

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/0075
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 1 DP 868761, 114 Old Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Alterations and additions to a warehouse and distribution centre including a lift and tree removal
Zoning:	Warringah LEP2011 - Land zoned E4 General Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	The Trustee For Fabrik Property Trust

Application Lodged:	13/02/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Industrial
Notified:	21/02/2025 to 07/03/2025
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 80.82%
Recommendation:	Approval

Estimated Cost of Works:	\$ 332,727.00
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EXECUTIVE SUMMARY

The application involves alterations and additions to an existing warehouse and distribution centre. The alterations and additions involve the construction of a goods servicing lift and pedestrian bridge to enable access from the ground level to the roof top car parking area. Three trees are also proposed for removal under this application.

The application is reported to the Northern Beaches Local Planning Panel (NBLPP) as the proposed development has a maximum building height of 19.89 metres, which represents a 80.82% variation to the 11m building height development standard under Clause 4.3 of the Warringah Local Environmental Plan 2011. Any variations to a principal development standard that exceeds 10% and pertains to a Class 2-9 building must be referred to the NBLPP in accordance with the State Government's Local

Planning Panel Directions and Council's delegation protocols.

The applicant has submitted a written request pursuant to Clause 4.6 of the Warringah Local Environmental Plan 2011 to justify the contravention to the development standard. The written request argues that the existing building is significantly taller than the 11m height limit and that the proposed lift will not significantly increase the height of the existing building. The written request also argues that the development will not be visible from the public domain as the development is located on a battle-axe allotment that is significantly setback from Old Pittwater Road.

The assessment has concluded that the applicant's written request has adequately satisfied the jurisdictional matters within Clause 4.6 of the Warringah Local Environmental Plan 2011 and considers that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify a variation to the development standard.

The architectural plans submitted with this application depict alterations to the carparking areas on the site; however, the plans include annotations advising that they are subject to a separate Complying Development Certificate application and do not form part of the subject application. A condition is recommended to ensure this.

Other key issues assessed include; bushfire impacts, tree removal and geotechnical matters. The assessment concludes that the impacts pertaining to these matters are acceptable and will not unreasonably impact on the surrounding area.

The application was notified and one submission was received objecting to the development. The concerns raised within the submission relate to tree removal and biodiversity impacts. These concerns have been assessed and do not constitute matters that warrant refusal of the application.

Overall, the development is considered to be consistent with all applicable environmental planning instruments and regulatory provisions. The development is therefore considered to be in the public interest.

Accordingly, it is recommended that the NBLPP **approve** the application, subject to the recommended conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to an existing warehouse or distribution centre, largely to facilitate a new goods and passengers lift on the front elevation of the building to provide access to Level 1 and the rooftop level from the ground floor.

The proposed development includes the following scope of works:

- Construction of a new goods and passengers lift located external to the building. The external finish to the lift shaft is precast concrete paneling.
- One non-illuminated signage zone on the front of the lift shaft located 4m above the ground level for the top of the sign.
- Removal of three (3) trees, comprising of the following species:
 - 2 x Sydney Blue Gum; and
 - 1x Swamp-Oak.

The architectural plans also include alterations to the existing car parking area including new landscaping planting; however, the Statement of Environmental Effects submitted with this application has advised that the carpark reconfiguration will be subject to a Complying Development Certificate (CDC) application under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and therefore, these works do not form part of the subject Development Application.

The architectural plans also include annotations advising that the car parking works and landscaping works (excluding tree removal) are the subject of a CDC application.

Therefore, a condition has been recommended to ensure that these works do not form part of this recommended consent.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings

Warringah Local Environmental Plan 2011 - Zone E4 General Industrial

Warringah Local Environmental Plan 2011 - 6.2 Earthworks

Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land

SITE DESCRIPTION

Property Description:	Lot 1 DP 868761 , 114 Old Pittwater Road BROOKVALE NSW 2100
Detailed Site Description:	The subject site consists of one battle-axe allotment located on the western side of Old Pittwater Road within the Brookvale locality. The site is irregular in shape with an area of approximately 2.01 hectares.

The site is located within the E4 General Industrial zone pursuant to the Warringah Local Environmental Plan 2011 (WLEP) and accommodates a four-storey mixed use building that contains various separate tenancies including Woolworths, James Bennett, Fujifilm and Service NSW and a large at-grade car parking area and a rooftop car parking area on top of the building. The development relates to a warehouse or distribution tenancy within the existing building.

The majority of the site, including the existing building and car parking area, is located below a steep vegetated escarpment that backs onto Allenby Park within the RE1 Public Recreation zone.

The site experiences a fall of approximately 42 metres (m) that slopes away from the rear boundary towards the battle-axe frontage at Old Pittwater Road. A large extent of the fall occurs at the rear of the site down the escarpment.

The site is bushfire prone, is flood prone in small areas of the site and a Council stormwater pipeline intersects the southern portion of the site. However, the proposal is not located within these constrained areas of the site.

The immediate surrounds exhibit an industrial character with development of similar size and scale to that of the subject site located to the north, east and south.

Map:



SITE HISTORY

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

- Development Application DA1999/1652 for Partitioning of large existing unit into four ground level units and three first floor units by the construction of partitioning walls approved by Council on 5 May 1999.
- Development Application DA2000/4006 for Partitions approved by Council on 3 April 2000.
- Development Application DA2005/1022 for Demolition of Lightweight Partitioning, Construction of New Partitioning, Installation of Work Stations, Use of Area as Office Space approved by Council on 25 November 2005.
- Development Application DA2006/0064 for Construction of an entrance structure, landscape works and relocation of car parking spaces approved by Council on 28 April 2006.
- Modification Application Mod2006/0064/1 for Modification of Development Consent No. 2006/0064 to amend the car parking and landscape design approved by Council on 18 September 2006.
- Development Application DA2010/0229 for Alterations and additions to an industrial building approved by Council on 29 March 2010.
- Development Application DA2011/0652 for Alterations and additions to an existing warehouse / office building approved by Council on 13 June 2011.
- Development Application DA2013/0686 for Installation of storage containers approved by Council on 3 September 2013.
- Development Application DA2016/0828 for Use of Premises as a Public Administration Building, including internal fit-out, alterations and additions and associated signage approved by Council on 28 September 2016.
- Development Application DA2016/1081 for Signage approved by Council on 27 January 2017.
- Development Application DA2017/0730 for Change the operating hours of an existing approved warehouse and distribution centre to 24 hours a day and 7 days a week approved by Council on 23 August 2017.
- Development Application DA2017/0792 for Alterations and Additions to an existing warehouse and distribution centre approved by Council on 14 September 2017.
- Modification Application Mod2017/0241 for Modification of Development Consent DA2017/0792 granted for Alterations and Additions to an existing warehouse and distribution centre approved by Council on 19 September 2017.
- Modification Application Mod2018/0021 for Modification of Development Consent DA2016/1081 granted for signage approved by Council on 4 April 2018.

CURRENT DEVELOPMENT APPLICATION HISTORY

A site inspection was carried out on 18 March 2025.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 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&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&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 Matters for Consideration	Comments
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 2011 and Environmental Planning Instruments sections 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

Existing Use Rights are not applicable to this application.

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 (PBP).

A Bush Fire Assessment Report (BFAR) (prepared by Bushfire Consulting Services, dated 9 December 2024) that included a certificate was submitted with this application. The BFAR concludes that the development is consistent with the relevant provisions within the PBP, subject to the implementation of the recommendations of the report. These recommendations are included as recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 21/02/2025 to 07/03/2025 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Lyn Rogers	29 Roosevelt Avenue ALLAMBIE HEIGHTS NSW 2100

One (1) submission objecting to the development was received.

The following issues were raised in the submission:

- **Tree Removal**

The submission raised concerns about the proposed tree removal.

Comment:

Council's Landscape and Biodiversity Officers have reviewed the application and not raised any concerns in relation to the tree removal.

- **Impacts on Local Wildlife**

The submission raised concerns that the tree removal will remove habitat for local wildlife.

Comment:

Council's Biodiversity Officer has reviewed the application and not raised any concerns in relation to impacts on wildlife habitat. The Biodiversity Officer has recommended conditions to minimise impacts on local wildlife during construction.

- **Landscape Planting**

The submission raised concerns that the new proposed landscaping does not include locally endemic species.

Comment:

The landscaping shown on the plans is subject to a separate Complying Development Certificate application and does not relate to this Development Application.

The concerns raised within the submissions have been addressed above. The concerns do not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><i>Supported - no recommended conditions</i></p> <p>The application has been investigated with respects to aspects relevant to the BC Certification and Fire Safety Department. There are no concerns with the application s to inclusion of the attached conditions of approval and consideration of the notes below</p> <p><u>Note:</u> The proposed development may not comply with some requirements of the BC the Premises Standards. Issues such as this however may be determined at Constr Certificate Stage.</p>
Environmental Health (Industrial)	<p><i>Supported - no recommended conditions</i></p> <p>General Comments</p> <p>As noted in the Statement of Environmental Effects, the proposed development is desc as follows:</p> <p>"The proposed development involves the removal of three (3) trees located within the easternmost carpark situated on the ground floor to facilitate the construction of new carparking spaces. Further, the proposal also involves the installation of a new goods a passengers lift on the northeastern entrance to provide access to Level 1 and the rooftop from the ground level. It is noted that the proposed lift is located external to the wareho building."</p> <p>Environmental Health has no objection to the proposal.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Landscape Officer	<p><i>Supported - subject to recommended conditions</i></p> <p>The application seeks consent for: Alterations and additions to a warehouse and distrib centre including a lift and tree removal.</p> <p>The Arborist's Report prepared by Synertree and Landscape Plan prepared by Volker K are noted.</p> <p>The Arborist's Report indicates that 1 x Category A tree and 2 x Category Z trees are required to be removed to accommodate the proposed works.</p> <p>17 Category A trees adjacent to the works are to be retained.</p> <p>The Category A tree to be removed is indicated to be a <i>Eucalyptus saligna</i>, currently wi soft landscape area. This area is proposed for removal to provide for additional parking</p>

Internal Referral Body	Comments
	<p>the site. Due to the extent of excavation required, retention of the tree is not viable under the proposal.</p> <p>The Landscape Plan indicates replanting of 6 native trees in addition to other native shrubs and ground covers in new garden beds adjacent to the building.</p> <p>In consideration of the trees to be retained and the new trees and garden areas proposed, no objections are raised to the removal of the three trees as indicated on the plans, subject to conditions.</p> <p><u>Assessing Planner Comment:</u></p> <p>Council's Landscape Officer has recommended a condition of consent that requires the landscaping works within the submitted Landscape Plan to be carried out prior to the issuance of an Occupation Certificate. However, these landscaping works are subject to a separate Complying Development Certificate application and do not form part of the subject application. The Landscape Plans have been submitted as they depict the tree removal.</p> <p>In this regard, the above-mentioned recommended condition has been excluded from the recommendation of this report.</p>
NECC (Bushland and Biodiversity)	<p><i>Supported - subject to recommended conditions</i></p> <p>The application seeks consent for: Alterations and additions to a warehouse and distribution centre including a lift and tree removal. The rear of the site includes areas mapped as Native Vegetation and Wildlife Corridor under Warringah DCP.</p> <p>The works will not significantly impact these native vegetation or corridor areas at the rear of the site, and in consideration of the trees to be retained and the new trees and garden areas proposed, no objections are raised.</p>
NECC (Development Engineering)	<p><i>Supported - subject to recommended conditions</i></p> <p>The applicant is requesting approval for the removal of trees, installation of a passenger and rearrangement of car parking. The proposed changes to the car parking require approval and input from the Council Traffic Team. No objection to the development is raised, provided that specific recommended conditions are met.</p> <p><u>Assessing Planner Comment:</u></p> <p>Council's Development Engineer has recommended a condition of consent that requires new car parking areas to meet the Australian Standards. However, as noted earlier in this report, the car parking areas are subject to a separate Complying Development Certificate application and do not form part of the subject application.</p> <p>In this regard, the above-mentioned car parking condition has not been included as part of the recommended conditions of consent.</p>
Parks, reserves,	<p><i>Supported - no recommended conditions</i></p> <p>Parks, Reserves and Foreshores raise no concerns.</p>

Internal Referral Body	Comments
beaches, foreshore	

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><i>Supported - subject to recommended conditions</i></p> <p>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.</p>

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)

Housing and Productivity Contribution

The Housing and Productivity Contribution Order is not applicable as the development does not increase the amount of gross floor area on the site.

SEPP (Transport and Infrastructure) 2021

Chapter 2 - Infrastructure

Ausgrid have reviewed the application in accordance with Chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (TI SEPP) and provided conditions of concurrence, which are included in the recommendation of this report.

The development meets the relevant requirements under the TI SEPP.

SEPP (Biodiversity and Conservation) 2021

Chapter 2 - Vegetation in non-rural areas

Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP) applies to the development pursuant to clause 2.3 and aims to protect the biodiversity and amenity values of trees within nonrural areas of the state.

The development involves the removal of three prescribed trees within the car parking area. Council's Landscape Officer and Biodiversity Officer has not raised any concerns in relation to this tree removal. It is noted that the most significant areas of vegetation on the site, being at the rear of the property, are being retained.

In this regard, the assessment finds that the development is consistent with Chapter 2 of the BC SEPP.

SEPP (Industry and Employment) 2021

The development includes one non-illuminated tenant identification signage zone located on the front elevation of the lift shaft (see **Figure 1**).

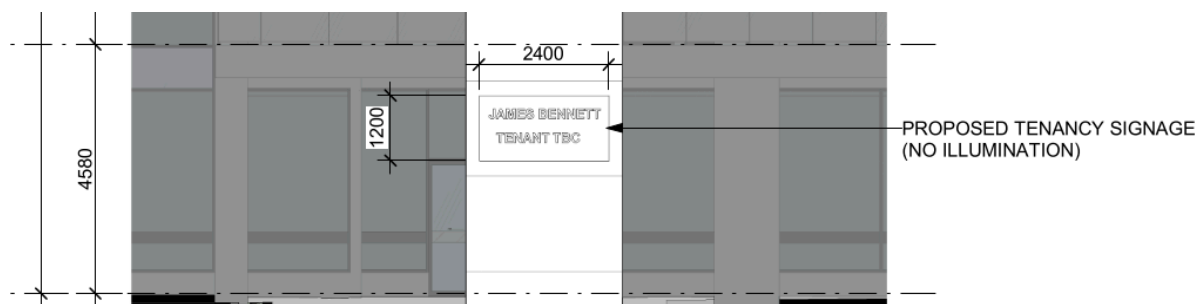


Figure 1 - Proposed Signage Zone

A condition has been recommended requiring the detailed signage plan to be approved by Council prior to its implementation.

Section 3.6 and 3.11 of Chapter 3 require Council to determine consistency with the objectives stipulated under Subsection 3.1 (1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 5.

The objectives of this chapter aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 5 of Chapter 3, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage will be compatible with the existing and future character of the Brookvale industrial precinct.	Yes
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed signage will identify the tenant of the development and will be consistent with the nature of signage	Yes

	within the precinct and subject industrial complex on the site.	
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The site is located within an industrial precinct and it is not anticipated that the signage would detract from the visual quality of the area. A condition is recommended to restrict any illumination.	Yes
3. Views and vistas Does the proposal obscure or compromise important views?	The signage zone identified on the architectural plans is located well below the building height and will not compromise any views or vistas.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	No, the signage zone does not dominate the skylight or obstruct any views of vistas.	Yes
Does the proposal respect the viewing rights of other advertisers?	The signage zone does not obstruct any other signage within the industrial estate or wider locale.	Yes
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signage zone is small in area and is appropriate in the context of the site. As the building is on a battle-axe allotment that is significantly setback from Old Pittwater Road, and noting that the sign is located in close proximity to ground level, the signage zone will not be visible from the public domain.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	As above, the signage zone will not adversely impact upon the streetscape. Detailed signage plans must be approved by Council prior to construction, as required by the recommended conditions of consent.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The signage zone will be simple to read.	Yes
Does the proposal screen unsightliness?	No.	Yes
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No.	Yes
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes, the signage zone is appropriate in the context of this commercial / light industrial business park.	Yes
Does the proposal respect important features of the site or building, or both?	Detailed signage plans must be approved by Council prior to construction; however, based off the location of the signage zone it is not	Yes

	anticipated to adversely impact upon the area.	
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Detailed signage plans must be approved by Council prior to construction; however, based off the location of the signage zone it is not anticipated to adversely impact upon the area.	Yes
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The applicant's Statement of Environmental Effects and the architectural plans advise that no illumination is proposed. A condition is recommended to ensure this.	Yes
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	No illumination is proposed.	Yes
Can the intensity of the illumination be adjusted, if necessary?	No illumination is proposed.	Yes
Is the illumination subject to a curfew?	No illumination is proposed.	Yes
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The signage zone is small in area and will not reduce road or pedestrian safety.	Yes
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signage zone is small in area and will not reduce road or pedestrian safety.	Yes

Accordingly, the proposed signage zone is considered to be of a scale and design suitable for the locality. The detailed signage plans will require approval by Council prior to the commencement of construction.

Subject to this condition, the development will be consistent with the requirements of this SEPP.

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. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1) (b) and (c) of this Chapter and the land is considered to be suitable for the commercial land use.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	11.0m (max)	19.89m	80.82%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone E4 General Industrial

The site is zoned E4 General Industrial under the WLEP. The development, being ancillary to a warehouse or distribution centre, is permissible with consent in the E4 zone. The development is consistent with the objectives of the E4 zone for the following reasons:

- The development will not reduce the area of employment generating land uses on the site, but will rather enhance the functionality of these existing uses through the provision of a goods servicing lift.
- The development is substantially setback from Old Pittwater Road and any residential receivers and therefore, will not result in adverse visual impacts upon residential receivers or the public domain.

4.6 Exceptions to development standards

Clause 4.3 of the WLEP 2011 stipulates that the maximum height of buildings on the subject site shall not exceed 11.0m, when measured from the existing ground level. The proposed lift shaft has a maximum building height of 19.89m, which represents an 80.82% variation to the development standard.

It is noted that the lift shaft is 1.75m taller than the front parapet of the existing four storey building. Significant components of the existing building exceed the 11.0m height plane. **Figure 2** below depicts the elements of the proposed development including elements of the existing building that exceed the 11.0m height plane on the front portion of the building.

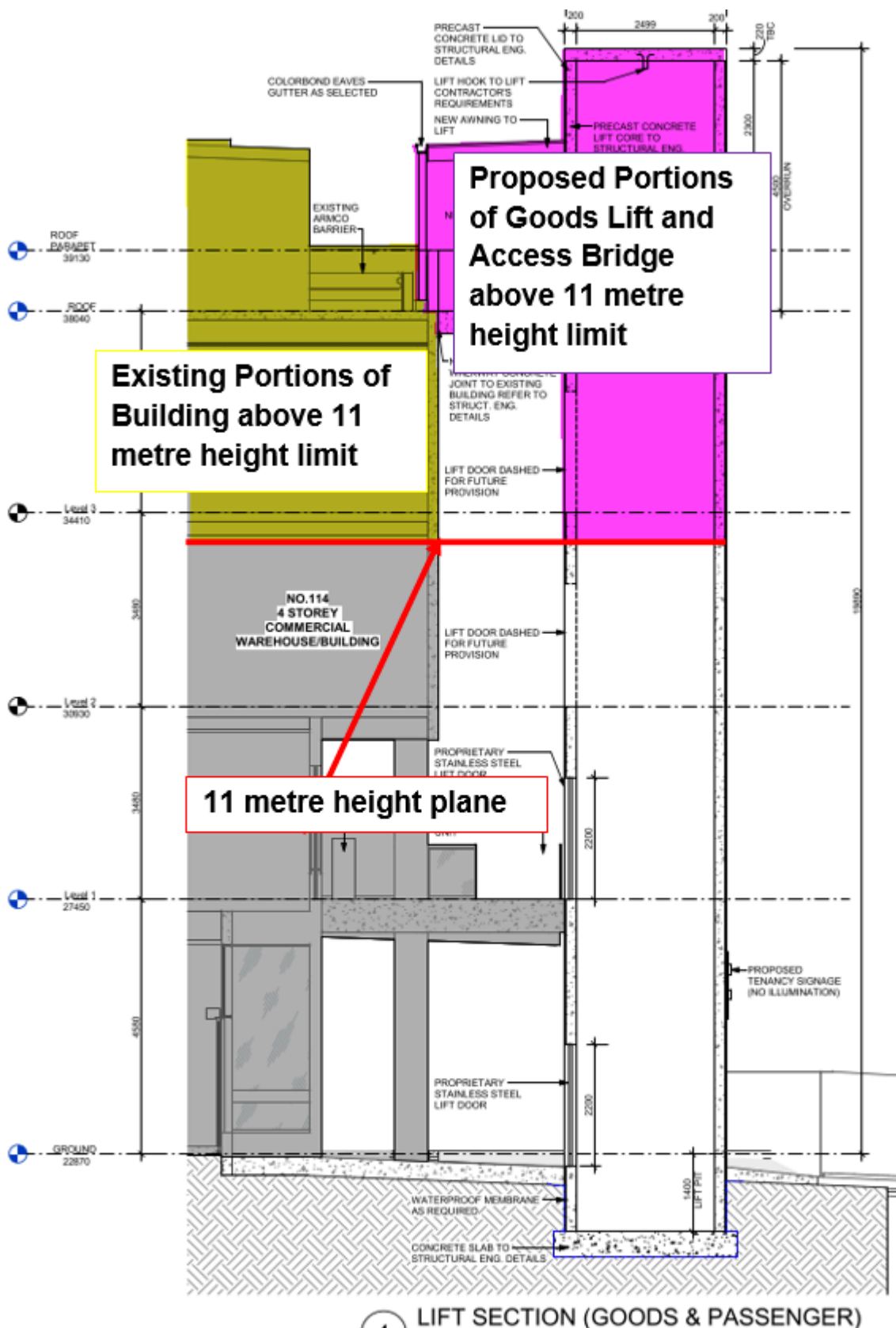


Figure 2 - Section Plan depicting proposed and existing elements of the building above the 11.0m height plane (Note: the purple elements show the proposed height exceedances and the yellow elements show the existing height exceedances at the front of the building)

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is not accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the WLEP (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Subclause (2) of this clause provides that:

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.3 is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

As outlined in the matter of *Wehbe v Pittwater Council* [2007] NSWLEC 827, it was established that in order to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, an applicant must demonstrate either of the following:

- *the objectives of the development standard are achieved notwithstanding non-compliance with the standard; or*
- *the underlying objective or purpose of the standard is not relevant to the development; or*
- *the underlying objective or purpose would be defeated or thwarted if compliance was required; or*
- *the standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or*
- *the zoning of land was unreasonable or inappropriate, such that the standards for that zoning are also unreasonable or unnecessary.*

The applicant's Clause 4.6 written request has demonstrated that compliance with the development standard is unreasonable or unnecessary as the objectives of Clause 4.3 of the WLEP are achieved. The applicant's justification is provided on Pages 10-11 of the Clause 4.6 request.

The assessing officer concurs with the applicant's justification and is satisfied that the objectives of Clause 4.3 of the WLEP are achieved, notwithstanding the contravention. An assessment against the objectives of Clause 4.3 is provided below:

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

Comment:

The existing building on the subject site, the adjoining building immediately to the east (i.e. 108 Old Pittwater Road which fronts Old Pittwater Road) and the adjoining building immediately to the south (120 Old Pittwater Road which fronts Old Pittwater Road) are either 4 storey or 5 storey buildings, which is significantly taller than what is permitted under the WLEP that requires buildings to be 11m in height. The proposed goods lift is 1.75m taller than the front parapet of the existing building on the site; however, does not add any significant height to the building when observed from internally within the site. The lift and bridge is also setback approximately 90m from Old Pittwater Road and will be screened by the existing four storey building located at 108 Old Pittwater Road, which adjoins the site to the east. As such, the lift and bridge will not be visible from the public domain. Notwithstanding, the lift will not render the building incompatible with surrounding development, noting that there are 4 and 5 storey buildings that immediately adjoin the subject site.

For these reasons, this objective is achieved.

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

Comment:

As noted above, the lift and bridge will not be visible from Old Pittwater Road and therefore, will not have an adverse visual impact on the streetscape. Furthermore, the development is located within an industrial zone and is located approximately 175m to the east from the nearest residential receivers (residential properties at Allenby Park Parade, Allambie Heights) and located below the existing escarpment that separates the subject site and the residential receivers. As such, the development will not result in adverse residential amenity impacts, specifically having regard to view sharing, solar access, privacy and noise impacts.

For these reasons, this objective is achieved.

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

Comment:

The lift and bridge are located well below the natural escarpment to the rear of the site and will not be visible from Old Pittwater Road, noting that the existing 4 storey building located at 108 Old Pittwater Road will prevent sightlines to the lift and bridge when standing at Old Pittwater Road.

For these reasons, the development will not have an adverse impact on the scenic quality of the locality, consistent with this objective.

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

Comment:

The proposed development, including the lift and bridge that exceed the height limit, is not visible from any public places including parks, roads or community facilities. This is due to the fact the development is located upon a battle-axe lot and not visible from Old Pittwater Road, and due to the portion of the RE1 Public Recreation zoned land immediately to the west of the site being densely vegetated, extremely steep and not publicly accessible.

For these reasons, this objective is achieved.

Summary

As demonstrated above, the development is consistent with the objectives of Clause 4.3 of the WLEP and therefore, it has been demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

(b) there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. *The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'*

The Clause 4.6 Request argues, in part:

"The environmental planning grounds to justify the departure of the development building height development standard are as follows:

- Provides equitable and efficient access within the building to all floors through provision of an elevator and lift core – the overrun of which breaches the height control in confined and strategically located areas within the building to provide for the most efficient access and also minimise the public's ability to perceive the service overrun;*
- The minor variation to the height control facilitates significantly improved amenity for the industrial/commercial premises and results in a high-quality outcome;*
- The proposed lift is confined within the subject site and has been designed to integrate with the current building form, ensuring its functionality remains self-contained; and*
- The use and operation of the goods and passengers lift is consistent with the established industrial activities on the site, avoiding any undue impacts to neighbouring development".*

Assessment Officer's Comments:

The assessment officer considers that the first and fourth dot point constitutes site-and-development-specific environmental planning grounds to justify a variation to the building height standard. The provision of a goods lift and bridge will enable equitable access to the below levels of the building from the roof top car parking area. Additionally, due to the location of the site being substantially separated and visually screened from the public domain and residential receivers and noting that there are similar or taller buildings located on adjacent properties, the height non-compliance will not result in any adverse impacts.

In this regard, the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying objects 1.3(c) and (g) of the EP&A Act.

The assessing officer is satisfied that the applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.3 of the WLEP.

Public Interest

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EP&A Act.

Conclusion

As demonstrated above, the proposed development satisfies the relevant considerations under Clause 4.6 of the WLEP.

Therefore, the contravention to Clause 4.3 of the WLEP 2011 is supported in this instance.

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. No significant filling or excavation is proposed.

(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. No significant filling or excavation is proposed.

(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 within or immediately adjacent to any watercourse, drinking water catchment or environmentally sensitive areas.

Having regard to the above assessment, it is concluded that the development satisfies the relevant requirements under Clause 6.2 of the WLEP, subject to recommended conditions.

6.4 Development on sloping land

The site is mapped within Area B on the WLEP Landslip Risk Map.

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 applicant has submitted a Preliminary Geotechnical Assessment (PGA) (prepared by ei australia, dated 24 January 2025). Section 3.5 of the PGA conclude that there is negligible geotechnical risk to property and life. The PGA recommends that further geotechnical investigations be prepared prior to the detailed design of the development, with the investigation requiring a borehole to a depth of 3.0m below ground level to be undertaken. The PGA has also provided recommendations to ensure that the footings are inspected by the Geotechnical Engineer during works. These recommendations form part of the recommended conditions of consent.

Given the PGA concludes that there is negligible risk to property and life, a detailed Geotechnical Report that includes further geotechnical investigations has not been requested.

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

Comment:

Council's Development Engineer has reviewed the application with respect to stormwater management and raised no objections, subject to a condition that requires the stormwater drainage works to be certified as compliance with all relevant Australian Standards prior to the issue of an Occupation Certificate. As such, this requirement is considered to be satisfied.

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

Comment:

The excavations for the lift are minor and will not intercept the water table.

Having regard to the above assessment, it is concluded that the development satisfies the relevant requirements under Clause 6.4 of the WLEP, subject to recommended conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B6 Merit Assessment of Side Boundary Setbacks	Merit Assessment (north)	Acceptable on merit as no change to existing building side setbacks	-	Yes
	Merit Assessment (south)	Acceptable on merit as no change to existing building side setbacks	-	Yes
B7 Front Boundary Setbacks	4.5m	Works over 4.5m from the battle-axe frontage	-	Yes
B10 Merit Assessment of Rear Boundary Setbacks	Merit Assessment (west)	Acceptable on merit as no change to existing building rear setback	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
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
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes

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 \$3,327 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$332,727.

CONCLUSION

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

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

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

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

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

Council is satisfied that the Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify variation of the development standard contained within Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- There are sufficient environmental planning grounds to justify the variation.

PLANNING CONCLUSION

The application seeks consent for alterations and additions to an existing warehouse or distribution

centre.

While an 80.82% variation to Clause 4.3 of the WLEP is proposed, the applicant's written request has adequately addressed the jurisdictional matters within Clause 4.6 of the WLEP 2011 and that assessment concludes that the building height non-compliance will not result in any adverse impacts upon the surrounding area, noting that the non-compliant elements will not be visible from Old Pittwater Road and the development is substantially separated from any residential receivers.

Other key issues assessed throughout the application relate to bushfire impacts, tree removal and geotechnical matters. The assessment concludes that the impacts pertaining to these matters are acceptable and will not unreasonably impact on the surrounding area.

The application was notified and one submission was received objecting to the development. The concerns raised within the submission do not warrant refusal of the application or any amendments.

Overall, the development involves relatively minor works, minimal additional building height and insignificant additional size, bulk and scale to an existing large building and complex.

The development is considered to be consistent with all applicable environmental planning instruments and regulatory provisions.

The development is therefore assessed as being consistent with maintaining the public interest.

Accordingly, it is recommended that the NBLPP support the Clause 4.6 variation and **approve** the application, subject to the recommended conditions attached to this report.

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

RECOMMENDATION

That Northern Beaches Council, as the consent authority, vary the development standard contained within Clause 4.3 Height of Buildings, pursuant to Clause 4.6 of the Warringah Local Environmental Plan 2011 because the Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2025/0075 for Alterations and additions to a warehouse and distribution centre including a lift and tree removal on land at Lot 1 DP 868761, 114 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
1230047_B0002	Issue A	Demolition Plan - Ground Plan	Reid Campbell	4 December 2024
1230047_B0003	Issue A	Demolition Plan - Roof Top Parking	Reid Campbell	4 December 2024
1230047_B1001	Issue A	Floor Plan - Ground & L1	Reid Campbell	4 December 2024
1230047_B1002	Issue A	Floor Plan - Roof Top Parking	Reid Campbell	4 December 2024
1230047_B2001	Issue A	Lift Plan & Section Details	Reid Campbell	4 December 2024
1230047_B1002	Issue A	Lift Elevation Details	Reid Campbell	4 December 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BCA Assessment Report (DA) titled '114 Old Pittwater Road, Brookvale	Project Number:	Jensen Hughes	17 December

NSW'	121095 Revision: 1		2024
Access Assessment Report titled '114 Old Pittwater Road, Brookvale NSW'	Project Number: 121095 Revision: 1	Jensen Hughes	11 December 2024
Bush Fire Assessment Report titled '114 Old Pittwater Road Brookvale Lot 1 DP 868761'	Reference: J24/0707	Bushfire Consulting Services Pty Ltd	9 December 2024
Preliminary Geotechnical Assessment titled 'EVP Northern Beaches Central Business Park No 1 Pty Ltd'	E26637.G01	EI Australia	24 January 2025
Waste Management Plan titled '114 Old Pittwater Road Brookvale NSW 2100'	-	-	-

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	N/A

(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. **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.

5. No Consent Granted for Car Parking Alterations

No consent is granted for any alterations to the existing car park. This consent only permits the removal of existing trees within the car parking area.

Reason: The car parking alterations do not form part of this Development Application.

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$3,327.27 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 \$332,727.00.

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.

7. Construction, Excavation and Associated Works Security Bond(s)

The applicant is to lodge a bond with Council for the following:

Drainage Works

As security against any damage or failure to complete the construction of stormwater drainage works required as part of this consent a bond of \$25000.00.

Details confirming payment of the bond(s) are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. No Clearing of Vegetation

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

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

Reason: To protect native vegetation.

9. Pre-Construction Stormwater Assets Dilapidation Report

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at: <https://www.northernbeaches.nsw.gov.au/media/60355?1730767288>

The pre-construction / demolition Dilapidation Report must be submitted to Council for approval and the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

10. 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.

11. 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 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.

12. **Detailed Signage Plans**

Details of business identification signage are to be provided to Council for approval prior to the issue of a Construction Certificate.

Details are to include location, size, colour and design of the sign. The signage is not to be illuminated.

Reason: To ensure that signage does not impact upon the character of the area.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with the Arboricultural Impact Assessment dated 8 November 2024 prepared by Synertree and AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

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

All tree protection measures specified must:

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

The Project Arborist shall provide certification to the Principal Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

14. **Tree Removal Within the Property**

This consent approves the removal of existing trees on the subject site as identified in the Arboricultural Impact Assessment dated 8 November 2024 prepared by Synertree as follows:

- i) Trees numbered 1, 9 and 10
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised building works.

15. **Sediment and Erosion Controls**

For developments that include more than 2500sqm of disturbance:

A Soil and Water Management plan (SWMP), in accordance with section 2.3 of the Blue Book, must be prepared and certified by a suitably qualified professional.

For sites larger than 250sqm and less than 2500sqm of disturbance:

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person in accordance with the following considerations and documents:

- Sites that have slopes exceeding 20% (measured in any direction across the site), and/or where works are within the high-water mark or adjacent to a waterway or watercourses are considered environmentally sensitive areas. These sites require a site-specific ESCP which must be prepared and certified by a suitably qualified professional,
- The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate – Volume 1, 4th Edition (2004)' (the Blue Book), and
- The 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure).

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 area and site facilities),
- Existing and proposed drainage patterns with stormwater discharge points,
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected,
- North point and scale,
- Type of erosion control measures to divert and slow run-off around and within the site.

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where works are within the high-water mark or adjacent to a waterway or watercourses) must also consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

For sites smaller than 250sqm or where the disturbance is less than 50sqm:

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or

the discharge of loose sediment on the surrounding land by:

- Diverting uncontaminated run-off around cleared or disturbed areas, and
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- Identifying any environmentally sensitive areas on and immediately next to the site, and demonstrating how these will be protected (for example, by designation as no-go areas).

Details demonstrating compliance with the relevant requirements above are to be submitted to the Certifier, and the measures implemented, prior to the commencement of works.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

DURING BUILDING WORK

16. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all trees and vegetation within the road reserve.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with the Arboricultural Impact Assessment dated 8 November 2024 prepared by Synertree and AS4970-2009 Protection of trees on development sites,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with the Project Arborist,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by the Project Arborist on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with the Project Arborist including advice on root protection measures,
 - vii) should either or all of v) or vi) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Project Arborist to the Principal Certifier,
 - viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the

construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,

- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

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

Reason: Tree and vegetation protection.

17. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to or by seeking arboricultural advice from the Project Arborist during the works.

In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

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

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

Reason: Protection of trees.

18. **Wildlife Protection**

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

Reason: To protect native wildlife.

19. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

20. **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.

21. **Geotechnical Requirements**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

22. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

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

23. **Maintenance of Sediment and Erosion Controls**

Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log

book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

24. Property Boundary Levels

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve.

25. 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.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

26. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

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

Reason: Tree and vegetation protection.

27. No Weeds Imported On To The Site

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

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

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

weeds.

28. Priority Weed Removal and Management

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

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

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

29. Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at: <https://www.northernbeaches.nsw.gov.au/media/60355?1730767288>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

30. Stormwater Disposal

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

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

31. Geotechnical Certification Prior to Occupation Certificate

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

32. Waste Disposal Verification Statement

On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within

14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

33. 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 Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure bushland management.

34. Certification of Bushfire Requirements

A suitably qualified bushfire consultant must provide written certification confirming that the recommendations within the approved Bush Fire Assessment Report referenced in Condition 1 of this consent have been incorporated into the as-built development.

Documented evidence demonstrating compliance with this condition must be submitted to the Certifier prior to the issue of an Occupation Certificate.

Reason: Compliance with Planning for Bush Fire Protection 2019.

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

35. Geotechnical Recommendations

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

Reason: To ensure geotechnical risk is mitigated appropriately.