessed against Section E11 &amp; Section G4 of the Warringah DCP and Clause 5.21 of the Warringah LEP.</p> <p>The proposal does not alter the above ground existing conditions on site.</p> <p>Subject to the following conditions, the proposal generally complies</p>

Internal Referral Body	Comments
	with Section E11 & Section G4 of the Warringah DCP and Clause 5.21 of the Warringah LEP.
NECC (Riparian Lands and Creeks)	<p>Supported.</p> <p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater.</p> <p>The site is close to Brookvale Creek and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of the waterway, or the quantity and quality of surface and ground water flows that it receives.</p> <p>Subject to conditions, the proposal is unlikely to have an adverse effect on the integrity and resilience of the biophysical, ecological and hydrological environment of Brookvale Creek.</p>
NECC (Water Management)	<p>Supported</p> <p>The groundwater regime is to be maintained as close as possible to pre-development conditions and shall not adversely impact receiving waters and groundwater dependent ecosystems. The excavation works are considered minor in size and volume and are very short term. It is reported any dewatered groundwater will be reinjected into the adjoining groundwater table to limit groundwater impact. It is reported the groundwater will not be disposed into Council's stormwater system.</p>
Traffic Engineer	No traffic engineering concerns with the proposed changes.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid, who confirmed that no objections are raised and no conditions are recommended.

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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



## (SREPs)

### SEPP (Transport and Infrastructure) 2021

#### Ausgrid

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

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

#### Comment:

The proposal was referred to Ausgrid who raised no objections.

### SEPP (Resilience and Hazards) 2021

#### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of Chapter 4, the applicant has submitted a Preliminary Environmental Site Investigation dated 10 July 2024 and prepared by Douglas Partners. In its conclusion, the investigation states:

*Based on the results of the targeted contamination assessment it is considered that the site is suitable for the proposed AVAC system subject to implementation of the following recommendations:*

- *Further ex situ waste classification of fill excavated during the works to confirm the classification prior to disposal;*
- *Preparation of an unexpected finds protocol be prepared to address potential unexpected contamination finds during redevelopment such as asbestos;*
- *Preparation and implementation of an acid sulfate soil management plan (ASSMP). The ASSMP will outline the necessary protocols to treat (e.g., lime-ose) and manage the ASS upon excavation to mitigate the acid generating potential of the soils:*
  - o *Post-treatment verification testing requirements will be outlined in the ASSMP and successfully treated soils can typically be re-used on site. Any off-site disposal of treated ASS is subject to the requirements of NSW EPA Waste Classification Guidelines, Part 1: Classifying Waste (NSW EPA, 2014a) and NSW EPA Waste Classification Guidelines, Part 4: Acid Sulfate Soils (NSW EPA, 2014b).*

- *Appropriate treatment of groundwater extracted during dewatering to iron and PFAS prior to disposal. It is recommended that a dewatering management plan be prepared (per the recommendations of the geotechnical report (Douglas 2024) that outlines an appropriate monitoring plan to monitor the potential draw the chlorinated ethene plume towards the site. The dewatering plan should also consider the requirements of acid sulfate soil management (minimising the zone of influence to minimise the potential for acid sulfate soil generation) outside the excavation area).*

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

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

Given the claimed potential of contamination on the site as noted in the Phase 1 Investigation, a Phase 2 Environmental Site Assessment should be provided to confirm whether contamination is actually present, at what levels and at what locations. A Phase 2 Environmental Site Assessment 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.

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

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

## Warringah Local Environmental Plan 2011

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

### Principal Development Standards

There are no development standards applicable to the subject site. The building height controls are contained in WDCP 2011 and expressed as maximum RLs. Notwithstanding, the proposed development is located at ground level and will not exceed the relevant height controls.

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	N/A
4.6 Exceptions to development standards	N/A

Clause	Compliance with Requirements
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

#### Detailed Assessment

#### **5.21 Flood planning**

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

#### Comment:

Council's Floodplain Management Officer has advised that the proposed development has been designed appropriately and generally complies with the relevant flood provisions contained within Warringah DCP and LEP.

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

#### Comment:

As above, the Council's Floodplain Management Officer is supportive of the proposal, subject to conditions.

#### **6.1 Acid sulfate soils**

Under Clause 6.1 (6), development consent is not required if:

- (a) the works involve the disturbance of less than 1 tonne of soil, and*
- (b) the works are not likely to lower the watertable.*

Comment:

The proposed development involves disturbance of at least 1 tonne of soil. As such, Clause 6.1 Acid sulfate soils requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 4, as indicated on Council's Acid Sulfate Soils Planning Map.

Works at depths beyond 2.0m below the natural ground surface and/or works by which the watertable is likely to be lowered more than 2.0 metre below the natural ground surface within a Class 4 acid sulfate soil area are required to be assessed to determine if any impact will occur.

The development proposes to excavate the site to approximately 6m below the natural ground level. As such, a Acid Sulfate Soil Assessment has been undertaken by Douglas Partners dated 15 October 2024. In the assessment, Douglas Partners found that *"This ASSMP provides the ASS management procedures to be enacted to minimise the impact of ASS disturbance on the environment during the proposed works."*

This Assessment was referred to Council's Environmental Health Officer who concurred with the findings and imposed a condition which requires the applicant to notify the principal certifying authority of any new evidence of the presence of acid sulfate soils.

This condition and the recommendations made in the Acid Sulfate Soil Management Plan (ASSMP) have been included in the recommendation of this report.

## 6.2 Earthworks

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

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

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

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

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

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

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

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

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

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

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

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

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

*(f) the likelihood of disturbing relics*

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

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

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

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

## Warringah Development Control Plan

### Built Form Controls

Part G4 of the WDCP 2011 contains the site specific development controls for Warringah Mall. The proposed development's consistency with the objectives of the site specific controls is discussed in this section of the report.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6 Merit Assessment of Side Boundary Setbacks	N/A	N/A
B10 Merit assessment of rear boundary setbacks	N/A	N/A
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes
G4 Warringah Mall	Yes	Yes

#### Detailed Assessment

#### **G4 Warringah Mall**

This DCP applies to Lot 100, DP 1015283, 145 Old Pittwater Road, Brookvale which is commonly referred to as 'Warringah Mall Shopping Centre'

The objectives of this DCP are as follows:

- *To guide future development within the Warringah Mall Shopping Centre (Warringah Mall) site to 2021.*
- *To ensure development responds to the characteristics of the site and surrounds, and the amenity of the surrounding neighbourhood.*
- *To encourage and facilitate high quality urban design, landscaping, external finishes and signage.*

#### Comment:

The proposed sewage reticulation system is ancillary development to Warringah Mall and is replacing an existing temporary system. The development is largely subterranean and responds to the characteristics of the site and surrounds. The development subject to the recommended conditions will not result in any adverse amenity or environmental impacts to the surrounding neighbourhood.

#### **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 2024**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$31,859 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$3,185,930.

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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 DA2024/1701 for Construction of a sewage reticulation system as ancillary development to the Warringah Mall Shopping Centre on land at Lot 103 DP 1247294, 145 Old Pittwater Road, BROOKVALE, subject to the conditions printed below:

## **Terms and Reasons for Conditions**

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all

conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

## GENERAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
SDC-ARC-42.0000	C	Location Plan	Scentre Group	28 October 2024
SDC-ARC-42.0001	C	Demolition Scope	Scentre Group	28 October 2024
SDC-ARC-42.0002	C	Proposed Scope	Scentre Group	28 October 2024
SDC-ARC-42.0003	C	Proposed Builder's Work Scope	Scentre Group	28 October 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Acid Sulfate Soil Management Plan	1	Douglas Partners	15 October 2024
Contamination Assessment	0	Douglas Partners	10 July 2024
Geotechnical Investigation	0	Douglas Partners	1 July 2024
Traffic and Parking Impact Assessment Report	2	ParkTransit Australia	1 November 2024
Waste Management Plan	-	Listed Applicant	-

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

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

Reason: To ensure all parties are aware of the approved plans and supporting documentation

that applies to the development.

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	3 January 2025

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

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

## 3. **Prescribed Conditions**

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work

must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

Reason: Legislative requirement.

#### 4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be



maintained in a safe and clean state until such time as new construction works commence.

- (f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
  - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
  - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$31,859.30 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan

(as amended).

The monetary contribution is based on a development cost of \$3,185,930.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

## 6. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

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

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

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

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

B1 - All new development below the Flood Planning Level of 10.33m AHD shall be designed and constructed from flood compatible materials.

B2 - All new development must be designed to ensure structural integrity up to the Flood Planning Level of 10.33m AHD, taking into account the forces of floodwater, debris load, wave action, buoyancy and immersion.

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 10.33m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

**9. Compliance with Standards**

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

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

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

**10. Sydney Water "Tap In"**

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

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

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

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

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

## **DURING BUILDING WORK**

**11. Acid Sulfate Soils**

All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soil Management Plan by Douglas Partners Pty Ltd dated 15 October 2024 ref. no. 71015.55.

Reason: To ensure management of potential acid sulfate soils.

**12. Site Contamination - Acid Sulfate Soils**

All stockpiles of potentially contaminated soil must be stored in a secure area in a way that is not likely to cause pollution or be a public health risk.

All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines.

Copies of all test results and disposal dockets must be retained by whom? for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination:

- i) Protection of the Environment Operations Act 1997;
- ii) Environment Protection Authority, Waste Classification Guidelines (2014);
- iii) Water Quality Australia, National Acid Sulfate Soils Guidance (2018); and
- iv) Acid Sulfate Soil Advisory Committee, Acid Sulfate Soil Manual (1998).

Reason: To protect environment and public health.

**13. Site Contamination**

All stockpiles of potentially contaminated soil must be stored in a secure area on the site (no greater than 48 hours) so as not to cause pollution or public health risk until disposed of at a waste facility. All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination: Protection of the Environment Operations Act 1997; and Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).

Reason: To protect human health and the environment.

**14. 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.

**15. 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) 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.

Reason: To protect the receiving environment.

**16. Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished



roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

**17. Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

**18. 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 Certifier.

Reason: To protect human health and the environment.

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

**19. Acid Sulfate Soil Management Confirmation**

Details demonstrating compliance with the approved Acid Sulfate Soil Management Plan by Douglas Partners Pty Ltd dated 15 October 2024 ref. no. 71015.55. is to be submitted to the satisfaction of the principle certifier prior to the issue of the occupation certificate.

Reason: To ensure management of potential acid sulfate soils.

**20. Stormwater Disposal**

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

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

**21. Disabled Parking Spaces**

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

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

Reason: To ensure compliance with Australian Standards.

**22. Shared Zone Bollard**

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

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

Reason: To ensure compliance with Australian Standards.

**23. Compliance with Report on Targeted Contamination Assessment**

Prior to the issue of an Occupation Certificate, certification from an appropriately qualified environmental consultant is to be provided stipulating that the requirements of the Report on Targeted Contamination Assessment have been compliance with throughout excavation, demolition and development work stages. The certification shall also include:

- a) A validation and site monitoring report prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.
- b) A detailed survey of all sites used for landfill disposal must be prepared within one month from completion of the remediation work, and submitted to Council.
- c) Identification of the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all sites used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.
- D) Further ex situ waste classification of fill excavated during the works to confirm the classification prior to disposal;

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

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

**24. Wastewater System**

Prior to the issuing of an Occupation Certificate, a copy of a s68 (Local Government Act 1993) approval to operate the wastewater system, and the wastewater system must be activated and effectively operating to the satisfaction of the Principal Certifier.

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

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.

**25. Waste Management Confirmation**

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

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

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

**26. 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 and to ensure compliance with the Protection of the Environment Operations Act 1997.

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

**Signed**



**Kye Miles, Planner**

The application is determined on 25/03/2025, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**