



Issued: 26 March 2021 3:13 PM

## JUDGMENT/ORDER

### COURT DETAILS

Court	Land and Environment Court of NSW
Division	Class 1
Registry	Land and Environment Court Sydney
Case number	2020/00071257

### TITLE OF PROCEEDINGS

First Applicant	The Crest at Oxford Falls Pty Limited
First Respondent	Northern Beaches Council ABN 57284295198

### DATE OF JUDGMENT/ORDER

Date made or given	26 March 2021
Date entered	26 March 2021

### TERMS OF JUDGMENT/ORDER

The Court orders that:

- (1) The appeal is upheld.
- (2) Development consent is granted for the expansion of an approved industrial complex at Lot 100 Meatworks Avenue, Oxford Falls, by the construction of a building containing 10 industrial units with ancillary floor space, a roof top terrace, and associated car parking, subject to the conditions in Annexure A.
- (3) Exhibits 1-7 and D are returned.

### SEAL AND SIGNATURE



Signature	S. Froh
Capacity	Registrar
Date	26 March 2021

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document is taken to have been signed if the person's name is printed where his or her signature would otherwise appear.

### FURTHER DETAILS ABOUT Applicant(s)

First Applicant	
Name	The Crest at Oxford Falls Pty Limited
Address	50 Meatworks Avenue

OXFORD FALLS NSW 2100

Telephone  
Fax  
E-mail  
Client reference

**Legal representative for plaintiffs**

Name	ANTHONY DOYLE SATTTLER
Practicing certificate number	32039
Address	Sattler & Associates Pty Ltd Lot 2 Forster Drive BAWLEY POINT NSW 2539
DX address	
Telephone	0424545861
Fax	
Email	tony@sattler.net.au

**FURTHER DETAILS ABOUT Respondent(s)**

**First Respondent**

Name	Northern Beaches Council ABN 57284295198
Address	725 Pittwater Road Post Office Box 882 MONA VALE NSW 1660
Frequent User Identifier	NBCC

**ATTACHMENTS TO ORDERS**

(71257.20 Gray C Annexure A.pdf)

[attach.]

## Annexure A

### DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

**Development Application No:** DA2019/1340

**Development:** Alterations and additions to the existing premises by the construction of a building and associated car parking and landscaping

**Site:** Lot 100 Meatworks Avenue, Oxford Falls  
Lot 100, DP 1023183

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

**Date of determination:** 26 March 2021.

**Date from which consent takes effect:** 26 March 2021.

#### TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as Lot 100 Meatworks Avenue, Oxford Falls (Lot 100, DP 1023183).

The conditions of consent are as follows:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

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

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

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA00 Issue I - Site/Site Analysis Plan	26/02/2021	Gelder Architects
DA01 Issue K - Ground floor Stage 2	26/02/2021	Gelder Architects
DA02 Issue L - Ground floor mezzanine Stage 2	26/02/2021	Gelder Architects
DA03 Issue L - Level 1 Mezzanine Stage 2	26/02/2021	Gelder Architects
DA04 Issue K - Roof Terrace Level	26/02/2021	Gelder Architects
DA05 Issue K - Upper Roof Terrace	26/02/2021	Gelder Architects
DA06 Issue H - Elevations	26/02/2021	Gelder Architects
DA07 Issue H - Elevations	26/02/2021	Gelder Architects
DA08 Issue I - Sections	26/02/2021	Gelder Architects
DA09 Issue C – Demolition Plan	09/10/2020	Gelder Architects
DA10 Issue C – Excavation Plan	09/10/2020	Gelder Architects
Schedule of Finishes – Stage 2 Issue A	30/08/2019	Gelder Architects

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
C1 - Issue D - COVER SHEET & NOTES	24/07/2020	ACOR Consultants
C2 - Issue D - STORMWATER MANAGEMENT PLAN GROUND FLOOR	24/07/2020	ACOR Consultants
C3 - Issue D - STORMWATER MANAGEMENT PLAN GROUND FLOOR MEZZANINE	12/02/2021	ACOR Consultants
DA03 Issue J - Level 1 Mezzanine Stage 2	12/02/2021	ACOR Consultants
C4 - Issue D - STORMWATER MANAGEMENT PLAN LEVEL 1 MEZZANINE	12/02/2021	ACOR Consultants
C5 - Issue D - EROSION & SEDIMENT CONTROL NOTES	12/02/2021	ACOR Consultants
C6 - Issue D - EROSION & SEDIMENT CONTROL PLAN	12/02/2021	ACOR Consultants
C7 - Issue D - EROSION & SEDIMENT CONTROL DETAILS	12/02/2021	ACOR Consultants
C8 - Issue D - RAINWATER TANK DETAIL	12/02/2021	ACOR Consultants

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Construction Methodology Plan Stage 2	12/09/2019	Gelder Architects
Construction Traffic Management Plan (19179 – Issue A)	October 2019	Transport and Traffic Planning Associates
Phase 1 Contamination Assessment (12545/1-AA)	16/08/2011	GEOTECHNIQUE PTY LTD
Flora and Fauna Assessment (2019-014)	15/10/2019	Ecoplanning
Flora and Fauna Assessment (addendum letter)	02/10/2020	Ecoplanning
Waste Management Plan	02/09/2019	Gelder Architects
Assessment of Traffic and Parking Implications (19179 – Issue B)	February 2021	Transport and Traffic Planning Associates
Car Parking Design Statement	26/02/2021	Transport and Traffic Planning Associates
Disability Access Report (LP_19216)	06/09/2019	Lindsay Perry Access
Arboricultural Impact Assessment Report (19/10/31/100MAOF)	31/10/2019	Jack Williams Urban Arbor Pty Ltd
Bushfire Risk Assessment Report	18/11/2019	Blackash Bushfire Consultants
Bushfire Risk Assessment Report (addendum letter)	08/09/2020	Blackash Bushfire Consultants
Bushfire Advice and Specification of APZ	18/02/2021	Blackash Bushfire Consultants
Bushfire Certification Letter by Black Ash dated 26 February 2021.	26/02/2021	Blackash Bushfire Consultants
Site Contamination Assessment	05/02/2020	Geo-environmental Engineering
Stormwater Quality Report Version B (CC180469_WQ)	12/02/2021	ACOR Consultants
Geotechnical Investigation Report Rev.2	26/02/2021	Geo-environmental Engineering
Acoustic Impact Assessment Arising from Vehicles Accessing the Proposed Development (nss23351 – Final)	February 2021	NOISE AND SOUND SERVICES

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

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

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	02/09/2019	Gelder Architects

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

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Aboriginal Heritage office	Response Aboriginal Heritage Referral	05/05/2020

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

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

## 3. Approved Land Use

Nothing in this consent shall authorise the use of Units/Tenancies as detailed on the approved plans for any land use of the site beyond the definition of a Warehouse/ industrial and ancillary office use

A **warehouse** means a building or place used for the storage of goods, merchandise or materials pending their sale and distribution to persons engaged in the retail trade.

A **Industry** means:

(a) the manufacturing, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, dismantling, transforming, processing or adapting of any goods or articles for commercial gain, or

(b) The storing, handling or displaying of items (whether goods or materials) which have been produced or manufactured for sale, other than retail sale to the public from the building or place, But does not include an extractive industry, potentially hazardous industry or Potentially offensive industry.

(Development is defined by the Warringah Local Environment Plan 2000 (as amended) Dictionary)

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

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

## 4. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments

specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

## 5. General Requirements

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

- 1 7.00 am to 5.00 pm inclusive Monday to Friday,
- 1 8.00 am to 1.00 pm inclusive on Saturday,
- 1 No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 1 8.00 am to 5.00 pm Monday to Friday only.

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

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



- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) 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 2008
  - (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.

#### **6. No Approval for any Signage**

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2000 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage

### **FEES / CHARGES / CONTRIBUTIONS**

#### **7. Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$52,868.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$5,286,800.00.

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

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

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

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

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

## **8. Security Bond**

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

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

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

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

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

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

### **9. On Slab Landscape Works**

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

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

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

- i) 300mm for lawn
- ii) 600mm for shrubs
- iii) 1m for small trees

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

e) An on-going maintenance plan that shall be submitted to the Certifying Authority outlining a program to monitor and replenish soil levels as a result of soil shrinkage over time.

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

#### **10. Stormwater Disposal**

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

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

#### **11. Biodiversity Management Plan**

The Biodiversity Management Plan (Total Earth Care dated 1<sup>st</sup> August 2011 and updated maps dated 14<sup>th</sup> February 2013) shall be amended by the Project Ecologist and include:-

- the creation of a separate vegetation management zone that corresponds to the 19 metre wide bush fire asset protection zone;
- a specification for works within the APZ management zone, updated Roles, Responsibilities and Timing, and the ongoing management actions required to maintain the APZ in perpetuity;

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

Reason: To promote the long-term sustainability of ecosystem functions

#### **12. Preparation of Environmental Management Checklist**

A Construction Environmental Management Checklist (CEMC) is to be prepared and is to incorporate all measures for the protection of native vegetation, wildlife and habitats during the construction phase. Measures specified in the checklist are to include all conditions of consent addressing construction-related impacts to biodiversity. The CEMC is to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls

**13. No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native vegetation in accordance with relevant Natural Environment LEP/DCP controls

**14. Bushland Protective Fencing**

Prior to the commencement of any onsite building works a temporary 2.0 metre steel mesh fence is to be erected on the south-eastern side of the existing residence concrete driveway between the natural bushland zone and the construction area for the duration of construction work.

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

Reason: To ensure that the vegetation in the restricted development area is protected during and after construction.

**15. Detailed Design of Stormwater Treatment Measures**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the plans dated 12 February 2021 by ACOR Consultants and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment

**16. Safe pedestrian Access within site**

A shared zone area with maximum speed limit of 10km/h signposted, together with speed humps at several key locations within the site to slow down vehicles are to be implemented within the access roadways.

Detailed Plans demonstrating the above shall be prepared by a qualified traffic/civil Engineer and submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the provision of a safe pedestrian area

**17. Construction Traffic Management Plan**

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

The CTMP must address the following:-

The proposed phases of construction works on the site, and the expected duration of each construction phase;

- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- Make provision for all construction materials to be stored on-site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- Make provision for parking on-site. All Staff and Contractors are to use the at-grade and Level 1 Mezzanine parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Specify that, due to the proximity of the site adjacent to Oxford Falls Grammar School, no heavy vehicle movements or construction activities affecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Five (5) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure with the exception for any temporary road closure, for which a minimum seven (7) days notification must be provided.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before

entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;

- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practicing Structural Engineer, or equivalent;
- Proposed protection for Council and adjoining properties;
- The location and operation of any on-site crane; and

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

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

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects

#### **18. Construction in Bush Fire Prone Areas**

The recommendations made in the Bush Fire Risk Assessment Report prepared by Blackash Bushfire Consultants, dated 18 November 2019, Report Ref No. Version 1.2 and the subsequent Bushfire advice letter dated 8 September 2020 are to be considered as part of the assessment of the Construction Certificate.

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

**Reason:** To ensure adequate provision is made for the design and construction of the building to reduce the risk of ignition from a bushfire and provide building occupant safety

#### **19. Building Code of Australia Report**

A ‘Building Code of Australia (BCA) Assessment Report’ / ‘Fire Audit Report’ from an appropriately qualified Accredited Certifier\* will need to be submitted with the Construction Certificate application addressing the following:

The report is to detail the extent to which the proposed building does or does not comply with the deemed-to satisfy provisions of Sections C, D, E and F of the Building Code of Australia. The report is to also provide recommendations with respect to the building works required to ensure that the specified measures and facilities for the proposed development are appropriate for its intended use to:

- i) restrict the spread of fire from the building to other buildings nearby, and
- ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and

- iii) where appropriate, provide access for persons with a disability, and
- iv) provide facilities and services appropriate for the development

\*To be regarded as an "appropriately qualified accredited certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifying Authority with the Construction Certificate application.

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

## **20. Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

## **21. Contaminated Land Requirements**

A Stage 2 Detailed Investigation in accordance with the *Managing Land Contamination Planning Guidelines* is to be undertaken and a report prepared by suitably qualified contaminated land professional. Construction and/or earthworks must not commence until a Stage 2 Detailed Investigation has been undertaken and a report submitted to Council. Should the Stage 2 Detailed Investigation not conclude that the site in its current condition is suitable for the proposed development, without further works being required, a Stage 3 Remedial Action Plan (RAP) prepared in accordance with the *Managing Land Contamination Planning Guidelines* will be required, outlining how the site will be remediated suitable for the proposed use.

Reason: To prevent harm to humans or environment.

## **22. Delineation Asset Protection Zone**

Prior to the commencement of any vegetation clearance/modification, the boundaries of the bushfire Asset Protection Zone (APZ) are to be surveyed by a registered surveyor and clearly marked by way of temporary staking, flagging tape and temporary signage identifying retained native vegetation areas. Clearing of vegetation for APZ establishment must only occur within the marked APZ boundaries. Details demonstrating compliance are to be submitted by the project ecologist to the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: To protect native vegetation and wildlife in accordance with relevant Natural Environment LEP/DCP controls.



**23. Compliance with Ecologist's Recommendations – Pre-construction**

All pre-construction biodiversity-related measures specified in the amended and approved Biodiversity Management Plan and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist prior to issue of the Construction Certificate.

**Reason:** To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls

**24. Project Ecologist**

Prior to any works being undertaken on site, a Project Ecologist is to be engaged for the duration of the onsite works and issue compliance certification as per the requirements of this consent.

The Project Ecologist is to be engaged as required by this consent and associated documentation to ensure all conditions relating to the Biodiversity Management Plan of the property are fully implemented and complied with at all times.

The Project Ecologist shall meet the following minimum requirements:-

- A vegetation management specialist with at least 4 years' experience in the management of native bushland in the Sydney region; and
- TAFE Certificate III in Bush Regeneration or Conservation and Land Management – Natural Area Restoration
- A member of the Ecological Consultants Association of NSW Inc.

or as otherwise agreed by the Council;

A legally signed contract demonstrating compliance is to be submitted to the Certifying Authority prior to commencement.

Reason: To ensure bushland management

**25. Draft Bushland Covenant**

All areas of retained bushland on Lot 100 is to be protected, conserved, rehabilitated and managed through the use of a Section 88E (Conveyancing Act 1919) Instrument in which Northern Beaches Council shall be named as the sole authority to release or modify the restriction.

The draft instrument is to be written and registered on the title so that the owners are bound to manage and protect the area in perpetuity according to the updated Biodiversity Management Plan prepared for the approved development. The referenced plan must clearly denote areas outside the APZ as 'environment conservation area'. The draft instrument is to be submitted as acceptable to Council prior to Construction Certificate.

The approved instrument is to be registered on the title prior to the issue of the Occupation

Certificate and lodgment with NSW Lands Registry.

Reason: To prevent future loss of native vegetation and habitat outside of development impact areas.

**26. Compliance with Standards**

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

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

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

**27. Sydney Water "Tap In"**

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

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

- i "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- i 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.

**28. On-site loading bay**

An on-site loading bay accommodating Small Rigid Vehicle shall be provided in front of Unit 6 and 7 as demonstrated in the traffic Joint Report.

The plan demonstrating above and compliance with Australian Standards shall be submitted to and approved by the Principal Certifying Authority prior to the issue of any Construction Certificate.

Reason: To service ancillary building

**29. No Artificial Lighting – Fauna Habitat**

No artificial light is to be directed toward or illuminate the retained native vegetation area at any time during or post-construction. No bright lighting or motion detectors which illuminate the bushland areas are to be installed. Low intensity lighting may be used in the formed development area for safety purposes only.

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

Reason: To limit the negative impact of artificial light on fauna habitats adjoining the site

**30. Amended Landscape Plans**

An amended Landscape Plan shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to update the Landscape Plans dated 20.10.20 prepared by Paul Scrivener Landscape Architecture to be compliant with approved stamped plans dated 26 February 2021.

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

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

### **31. Tree Removal within the Property**

This consent approves the removal of the trees indicated for removal on Landscape Detail Plan Dwg No. 2 Issue D dated 20.10.20 prepared by Paul Scrivener Landscape Architecture.

Note: Exempt Species as listed in the Development Control Plan do not require Council consent for removal.

Reason: To enable authorised building works.

### **32. Provision of Construction Environmental Management Checklist**

All workers, including sub-contractors, are to be briefed on measures specified in the Construction Environmental Management Checklist (CEMC) through a site induction and given a copy of the CEMC prior to commencing their works. A record of receipt of the CEMC is to be signed by all workers and this record is to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls

### **33. Implementation of the Biodiversity Management Plan**

As nominated in the approved BMP, the primary weeding works will occur immediately prior to construction works, and the program of monitoring and inspection will be carried out by a qualified vegetation management consultant (or qualified botanist) for the project establishment period (approximately 12 months from commencement).

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: Management and protection of bushland.

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

### **34. Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected including:
  - i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments or legislation and NSW Rural Fire Service requirements for asset protection zones,

- ii) all trees and vegetation located on adjoining properties,
  - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
  - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
  - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
  - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
  - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
  - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
  - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
  - viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
  - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 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 Australian Standard 4373-2007 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 Certifying Authority must ensure that:

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

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

Reason: Tree and vegetation protection.

**35. 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.

**36. Substitution of Stormwater Treatment Measure**

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must first be approved by the Principal Certifying Authority.

Details must be submitted to the Principal Certifying Authority for approval prior to installation.

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

**37. Dewatering Management**

Tailwater (surface water and rainwater): Please contact [catchment@northernbeaches.nsw.gov.au](mailto:catchment@northernbeaches.nsw.gov.au) for advice on Council's water quality requirements for a single instance of dewatering tailwater that collects in an excavation during works. A dewatering permit application must be made for expected multiple instances or continuous dewatering of tailwater.

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

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

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

Reason: Protection of the receiving environment and groundwater resources

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

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

- i Work Health and Safety Act;
- i Work Health and Safety Regulation;
- i Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- i Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- i Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- i The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

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

**39. Demolition Works - Asbestos**

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

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

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

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

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

**40. Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

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

**41. Dust management**

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

Measures may include but are not be limited to:

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

Reason: To minimise dust to neighbouring residents and businesses and avoid air pollution. (DACHPEDW5)

#### **42. Protection of rock and sites of significance**

a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

b) Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

c) Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

#### **43. Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related measures are to be implemented during construction in accordance with the approved Biodiversity Management Plan and these conditions of consent.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

#### **44. Dead or Injured Wildlife**

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

Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016.

#### **45. Installation and Maintenance of Sediment and Erosion Control**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting

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

Reason: Protection of the receiving environment

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

#### **46. Landscape Completion**

- a) Landscaping is to be implemented in accordance with the approved Landscape Plans.
- b) Prior to the issue of any Occupation Certificate details (from a qualified landscape architect, landscape designer or horticulturalist) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

#### **47. Stormwater Disposal**

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

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

#### **48. Compliance with Ecologist's Recommendations – Post Construction**

All biodiversity related measures are to be implemented at the appropriate stage of development in accordance with the approved Biodiversity Management Plan and these conditions of consent.

Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Ecologist prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.



**49. Native Vegetation Protection Covenant**

All areas of retained native vegetation located outside of the APZ on Lot 100 is to be protected, conserved, and managed through application of a Section 88E Instrument (Conveyancing Act 1919) in which Northern Beaches Council shall be named as the sole authority to release or modify the restriction. Owners are to be bound to manage the area in perpetuity according to the approved Biodiversity Management Plan prepared for the approved development. The referenced plan must clearly denote areas outside the APZ as 'environment conservation area'.

The approved instrument is to be registered on the title prior to the issue of the Occupation Certificate and lodgment with NSW Lands Registry.

Reason: To prevent future loss of native vegetation and habitat outside of development impact areas

**50. Certification for the Installation of Stormwater Treatment Measures**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by ACOR Consultants dated 12 February 2021. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment.

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

Reason: Protection of the receiving environment

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

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

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

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgment with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

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

**52. Maintenance contract for stormwater filtration cartridges**

A minimum of a five-year contract with a suitably qualified provider is required for the maintenance of the stormwater filtration cartridges.

A copy of the maintenance contract must be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

Reason: To ensure maintenance of the stormwater treatment measures.

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment

**53. Stormwater Treatment Measures Operation and Maintenance Plan**

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
  - a) Work as executed drawings
  - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
  - c) Site detail showing catchment for each device
  - d) Impervious area restrictions to maintain the water balance for the site
  - e) Funding arrangements for the maintenance of all stormwater treatment measures
  - f) Identification of maintenance and management responsibilities
  - g) Maintenance and emergency contact information
2. Maintenance schedule and procedure
  - a) Activity description, and duration and frequency of visits

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

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

Reason: Protection of the receiving environment.

**54. Works as Executed Drawings - Stormwater Treatment Measures**

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

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

Reason: Protection of the receiving environment

**55. Signage and Linemarking**

The applicant is to install all signage and linemarking in accordance with Australian Standards. These works are to be completed prior to the issue of any Occupation Certificate.

Reason: To ensure consistent parking amenity.

**56. Allocation of parking spaces (strata title)**

All parking spaces are to be assigned to individual units. All industrial units and offices must be assigned a minimum of one parking space.

Reason: To ensure parking availability for each unit in accordance with section C3 of Warringah Council's Development Control Plan.

**57. Operational Management Plan**

An Operational Management Plan (OMP) detailing the operation of the development is required to be prepared in accordance with the traffic report and any associated supplementary documents and submitted to and approved by Council. The OMP shall include, but not be limited to the following:

- Vehicle access and egress.
- Maximum size vehicle accessing the site.
- Vehicles and trucks ingress and egress the site in forward direction.
- Through-site circulation of vehicle movements.
- Management of car parking areas and access roadways
- Complaints management.
- Noise management.
- Truck delivery times and methods of control to manage the sequencing of the loading docks.
- Waste management.

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

Reason: To ensure that the development operates with minimum disruption to the surrounding area

**58. Building Code of Australia Access Report**

Access and facilities to and within the building are to be provided for Persons with a Disability and are to comply with the Building Code of Australia and AS 1428.1. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

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

**59. Compliance with Contamination Management Plan**

Prior to the issue of any interim / final occupation certificate, certification from an appropriately qualified person or firm is to be provided to Council and the Principal Certifying Authority stipulating that the requirements of any Contamination Management Plan and recommendations made in the Phase 1 Assessment Report No. 12545/1-AA by Geotechnique Pty Ltd have been complied with throughout excavation, demolition and development work stages. The certification shall also include:

- a) A validation and site monitoring report prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.
- b) Records of disposal of contaminated material from the site.

Reason: Protection of the environment, SEPP 55 compliance. (DACHPFPOC5)

**60. Fire Safety Matters**

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

displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

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

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

**61. Removal of All Temporary Structures/Material and Construction Rubbish**

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

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

Reason: To ensure bushland management.

**62. Green Travel Plan**

The Applicant shall prepare a Green Travel Plan to promote the modal shift from car travels towards active travel. This shall include but not be limited to providing tenants with incentives for using alternative modes of travel to and from work such as car-pooling. The applicant shall liaise with Transport for NSW to expand the On-demand Transport / Keoride services to incorporate this site.

The applicant shall submit a Green Travel Plan that includes the above and any relevant liaison with Transport for NSW to Council prior to the issue of any Occupation Certificate.

Reason: To promote the modal shift from car travels towards active travel

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

**63. Exotic Plant Species/Weeds**

All exotic plant species, noxious and environmental weeds are to be managed continuously and are not to be imported to the site. Further information is available on Northern Beaches Council website.

Only certified weed free and contaminant free mulch is to be used on the site, as they may contain weed seeds and viable vegetative matter and other contaminants, which may impact adversely on the vegetation, soil, water quality or ecology of the site.

Reason: To ensure bushland and riparian management

**64. Maintenance of Stormwater Treatment Measures**

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment

**65. Designated service vehicles**

The owner and/or tenants of the units within the subject site are to be aware of the dedicated loading area which can accommodate up to Small Rigid Trucks (SRV) for units 30-34 and vans and utes (B99 vehicles) for units 35-39. This condition is to be provided on the property Title.

Reason: To ensure the tenants are aware that they are entitled to only use up to small rigid trucks (SRV).

**66. Implementation of Operational Management Plan**

All vehicle ingress and/or egress activities are to be undertaken in accordance with the approved Operational Management Plan. Vehicle queuing and reversing on public road(s) is not permitted.

Reason: To ensure that the development operates with minimum disruption to the surrounding area

**67. Comply with the recommendation of the Phase 1 Assessment Report**

Recommendations made in the Phase 1 Assessment Report No. 12545/1-AA done by Geotechnique Pty Ltd are to be complied with.

Reason: Protect human health and environment (DACHPGOG5)

**68. Landscape maintenance**

a) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

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

Reason: To maintain local environmental amenity.

**69. Compliance with Ecologist's Recommendations – Ongoing**

All ongoing biodiversity-related measures are to be implemented in accordance with the approved Biodiversity Management Plan and these conditions of consent.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls

**70. Delivery Hours**

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

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

**71. Loading Within Site**

All loading and unloading operations shall be carried out wholly within the confines of the site and within the approved loading areas, at all times.

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity.

**72. Commercial Waste Collection**

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

Reason: To protect the acoustic amenity of surrounding properties

**73. Signs/Goods in the Public Way**

No signs or goods are to be placed on the footway or roadway adjacent to the property.

Reason: To ensure pedestrian safety and to protect the streetscape.

**74. Noise Impact on Surrounding Area**

The use of the premises shall not cause a sound level in excess of 5 dB(A) at any time above the background noise level at any point along the site boundaries when measured in accordance with the Environment Protection Authority's Industrial Noise Policy.

Reason: To ensure compliance with acceptable levels of noise established under best practice guidelines.

**75. Hours of Operation**

The hours of operation are to be restricted to 7am – 6pm Monday – Friday and 8am – 2pm on Saturday (inclusive).

Upon expiration of the permitted hours, all service shall immediately cease, all customers on the premises shall be required to leave within the following 30 minutes.

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

**76. Maximum Vehicle size accessing the site.**

The size of vehicles ingressing and egressing the site shall not exceed 6.4m long Small Rigid vehicles (SRVs). This excludes private waste management vehicles which shall be up to 8.8m Medium Rigid Vehicles (MRVs). The waste management vehicle access is prohibited during school's AM and PM peak hours, "8.00am – 9.30am and 2.30pm – 4.00pm Monday-Friday".

Reason: To minimise adverse impact on road network

**77. No Artificial Lighting – Fauna Habitat**

No artificial light is to be directed toward or illuminate the retained native vegetation area at any time during or post-construction. No bright lighting or motion detectors which illuminate the bushland areas are to be installed. Low intensity lighting may be used in the formed development area for safety purposes only.

Reason: To limit the negative impact of artificial light on fauna habitats adjoining the site

**78. Lighting**

External lighting shall be restricted to the approved hours of operation with the exception of security sensor lighting and low-level bollard style lighting compliant with AS/NZS 4282:2019.

Reason: To control the obtrusive effects of outdoor lighting

**79. Roof Terrace**

The use of the roof top terrace shall be restricted to the hours from 8:00am until 6:00pm Monday – Friday.

The roof top terrace shall be for the exclusive use of people working on the site and shall not be open for use of the public.

Reason: Neighbour amenity and to ensure the use is consistent with the approved development