

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1340
Responsible Officer:	Lashta Haidari
Land to be developed (Address):	Lot 100 DP 1023183, Meatworks Avenue, Oxford Falls
Proposed Development	Demolition works and construction of additional industrial/warehouse development with ancillary office space and basement car parking.
Locality:	B2 Oxford Falls Valley - WLEP 2000
Category of Development:	Category 3 (Industry)
Consent Authority:	Northern Beaches Council
Delegation Level:	Northern Beaches Local Planning Panel
Land and Environment Court:	Yes
Owner:	Numeve Pty Ltd
Applicant:	Gelder Architects
Application Lodged:	26 November 2019
Integrated Development	No
Designated Development:	No
State Reporting Category:	Industrial
Notified:	1st Notification – 4.12.2019 to 15.1.2020 2nd Notification – 18.1.2020 to 8.2.2020
Advertised:	18 January 2020
Submission Received:	121
Clause 20 Variation:	<ul style="list-style-type: none"> • Building Height • Side Boundary Setback
Recommendation:	REFUSAL
Estimated Cost of Works:	\$9,625,000

Executive Summary

This report is an assessment of a proposal to construct 13 additional industrial/warehouse units with ancillary office space and basement parking on the site of an industrial/warehouse development currently under construction, known as the “Meatworks Site”.

The site is located within an area identified as “Deferred Lands” under Clause 1.3(1A) of the Warringah Local Environmental Plan 2011. The site is located within the B2 Oxford Falls Valley locality under Warringah Local Environmental Plan 2000 (WLEP 2000). The proposal is classified as Category Three development in the B2 Locality.

The site is the subject of a prior approval for an industrial/warehouse development under DA2011/0985. The DA was initially refused by the former Warringah Development Assessment Panel (WDAP), but subsequently approved, in a lesser size and scale by the Land and Environment Court (LEC) in April 2013. The approval by the LEC was based on amended plans that were submitted as part of the proceedings, which reduced the overall size and scale of the development, such that it was sited within the already disturbed areas of the former industrial/waste management site. It was agreed in the court proceedings that the areas of the site that are environmentally sensitive, were to be

retained and protected, through special conditions of consent, namely Condition 26 of DA2011/0985.

The current scheme has been developed around the fact that the LEC has already granted approval for industrial/warehouse units on the site and this new development scheme is an expansion to that approval by increasing the intensity and impacts. This report focuses on the merits of the current application, and whilst recognising that the previous approval has been granted, the current proposal is a different concept, in terms of the size, scale and the intensity of the development and its associated impacts.

The proposal seeks approval for 13 industrial/warehouses units and ancillary buildings which equates to approximately 4,105.50m² of Gross Floor Area (GFA) beyond what the Court approved for the site, which comprises 30 light industrial units. The increase in the number of units from 30 to 43 is a 40% increase and represents a significant intensification of a Category 3 use on this site, which is identified as only allowing low impact and low intensity forms of development.

The proposal is inconsistent with the previous approval of the site and specifically Condition No. 26 of Development Consent No. DA2011/0985 as detailed throughout this report.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that the proposal does not satisfy the applicable controls and so the application is recommended for refusal for the reasons detailed within the recommendation attached to this report.

In accordance with the requirements of Clause 15 of WLEP 2000, the application is presented for an independent public hearing to be conducted and that their findings and recommendations be presented to the Northern Beaches Local Planning Panel for determination of the application.

PROPOSED DEVELOPMENT IN DETAIL

The application proposes demolition and excavation works and the construction of 13 additional industrial/warehouse units (referred to in the DA as “*commercial/industrial buildings*”) with ancillary office space and basement parking.

The floor space for this new stage (Stage 2) of development is as follows:

Commercial/industrial Building	Ancillary Building
Level 1 – 540.86m ²	Ground Level – 110.06m ²
Roof Terrace Level – 445m ²	Carpark Level – 108.96m ²
Upper Roof Level – 437m ²	Level 1 – 145.69m ²
13 Additional Units - 2,317.93m ²	-
Total - 3,740.79m ²	Total – 364.71m ²

The additional industrial/warehouse units referred as Units 30-42 have a total area of **2,317.93m²**, which has the following floor areas allocated to each unit:

Unit 30 – 152.38m ²
Unit 31 – 151.43m ²
Unit 32 – 151.43m ²
Unit 33 – 151.43m ²
Unit 34 – 152.13m ²
Unit 35 – 120.58m ²
Unit 36 – 120.13m ²
Unit 37 – 120.13m ²
Unit 38 – 120.13m ²
Unit 39 - 120.82m ²
Unit 40 - 397.78m ²
Unit 41 – 278.69m ²
Unit 42 -280.87m ²

Ancillary floor space (364m² over 3 levels) is located at the western end of the proposed building, which the application states is to be used as a café (the occupation to be subject to separate approval) and communal lounge/meeting room areas. A large roof top communal open space is also proposed.

The proposed building footprint is shown in grey tones in Figure 1 below.

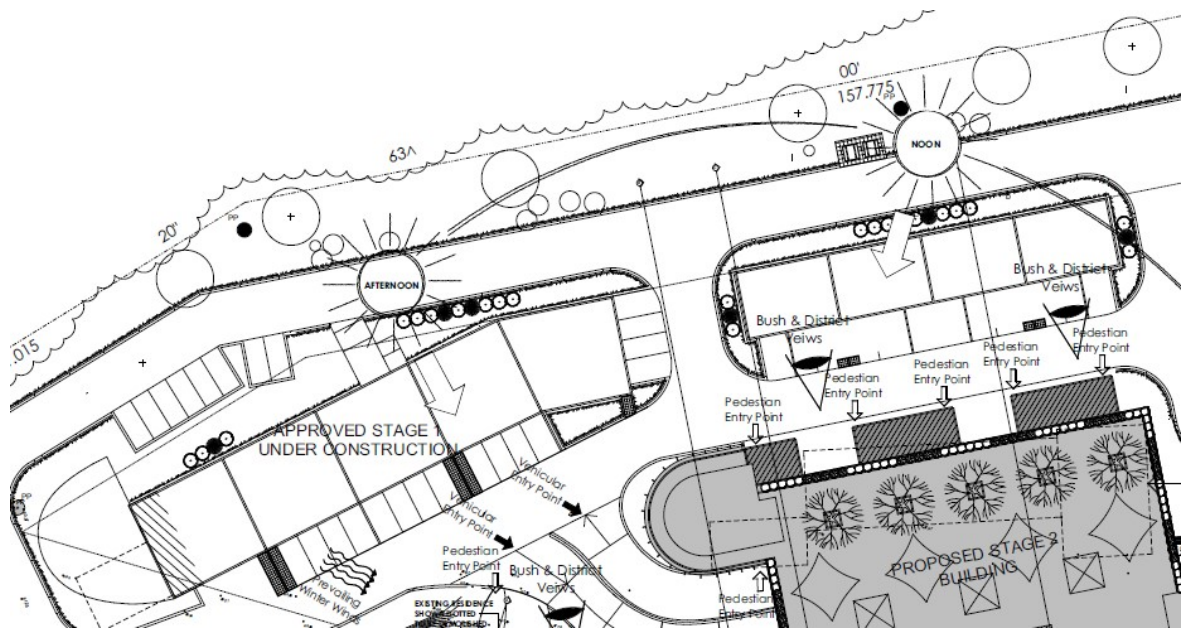


Figure 1 – New Building Footprint (Source: Plans prepared by Gelder Architects, dated 15 November 2019)



Figure 2 - Photomontage of the proposed building as viewed from the front entrance of site (Plans as prepared by Gelder Architects, dated 15 November 2019)

The proposed hours of operation as stated by the applicant are 7:00am and 6:00pm, Monday to Friday and 8:00am and 5:00pm, Saturday and Sunday.

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.

SITE DESCRIPTION

The subject site is legally described as Lot 100 DP 1023183, known as Lot 100 Meatworks Avenue, Oxford Falls identified with a yellow flag below. The subject site forms part of a larger collective of lots, identified with red hatching under a Permissive Occupancy of 3 parcels (lots 1046, 1047 and 1053) of Crown land. The proposed development is only located on Lot 100. The subject site is an irregularly shaped allotment with the total site area of 34,120m² (3.412ha) and is located at the northern end of Meatworks Avenue, as shown in Figure 3 below.



Figure 3 - Site Map

The subject site is a sloping allotment having a fall from south to north and from west to east, with a large rock escarpment traversing the southern portion of the site. The area to the south of the escarpment comprises dense remnant bushland. The northern part of the site is under construction as part of Development Consent No. DA2011/0985 and contains a number of other buildings and uses, comprising:

- Public Weighbridge
- Dwelling House
- Administration Building
- A storage building

The existing dwelling house (brick building) is located adjacent to the southern boundary of the site and a fibro building used for storage is situated to its north, which are both proposed to be demolished as part of this application.

Vehicular access to the site is currently via Meatworks Avenue, which terminates at the front boundary of the site. A central driveway traverses the centre of the site then gives access throughout the newly constructed development with secondary access roads accessing the upper and lower portions of the site.

The subject site is surrounded by large vacant allotments that are covered in dense bushland. Immediately to the northwest of the site is Public Open Space, which is also located within the B2 Locality and is an identified Conservation Area. The B2 locality is generally rural/residential in character in the immediate vicinity of the subject site and contains a range of other land uses comprising:

- Undeveloped native bushland to the north and east of the site.
- Detached dwelling houses on large allotments to the south and west of the site.

- Educational establishments fronting Wakehurst Parkway to the south and south-west of the site.

Site History

Original 1991 Land Use

The site was used as a waste management facility operating pursuant to Development Consent No. 91/130. The facility accepted non-putrescible domestic, construction and commercial wastes as well as construction/ demolition waste.

2013 Court Approval (DA2011/0985)

On 26 April 2013, the Land and Environment Court (LEC) granted development consent to an application proposing the construction of a light industrial/ warehouse development with ancillary office space on the subject site (proceedings 10526 of 2012). The works associated with this consent have been physically commenced and are well advanced. The relevant Construction Certificates are CC2018/0420 and CC2019/0078.

In the LEC proceedings, the applicant agreed to amended the plans in response to concerns raised by Council, which resulted in a significantly reduction in the building area to ensure the development would be confined to previously disturbed areas of the site. It was agreed between the experts in the proceedings that the development (as amended) would be confined to the area on the low side (north) of the escarpment, which has been previously cleared and levelled into a series of terraces and was occupied by large industrial buildings and waste management areas.

The amended proposal was conceived on the basis that it would replace the long established waste management facility use of the site, replace the large industrial buildings, would facilitate the rehabilitation of disturbed perimeter bushland and would provide for substantial improvement in terms of environmental outcomes. Therefore, it was found by the experts that the scaled down development was consistent with the provisions of WLEP 2000.

The LEC was satisfied with the expert's findings on the matter and granted Development Consent subject to conditions of consent, which directly related to the protection of the environmental features of the site. In addition, Condition No. 68 was also imposed on the consent to restrict the hours of operation to ensure the acoustic and amenity of the adjoining development was protected. The hours of operation were restricted to:

- 7.00am to 6.00pm – Monday to Friday
- 8.00am to 2.00pm – Saturday
- No Sunday operations

The approved development footprint, as submitted with DA2011/0985, and as amended through the LEC proceeding, is shown in Figures 4 and 5 below.

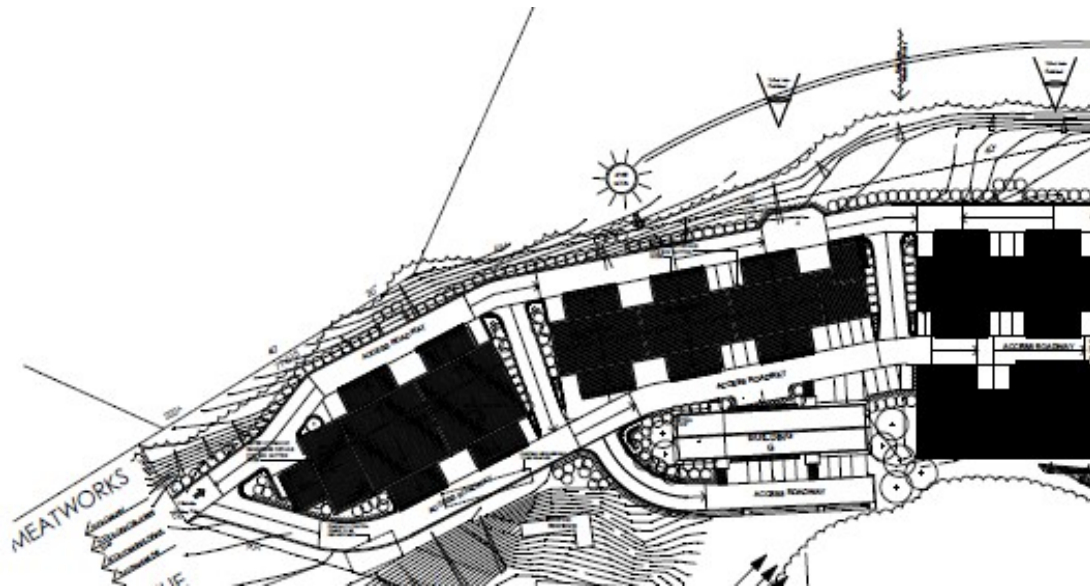


Figure 4 - Plans Originally Lodged with DA2011/0985 (Source: Plans prepared by Gelder Architects, dated February 2010)

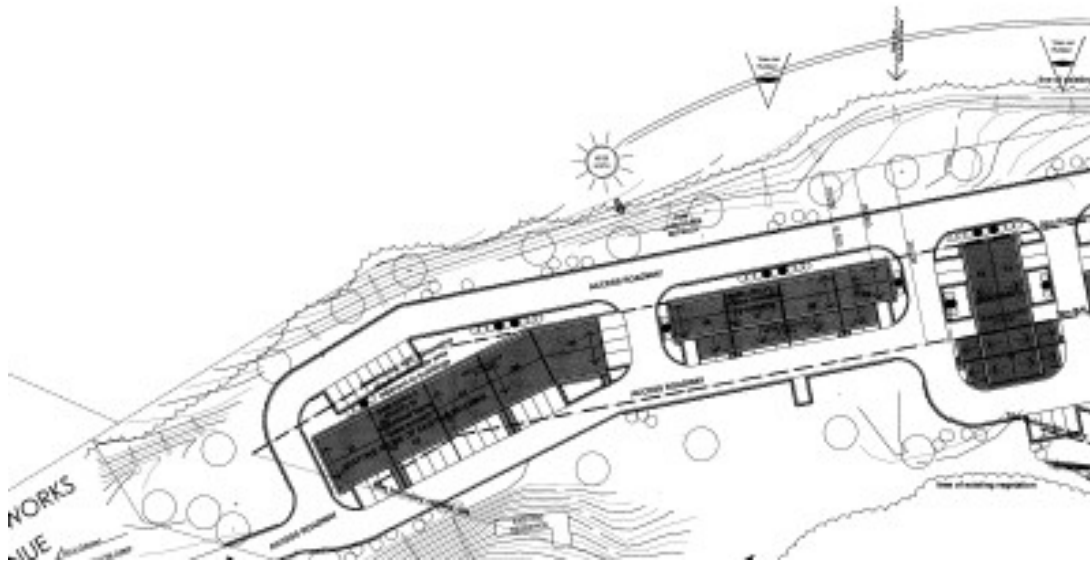


Figure 5 - Plan approved by the LEC (Source: Plans prepared by Gelder Architects, dated 18 December 2012)

2019 Pre-Lodgement Meeting (PLM2019/0088)

A pre-lodgement meeting was held with Council on 21 May 2019 in relation to the current proposal. The critical planning and environmental advice provided to the Applicant was that the proposal should be confined to the areas of the site that are already disturbed, the conclusion reading:

“The proposal is not acceptable and requires redesign prior to submission.

The most critical aspect of the proposal is that any additions must only be contained within the already disturbed areas of the site.

Encroachments into the parts of the site that contain bushland or other unique environmental features will not be supported.”

DEVELOPMENT APPLICATION HISTORY

On 26 November 2019, the current application (DA2019/1340) was lodged with Council.

On 2 April 2020, the Applicant filed a Class 1 application with the Land and Environment Court against the deemed refusal of the DA.

The Section 34 conciliation conference date is scheduled for 6 July 2020.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The relevant matters for consideration of 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 within this report
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	None Applicable
Section 4.15 (1) (a)(iiia) - Provisions of any Planning Agreement or Draft Planning Agreement	<p>Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The site is the subject of an approval for industrial/warehouse development.</p> <p>The proposed development retains the approved industrial use of the site, and is not considered a contamination risk, as discussed under SEPP 55 of this report.</p>
Section 4.15 (1) (a)(iv) - Provisions of the regulations	<p>Clause 98 of the Environmental Planning and Assessment Regulation 2000 states that a prescribed condition of consent is that the work is to be undertaken in accordance with the Building Code of Australia (BCA). If the application is approved a condition of consent could be included in the recommendation to ensure that the proposal complies with the BCA.</p> <p>Clause 93 and 94 of the EPA Regulations 2000 requires the consent authority to consider fire safety and structural issues. Accordingly, appropriate conditions of consent are recommended for imposition should this application be considered worthy of approval for existing buildings that are proposed to be retained.</p>
Section 4.15(1) (b) – The likely impacts of the development, including environmental impacts on the natural and built environment	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the

Section 4.15 'Matters for Consideration'	Comments
<p>and social and economic impacts in the locality.</p>	<p>General Principles of Development Control table in this report. In summary, a number of inconsistencies with the relevant controls have been identified which indicate the impact of the development on the natural and built environment is not acceptable.</p> <p>(ii) The development will provide for additional industrial/warehouse development on the site and will generate employment for the locality. The proposed development will not therefore have a detrimental social impact on the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the industrial nature of the proposed land use.</p>
<p>Section 4.15 (1) (c) – The suitability of the site for the development.</p>	<p>The site is not considered suitable for the size and scale of the additional development proposed, the application having been assessed as being inconsistent with certain provisions of WLEP 2000.</p> <p>On this basis, the site is not considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation</p>	<p>In regards to public submissions, refer to the discussion on "Notification & Submissions Received" within this report. In summary, the public submissions received raise a number of relevant issues which warrant the refusal of the application.</p>
<p>Section 4.15 (1) (e) – The public interest</p>	<p>The public interest has been considered as part of the application process. Overall, the public interest is best served by the consistent application of the requirements of the relevant planning controls, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised and/or managed.</p> <p>The proposal has been assessed against the provisions of the relevant planning controls and is unacceptable in terms of its impact on the natural and built environment.</p> <p>On this basis, the proposal is not considered to be in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights do not apply to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and

Assessment Regulation 2000 and the relevant Northern Beaches Community Participation Plan.

The application was notified twice:

First Notification

4 December 2019 to 15 January 2020 - notification letters sent to 10 adjoining properties.

Second Notification

18 January 2020 to 8 February 2020 - notifications letters sent to 39 surrounding properties.

A notice was placed in the Manly Daily on 18 January 2018 and signs were placed upon the site.

As a result of the public exhibition process, Council is in receipt of 121 submissions, all of which raised objection to the proposed development.

The issues raised in the submissions are addressed in the following discussion:

- **The development will worsen traffic congestion and reduce safety on the local road network**

Concerns are raised that the development will increase traffic congestion on the local road network and reduce safety, particularly with regards to the nearby school. The objectors have raised concern that the Traffic Report submitted with the application has not adequately address the direct conflict of School pick up and drop off and the increased traffic associated with the proposed use.

Comment: Council's Traffic Engineer has reviewed the application and concludes that the Traffic Report submitted with the application is inadequate and does not allow a proper determination of the impact of the development on the local road network.

The concerns are concurred with and form a reason for refusal.

- **Impact of construction on existing residents and uses (noise, dust, amenity)**

Concern is raised regarding excavation and construction impacts associated with the development and the potential impact of delivery of trucks using the road network during school hours. Concerns have also been raised in relation to proposed construction hours and the potential for those hours to impact on the operation of the nearby school and other developments within the locality.

Comment: With regards to excavation and construction management, appropriate conditions can be imposed on a consent, should the application be considered for approval.

The construction hours imposed on consents are the standard hours for all construction activity, which are in accordance with the Interim Construction Noise Guidelines established by NSW Department of Planning, Industry and Environment.

Therefore, this issue should not be given determining weight.

- **Inconsistency with the Desired Future Character (DFC) Statement for the B2 Oxford Falls Valley Locality**

Concerns have been raised that the proposal is not consistent with the DFC of the Oxford Falls Valley Locality Statement, as in that it is not in-keeping with the character of the local area and will destroy the environmental features of the site.

Comment: The proposal's consistency with the DFC statement is addressed in the 'WLEP 2000' section of this report. In summary, the proposed development has been found to be inconsistent with the DFC statement for the B2 Locality.

The concerns are concurred with and form a reason for refusal.

- **Inconsistent with the General Principles under WLEP 2000**

Several submissions received have raised concerns that the development does not comply with several of the General Principles of Development Control as contained in Part 4 of WLEP 2000.

Comment: The issues raised have been addressed under the General Principles of WLEP 2000 section in this report. In summary, it has been found that the development is inconsistent with a number of the general principles and these have included as a reason for refusal.

- **Non-compliance with Built Form Controls**

Concerns have been raised that the proposed development does not comply with the applicable built form controls for the site.

Comment: The non-compliances of the proposal in relation to the built form controls is discussed throughout this report and forms a reason for the refusal of the DA. In summary, the development does not comply with built form controls that relate to building height and side setbacks.

The concerns are concurred with and form a reason for refusal.

- **Excessive Environmental Impacts**

A significant number of submissions raised concerns in relation to the impact of the development on the natural environment. Concerns have also been raised that there are inconsistencies between the experts reports submitted with the application.

Comment: This issue is addressed in the relevant sections addressing WLEP 2000 in this report and within the Referrals Section; specifically, Landscape and the Natural Environment (Biodiversity) Section. In summary, the impact on the natural environment is found to be unsatisfactory.

The concerns are concurred with and form a reason for refusal.

- **Approval would set an Undesirable Precedent**

The submissions raise concern that approving the development would set an undesirable precedent for similar types and/or scales of development in the area that are unsuitable and inappropriate.

Comment: In accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000, Council is required to assess all development applications on their individual merits and against the relevant planning controls which apply to site at the time.

Accordingly, the issue in relation to precedent does not warrant the refusal of the application.

- **Insufficient Community Consultation**

Concerns have been raised that the proposed development has not undergone sufficient community consultation. In particular, concern is expressed that the application was not notified to a sufficient number of local residents.

Comment: The Northern Beaches Community Participation Plan requires adjoining properties to be notified by letter and the advertising of the application in the local newspaper. The time periods and extent of notification can be extended at the discretion of authorised officer should it be warranted, which is mainly due to the potential impacts of the development.

The notification of the DA was extended to properties that were deemed to be directly or indirectly impacted by the development. Residents and other uses were more broadly captured by the advertising in the Manly Daily.

This issue has been further resolved by re-notifying the application and sending notification letters to those residents who adjoin the site or are nearby.

Therefore, this matter does not warrant the refusal of the application.

- **Bushfire Hazard**

Concern has been raised over the threat of bushfires in the area and the suitability of such a use in this location.

Comment:

The development is accompanied by a Bushfire Risk Assessment report prepared by Blackash Bushfire Consultant. In the report, recommendations are provided to ensure the safety of the development, in accordance with the provisions of '*Planning for Bushfire Protection 2006*' as published by the NSW Rural Fire Service (NSWRFS).

The application was also referred to the NSWRFS (see External Referrals section in this report), who had not provided comments at the time of finalising this report. The application should not be approved until the comments (and conditions should the proposal be supported) have been received from the NSWRFS.

The concerns are noted and the absence of the RFS response warrants the refusal of the application.

- **Acoustic Impacts and Insufficient Information**

Concern is raised that the increased size, scale and intensity of the development above the existing approved development will have an adverse impact upon the acoustic amenity of adjoining and nearby development.

Comment: This issue is addressed in the Clause 43 of WLEP 2000 section of this report. In summary, the applicant has provided insufficient acoustic assessment to properly determine the acoustic impact of the development.

The concerns are concurred with and form a reason for refusal.

- **Inadequate Geotechnical Report**

Concerns have been raised that the proposal development involves a significant excavation of the site and there is no detailed geotechnical report submitted with the application to address the implications of the excavation.

Comment: The plans submitted with the application indicate a rock face excavation of up to 9.5m in height to accommodate up to three levels of basement parking. The applicant has submitted an experts report, prepared by Greg Dalls Consulting Engineer, which is a single page of information that simply states the design is adequate.

The report submitted with the application is insufficient, inadequate and does not provide any information relating to the stability of this portion of the site and the risk level of such a deep excavation.

The concerns are concurred with and form a reason for refusal.

- **Impact upon Existing Utilities and Infrastructure**

Submissions raise concerns that existing utilities and infrastructure will not be able to support a total development of this increased scale.

Comment: The provision of infrastructure is managed by the relevant service providers (i.e. telecommunications, water, electricity, roads, drainage etc.). In this regard, it is unlikely that the development would impose a strain upon the provision of those utilities and infrastructure.

If the application was recommended for approval, conditions would be included which would require approval by Sydney Water for access to Sydney Water's sewerage infrastructure prior to the issuing of a Construction Certificate.

Therefore, this issue should not be given determining weight.

- **Omissions in Supporting Documents**

The submissions raise the issue that the documentation accompanying the DA omits major areas of assessment and details, including:

- There are major inconsistencies within the reports submitted with the application
- The flora and fauna report did not list all the endangered species within the area and the report does not mention the Duffy's Forest Endangered Ecological Community

- Inaccurate Statement of Environmental Effects
- Inaccurate Traffic Report
- Inaccurate Geotechnical Report

Comment: The documentation submitted with the DA describes the proposed development and provides a level of information for Council to determine whether the proposal complies with all relevant controls.

Council undertakes its own assessment of the proposal and in the process of making such findings, considers the expert reports provided by the applicant. In this regard, the information provided by the applicant is not always agreed with or relied upon. Where Council cannot complete the assessment due to insufficient or inadequate information, the applicant may be requested to provide additional details or that issue may be included as a reason for refusal.

In the circumstances of this DA, the assessment has identified a number discrepancies within the application and there is conflicting information in relation to various reports and plans. In addition, there is lack of information to undertake a proper and complete assessment of the application.

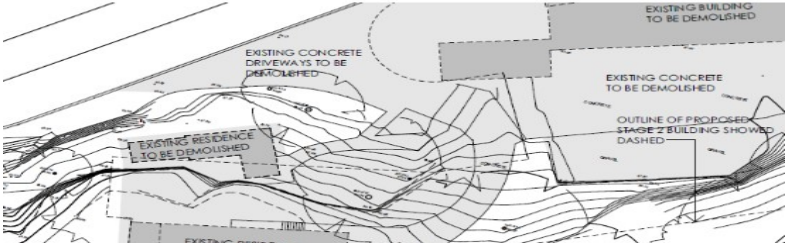
The concerns are concurred with and where validated form a reason for refusal.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported subject to conditions</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Industrial)	<p>Supported subject to conditions</p> <p>Environmental Health has reviewed this proposal for construction of industrial units on land currently used as a waste management facility. Two main points of concern are dust from the excavation and construction works and management of any contaminated land or ground water.</p>
Landscape Officer	<p>Not Supported</p> <p>The Landscape Plans and Arborist's Report submitted with the application are noted.</p> <p>The proposed works require excavation into previously undisturbed areas of the site and removal of rock outcrops and native vegetation.</p>

	<p>The Arborist's Report indicates that 25 trees are to be removed. Of these, 16 are local native species with another 6 non local native species. Lower understorey shrubs and ground covers are also required to be removed in the excavated areas.</p> <p>The Landscape Plan provided indicates replanting of only 2 local native trees and 6 non local native trees.</p> <p>The proposal therefore clearly impacts upon existing natural features of the site.</p> <p>It is noted that a previous approval has been granted on the site by the Land and Environment Court.</p> <p>The SEE provided addresses the judgement and notes at Page 16:</p> <ul style="list-style-type: none"> <i>In these proceedings it was agreed between the parties that the light industrial/ warehouse development with ancillary office space was appropriately described as a low intensity and low impact use consistent with the existing and desired future character (DFC) for the B2 Oxford Falls Valley Locality. In forming this opinion, consideration was given to the fact that the proposed works were confined to previously disturbed areas of the site, would facilitate the cessation of the long established waste management facility use of the site, would facilitate the rehabilitation of disturbed perimeter bushland and would provide for substantial betterment in terms of environmental outcomes and consistency with the DFC.</i> <p>The works the subject of this application seek to extend development beyond previously disturbed/developed parts of the site. The site is within the B2 Locality under WLEP2000. The LEP makes specific mention of environmental features in the Locality, including retention of unique environmental features, minimising excavation and preservation of natural vegetation as per extracts below (italicised emphasis added):</p> <p>Warringah Local Environmental Plan 2000</p> <p><u>Part 4 Division 4 Clause 56</u> 56 Retaining distinctive environmental features on sites <i>Development is to be designed to retain and complement any distinctive environmental features of its site and on adjoining and nearby land. In particular, development is to be designed to incorporate or be sympathetic to environmental features such as rock outcrops, remnant bushland and watercourses</i></p> <p><u>Part 4 Division 4 Clause 57</u> 57 Development on sloping land <i>On sloping land, the height and bulk of development, particularly on the downhill side, is to be minimised and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope.</i> <i>In particular—</i></p> <ul style="list-style-type: none"> <i>the amount of fill is not to exceed more than 1 metre in depth, and</i> <i>fill is not to spread beyond the footprint of the building, and</i>
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	<ul style="list-style-type: none"> • <i>excavation of the landform is to be minimised.</i> <p>The geotechnical stability of sloping land to support development is to be demonstrated. Consent must not be granted for development involving the erection of a structure, including additions to an existing structure, on land identified as being potentially subject to landslip on the Landslip Hazard Map unless the consent authority has considered a report from a suitably qualified engineer as to the geotechnical stability of the land to support such development and an assessment of stormwater prepared by a suitably qualified hydraulic engineer.</p> <p><u>Part 4 Division 4 Clause 58</u> 58 Protection of existing flora <i>Development is to be sited and designed to minimise the impact on remnant indigenous flora, including canopy trees and understorey vegetation, and on remnant native ground cover species.</i></p> <p>DESIRED FUTURE CHARACTER</p> <p>The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.</p> <p>Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway. <i>The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services.</i> Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged. A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.</p> <p>Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.</p> <p>It's difficult to reconcile the proposed works with the development controls and Court consideration as described above.</p> <p>The proposal is therefore not supported with regard to landscape issues due to the extended development in to previously undisturbed areas. A development that was confined to existing disturbed areas only may be more acceptable in relation to the issues raised above.</p>
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<p>NECC (Bushland and Biodiversity)</p>	<p>Not Supported</p> <p>While the proposed development will not trigger the NSW Biodiversity Offset Scheme, as concluded by the Flora and Fauna Assessment, the proposal does not avoid or minimise impacts to the biodiversity values of the site. The proposed development will directly and indirectly impact the limited areas of native vegetation and fauna habitat remaining on the site, is not in keeping with the natural landscape of the locality, and will impact areas protected by a bushland covenant applying to the site relating to the previous development consent. Therefore the development is not supported.</p> <p>I have reviewed the following documents and plans in preparing the following comments:</p> <ul style="list-style-type: none"> • Statement of Environmental Effects – Boston Blyth Fleming November 2019 • Flora and Fauna Assessment – Ecoplanning 15 October 2019 • Bushfire Risk Assessment – Blackash 18 November 2019 • Gelder – Architectural Plans Revision C dated 31/10/19 • NSW LEC Case 10526 of 2012, including Condition 26 Bushland Covenant. <p>The development has been assessed against clauses 56 and 58 and the B2 Oxford Falls Valley locality statement of Warringah Local Environmental Plan 2000, and the requirements of Warringah Development Control Plan 2000.</p> <p><u>Flora and Fauna Assessment</u> <i>The data within Table 4.1 and Figure 4.1 is unclear as the definition of the 'subject site' is inconsistent between the information submitted supporting the application. The extent of the subject site that will be directly impacted by the Asset Protection Zone has been limited to the boundary of Lot 100. The APZ doesn't extend beyond the site boundary, and this is identified within the Bushfire Hazard Assessment (Figure 6). Therefore while the area of impact (APZ) depicted in figure 4.1 of the flora and fauna assessment is potentially overstated, the area of native vegetation within Lot 100 that will be directly impacted will be larger when expressed as a percentage of the area of native vegetation remaining on the site. It is unclear if the areas within Table 4.1 relate to Lot 100 only, or the larger 'subject site' as defined by Ecoplanning.</i></p> <p>Section 4.3.1 Vegetation clearing lists the measures taken to avoid</p>

	<p>and mitigate impacts. However, the measures proposed only relate to the mitigation of impacts, and the avoid/minimise/offset hierarchy has not been satisfactorily considered and does not satisfy local planning controls (see below).</p> <p><u>DA2011/0985 Consent</u> The NSW Land & Environment Court s34 agreement for DA2011/0985 included Condition 26 requiring a Bushland Covenant to manage and protect bushland within the area. The proposed development will directly impact a portion of the site identified for the protection of bushland. Any development of the site should avoid impacts to native bushland.</p> <p><u>Warringah Local Environmental Plan 2000</u> Clause 56 Retaining distinctive environmental features on sites The development has not been designed to retain and complement distinctive environmental features of the site, and does not incorporate or be sympathetic to environmental features such as rock outcrops, remnant bushland and watercourses.</p> <p><u>Clause 58 Protection of existing flora</u> The development has not been sited and designed to minimise the impact on remnant indigenous flora, including canopy trees and understorey vegetation, and on remnant native ground cover species.</p> <p><u>Locality B2 Oxford Falls Valley</u> The development is not in keeping with the desired future character of the Oxford falls Valley as the natural landscape including landforms and vegetation remaining on the site will not be protected or enhanced. The development is not entirely located in an area that will minimise disturbance of vegetation and landforms.</p>
NECC (Development Engineering)	<p>Supported Subject to conditions</p> <p>It is noted that Riparian / Water Quality section has not supported the application as no water quality measures have been proposed for the development. Any amendments to the current stormwater strategy will require a re-referral to Development Engineering for review.</p> <p>No objections are raised to the proposed development, subject to conditions.</p>
NECC (Riparian Lands and Creeks)	<p>Not Supported</p> <p>The proposed work site is located outside riparian zone and has no direct impact on the riparian land.</p> <p><u>Water Quality</u> Warringah LEP 2000 is specifying the Water quality control measures are to be provided in accordance with the Northern Beaches Stormwater Management Plan (now updated to the PL 850 Water Management Policy). PL 850 is defining the water quality requirements and control for the site.</p> <p>The proposal <u>is not</u> demonstrating compliance with the relevant stormwater performance requirements:</p>

	<ul style="list-style-type: none"> No stormwater treatment devices are shown on the stormwater management plan. MUSIC water quality model, or approved equivalent, must be provided to support the application.
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Supported</p> <p>The proposed works are located above the Flood Planning Level, no flood related development controls applied.</p>
Strategic and Place Planning (Urban Design)	<p>Not Supported</p> <p>The application proposes the expansion of the previously court approved light industrial/ warehouse development with ancillary office space and seeks the construction of an additional 16 industrial/ warehouse units with ancillary office space and associated basement parking. The development also incorporates ancillary floor spaces at the western end of the main building which are intended to be used for as a café (subject to separate approval) and communal lounge/ meeting room areas. A large roof top communal open space is also proposed.</p> <p>The Desired Future Character Statement for the B2 Oxford Falls Valley Locality is as follows:</p> <p><i>Future development will be limited to new houses conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway. The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services.</i></p> <p>The approved scheme is a two storey built form in pavilion forms located on the flatter section of the site. The new proposal seeks to build on the hill slope with a three/four storey building forms and will result in an unacceptable visual compatibility with the approved two storey and less bulky built forms. Furthermore, the new building forms are located on a slope where landforms are not meant to be disturbed and to make matter worse, with a deep three storey excavation into the hill slope. The extent of excavation will give rise to significant environmental impacts.</p> <p>The proposed industrial/warehouse building has a variable height above ground level of between 5 and 7.5 metres along its southern edge and up to a maximum of 11.5 metre measured to the roof of the ancillary facilities/ service hub. The proposal also exceeds the 7.2 metre wall height control. The extent of overall building height noncompliance is unacceptable. The proposed buildings display and height, visual bulk and an architectural scale that is not consistent with the industrial/ warehouse buildings previously approved. The non-compliant building height elements will be discernible as viewed from the surrounding public places. The proposed built form will not complement those previously approved for the stage 1 industrial/ warehouse development on the site.</p> <p>The proposed building maintains a 7.5 metre setback to the western</p>

	<p>boundary which does not comply minimum 10 metre setback with the side and rear boundaries. The rear and side setback areas are to be landscaped and free of any structures, car parking or site facilities other than driveways and fences.</p> <p>The proposal requires the removal of a number of trees which was assumed to be a good balance of built forms and vegetation in the approved scheme.</p> <p>The proposed works require excavation into previously undisturbed areas of the site and removal of rock outcrops and native vegetation. The additional vegetation and landform impacts that arise as a consequence of the works proposed is not acceptable.</p> <p>The development design is not sensitive to environmental conditions and site attributes including size, shape and design of allotments, the position of buildings, the size (bulk, height, mass), form, appearance and design of buildings.</p> <p>As described above, the proposed development is not a low intensity and low impact use and therefore the proposed development is not consistent with the desired future character of the B2 Oxford Falls Valley Locality.</p>
Traffic Engineer	<p>Not Supported</p> <p>The application is for the consolidation of sites to construct 7 buildings with a total of 30 industrial units.</p> <p>Traffic:</p> <p>The numbers included in the assessment do not coincide with one another. The report mentions a generation rate of 40 vehicles in the peak PM and then references 68 vehicles in the peak movement. The data is not consistent and should be amended accordingly. There is no emphasis on a public transport modal shift. The applicant has identified that the area has poor serviceability. Noting that Council is to install a bus stop on the north-east corner of Dreadnaught Road and Wakehurst Parkway, the applicant is to demonstrate public transport access, particularly for staff, via a footpath connection from the bus stop location to the site. The footpath construction will be at the cost of the applicant.</p> <p>Parking:</p> <p>Parking numbers are deemed acceptable. A reduction will be recommended once footpath access is provided from the proposed bus stop. The report should be revised with a reduction taken into consideration.</p> <p>Accessibility:</p> <p>The car park arrangement should be in accordance with AS2890. Driveway widths appear to be appropriate. Car parking spaces appear to be designed appropriately.</p> <p>Vegetation adjacent to parking spaces shall be kept clear of the sight visibility splays.</p> <p>No provision has been made for servicing of the site. Further detail is required. The applicant has mentioned the truck size of 6.4m to be utilized, however has failed to indicate servicing times and locations.</p>

	<p>Pedestrian: The site shall be signposted as a 10km/h slow speed environment. This will provide adequate safety for pedestrians moving within the carpark/access road.</p> <p>Conclusion: Based on the Traffic, Parking and Accessibility concerns raised, the application cannot be supported in its current form. Further information is required.</p>
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External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>No response received</p> <p>The application was referred to Ausgrid under clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007.</p> <p>To date, no response has been provided and it is assumed that no objection is raised concerning the proposal and hence there are no specific Ausgrid requirements to be imposed on any consent.</p>
Aboriginal Heritage Office	<p>Supported</p> <p>The Aboriginal Heritage has advised that no sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p>
NSW Rural Fire Services (NSW RFS)	<p>No response received</p> <p>The application was also referred to the comments.</p> <p>To date, no response has been provided. The application cannot be approved until the comments from the NSW RFS have been received.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP No. 55 – Remediation of Contaminated Lands establishes State-wide provisions to promote the remediation of contaminated land.

The SEPP states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before

the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected, and requires councils to be notified of all remediation proposals.

Clause 7 of the SEPP requires that a consent authority must not grant consent to a development if it has considered whether a site is contaminated, and if it is, that it is satisfied that the land is suitable (or will be after undergoing remediation) for the proposed use.

In response to these requirements, the applicant submitted a Site Contamination Assessment Report, prepared by Goe-Environmental Engineering, dated 5 February 2020 for the proposed development. The report concludes that “*there is no widespread contamination issue on the site*”.

The application was also referred to Council’s Environmental Health Officer who has reviewed the report and raised no objection to the proposal subject to conditions.

Accordingly, based on the information submitted, the requirements of the SEPP have been satisfied and the land can be made suitable for the purpose for which the development is proposed to be carried out.

SEPP (Infrastructure) 2007

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

- *Within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);*
- *Immediately adjacent to an electricity substation; or*
- *Within 5m of an exposed overhead electricity power line.*

The application was referred to Ausgrid under clause 45(2) of SEPP Infrastructure. To date, no response has been received and it is assumed that Ausgrid do not raise any objection nor impose any conditions.

Clause 102 - Roads and Maritime Service (RMS)

With regards to requirements of Clause 104(2) (b) and Schedule 3 of the SEPP, the development does not have a capacity for 200 or more motor vehicles. Therefore, the SEPP Infrastructure does not apply in this respect and does not require the referral of the application to Transport NSW (Former RMS).

SEPP 44 – Koala Habitat Protection

The provisions of this policy apply as the site is greater than one hectare in size. The site does not represent potential or core koala habitat.

Accordingly, no further consideration of the policy is required
Warringah Local Environmental Plan 2011 (WLEP 2011)

The B2 Oxford Falls Valley and C8 Belrose North Localities (which cover the land subject to this Application) under the WLEP 2000 were proposed to be zoned E3 Environmental Management in the draft 2009 version of Warringah's standard instrument. This was based on a detailed translation methodology that was applied to all land within the former Warringah LGA.

In December 2011, the Minister for Planning and Infrastructure *deferred* land in the Oxford Falls Valley and Belrose North areas from the Warringah Local Environmental Plan 2011 (WLEP 2011) in response to stakeholder concern regarding the adequacy of consultation during the preparation of WLEP 2011.

Accordingly, WLEP 2011 and the current Warringah Development Control Plan 2011 do not apply to this application.

Warringah Local Environmental Plan 2000 (WLEP 2000)

Desired Future Character

WLEP 2000 applies to the subject land and the DA is made pursuant to this instrument. Under WLEP 2000, the subject site is within the B2 Oxford Falls Valley Locality and the proposed development, being development for the purposes of industrial/warehouse, is classified as a Category 3 Development.

Pursuant to clause 12 of WLEP 2000, before granting consent for development, the consent authority must be satisfied that the development is consistent with any relevant General Principles of Development Control in Part 4 of WLEP 2000, and any relevant State Environmental Planning Policy described in Schedule 5 (State Policies).

Furthermore, clause 12 indicates that before granting consent for development, the consent authority must be satisfied that the development will comply with the relevant requirements made by Parts 2 and 3, and the development standards for the development set out in the Locality Statement for the locality in which the development will be carried out.

Finally, clause 12 states that before granting consent for development classified as Category Two or Three, the consent authority must be satisfied that the development is consistent with the Desired Future Character (DFC) described in the relevant Locality Statement.

The DFC statement for the B2 locality states as follows:

B2 Oxford Falls Valley Locality

The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access

roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its Catchment and will ensure that ecological values of natural watercourses are maintained.

Each element of the desired future character statement is discussed as follows:

The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows:

When the DFC discusses the ‘*present character*’, it is reflective of the character that should not be altered from the time the instrument was gazetted (being that stipulated above). At which point a ‘*Desired Future Character*’ was set (being that land to be developed in accordance with the future directions stipulated within the DFC statement).

The present character of the Oxford Falls Valley is best described as:

- Predominantly natural landforms (which can include ridgetops and rock outcrops), remnant bushland (remnant indigenous flora, including canopy trees and understorey vegetation, and on remnant native ground cover species), habitat for fauna, natural drainage lines and watercourses (including the catchments); and
- Interspersed rural-residential dwelling-houses (with associated ancillary structures) on allotments which have a density in the order of 1 dwelling/20 hectares and other occasional developments in the form of two schools and a recreation facility (tennis academy).

Post the making of WLEP 2000, there has been a child care centre and medical centre approved and a seniors housing (residential care facility) development approved (but not constructed), as well as the approved industrial/warehouse development on the subject site.

The proposed development does not adequately provide for the preservation of the “present character” despite the fact that the subject site is already significantly cleared and being developed for warehouse development as discussed in the following sections of the DFC.

Future development will be limited to new detached style housing conforming to the housing density standards set out below and low intensity, low impact uses.

This component of the DFC requires that new development that is not housing should be limited to low intensity and low impact uses. The statement “*low intensity, low impact uses*” is directly applicable to such uses other than “housing” that may be permissible in the locality, such as the proposed development.

The term “low intensity” and “low impact” are not defined in the dictionary of WLEP 2000. However, in the matter of *Vigor Master P/L v Warringah Council [NSWLEC 1128]*, Commissioner Hussey gave weight to the evidence of the Council Planner who sought to give meaning and understanding to the term “intensity” and “Impact”. In this regard, the following characterisation was given:

“Intensity: is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore, “low intensity” would constitute a development which has a low level of activities associated with it.”

“Impact: is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore ‘low impact’ would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality.

Further, the Commissioner made the important observation that “any development must also satisfy a qualitative assessment as well as the quantitative controls so as to achieve a reasonable degree of consistency with the DFC for the locality”.

The following assessment provides a detailed planning assessment of “low intensity” and “low Impact” as it relates to the proposed development.

(a) Is the proposed development a “Low Intensity” use?

Further to the background information above, a “low intensity use” is a use which would be typified as having a low level of activities associated with it. The extent of activities associated with the operation of a particular use is largely determined by the following:

- The amount of traffic movements (cars, delivery and service vehicles),
- The number of pedestrian movements (internal and external)
- The physical size of the business (floor space, height, scale, building footprint amount of landscaping),
- The hours of operation of a business,
- The noise generation of the business,
- The light emitted by the business (internal, floodlighting and signage).

Based on the following assessment, the proposed warehouse/industrial and office development is not considered to be a low intensity use as the proposal introduces a large building onto the site that will result in an visual, acoustic and traffic intensification of the level of buildings and activities conducted on this site which cannot be classified as a “low intensity” use for the following reasons:

(i) Traffic Movements

The proposal development seeks consent for an additional 111 carparking spaces on the site, when the parking controls only require 77 parking spaces, representing a significant oversupply and hence impact on the site and traffic movements. The Traffic and Parking Assessment Report submitted with the application indicates that the higher number of car parking spaces is warranted due to the availability of land and also in response to the lack of alternative forms of transport servicing the site due to the isolation of the site.

It is considered that the size of land and the isolation of the site are not adequate planning grounds to have such a significant increase in the amount of parking and associated traffic movements (i.e. 111 cars that ingress and egress from the site) over and above the Stage 1 development which is estimated to be 68 vehicle movements. No rationale has been submitted to indicate how this figure was derived and there is no mechanism described in the

DA documentation to indicate how the traffic impact associated with the proposed development on the surrounding residential and non-residential developments, will be minimised and mitigated.

Further, it is also noted that the documentation submitted with the DA does not provide any details in relation to the number of trucks and large servicing vehicles associated with the proposed development and its impact on traffic movements and amenity.

(ii) Pedestrian Activity

There is insufficient information submitted with the DA for Council to accurately determine the intensity of pedestrian activities associated with the proposed development. The following information is considered essential for the proposed development for Council to make an accurate assessment with regards to pedestrian activities:

- The individual uses of the proposed warehouse units and office space;
- The number of staff associated with each individual unit/office space; and
- The number of deliveries associated with each individual use.

In the absence of the required information, Council is unable to make an accurate assessment of the intensity associated with pedestrian activities.

(iii) Noise and Lighting Impact

There is insufficient information submitted with the DA, in the form of an acoustic report, to determine the acoustic impact of the proposed development associated with traffic movements and the operation of the business.

Further, there is also insufficient information submitted with the DA to determine the lighting impact of the proposed development given the use of the individual units is unknown and the proposed hours of operation are in direct conflict with the Stage 1 approval on the site.

(b) Is the proposed development a “Low Impact” use?

Further to the background information above, a “low impact use” is a use which would be typified as having a minimal, minor or negligible level of impact and would be unlikely to significantly change the amenity of the locality and can largely be determined by considering the following:

- The amenity of adjoining properties (in terms of privacy, solar access, and visual amenity)
- The bulk and scale of the development and how it relates to the streetscape and adjoining properties
- The removal of any existing vegetation from the site as result of the proposed development (taking into any proposed landscaping)

The assessment of the application has found that the proposed development is not considered to be ‘low impact’ for the following reasons:

- The built form of the proposed development will be visually incompatible with the dominant non urban character of the built and natural environment of the B2 Oxford Falls Valley Locality that surrounds the site, given that the proposed development is

significantly larger in terms of its size and scale in comparison to the existing development on subject site,

- The proposal would generate onsite activities (i.e. vehicles, trucks and trailer movements, loading and unloading, people activity, movement of large and small machinery and equipment) that will have an adverse impact on the amenity of nearby residential development,
- The form of the proposed buildings and associated works including access roads and car parking spaces have not been designed to minimise the size, scale and area of the built forms and site cover on the site,
- The proposed development will result in a significant impact upon the natural features of the site, including drainage features, vegetation and topography, through the removal of a large number of significant trees and areas of remnant bushland as a result of the provision of APZs within the site and excavation into the rock outcrops on the site,
- The proposed buildings and associated works including access roads and services have not been designed to minimise disturbance of vegetation and landforms.

(c) Conclusions on Low-Intensity and Low Impact:

The proposed development is therefore not consistent with this element of the DFC statement relating to the requirement for the development to be a low intensity and low impact use.

There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

Given the location of the subject site, the proposed development does not disrupt the skyline when viewed from Narrabeen Lagoon and Wakehurst Parkway as the site cannot be seen from those vantage points.

For the above reason, the proposed development is consistent with this component of the DFC.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services.

The applicant's Flora and Fauna Assessment, prepared by Ecoplaning notes that the subject site constitutes approximately 0.68 hectares of land, of which 0.36 hectares will be directly impacted by the current proposal and further 0.3 hectares will be impacted to accommodate the proposed APZ's.



Legend
 Subject
 Study area
 Proposed

Figure 6 – Showing the Development Footprint over the Mapped Vegetation (source: Flora and Fauna Assessment, prepared by Ecoplanning)

As noted in the Referrals section of this report, Council's Natural Environment Unit (Biodiversity Section) and Landscape Officer have determined that the proposed development will result in a significant impact upon the site, including its natural drainage features, vegetation and topography, through the removal of a significant number of trees and the modification of significant portion of the vegetation on the site for the proposed development and the provision of APZ's.

The proposal also involves a significant extent of excavation into the natural landforms of the site. The location and extent of the new buildings do not reflect a grouping to minimise disturbance, in fact the outcomes will be to the contrary.

The proposed development is therefore assessed as not being consistent with the DFC statement of the locality relating to the requirement of protecting natural landforms and vegetation.

Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

The external finishes submitted with the application indicate that the proposed development will blend with the natural landscaping of the site and surroundings. The proposed development is therefore consistent with this component of the DFC.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its Catchment and will ensure that ecological values of natural watercourses are maintained.

As noted in the detailed comments by the Council's Natural Environment Unit (Riparian Section), the proposed development is inconsistent with the above component of the DFC.

In this respect, insufficient information has been provided with the application to enable Council to assess and ascertain what, if any, impacts would occur as a result of the development.

Therefore, the development is not considered to satisfy this element of the DFC statement.

Conclusions on Consistency with the DFC Statement

Based upon the above assessment, the development is found to be inconsistent with the DFC statement for the B2 Oxford Falls Valley locality. It is found not to involve a low intensity and low impact form of development on the site, in terms of the form, scale and siting of the development, particularly in relation to the unacceptable impacts on the natural landforms and native vegetation (through excessive excavation and placement of out of scale building forms) and the associated visual impacts and increases in traffic and noise.

Built Form Controls for Locality B2 Oxford Falls Valley

The following table outlines compliance with the Built Form Controls of the above locality statement:

Built Form Standard	Required	Proposed	Compliance
Building Height	8.5m (overall)	7.5m to 11.5m	NO
	7.2m (floor to underside of ceiling)		
Front building setback	20 metres	Approximately 90m from Meatworks Avenue	YES
Rear building setback	10 metres	Exceeds 90m	YES
Side boundary setback	10 metres	7.5m (western) No new works are proposed on the eastern boundary	NO
Landscaped open space	50% of the site area.	54% (18500m ²)	YES

The proposed development fails to satisfy the Locality's Building Height and Side Boundary Setback Built Form Controls. Accordingly, further assessment is provided against the applicability of Clause 20(1).

Clause 20(1) stipulates:

“Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the General Principles of Development Control, the Desired Future Character of the locality and any relevant State Environmental Planning Policy.”

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

1. General Principles of Development Control

The proposal fails the test of consistency with several General Principles of Development Control and accordingly fails to qualify to be considered for a variation to the development standards under the provisions of Clause 20(1). (See the discussion on “General Principles of Development Control” in this report for a detailed assessment on consistency).

2. Desired Future Character of the Locality

The proposal is inconsistent with the DFC Statement for the B2 Oxford Falls Locality and accordingly fails to qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1). (See discussion on “Desired Future Character” in this report for a detailed assessment on consistency).

3. Relevant State Environmental Planning Policies

The proposal is assessed as being consistent with applicable State Environmental Planning Policies. (Refer to earlier discussion under ‘State Environmental Planning Policies’).

In order to fully consider the merits of the application, the following provides an assessment of the non-compliances with the Building Height and Side Setback Built Form Controls (note: in accordance with Clause 20(1) of WLEP 2000). The following assessment does not constitute a consideration for variations to the respective Built Form Controls due to the inconsistencies noted above.

Building Height

The building height control for the B2 locality states that buildings are not to exceed 8.5 metres in height, where height is the distance measured vertically between the topmost point of the building and the natural ground level below.

In addition to the above, the control requires that developments are not to exceed 7.2 metres in height, where height is the distance measured from natural ground level to the underside of the ceiling on the uppermost floor of the building.

Area of Non-compliance

The proposed building has a variable height above ground level of between 7.5m along its southern edge up to a maximum of 11.5m measured to the roof of the ancillary facilities/service hub. The proposal also exceeds the 7.2 metre wall height control.

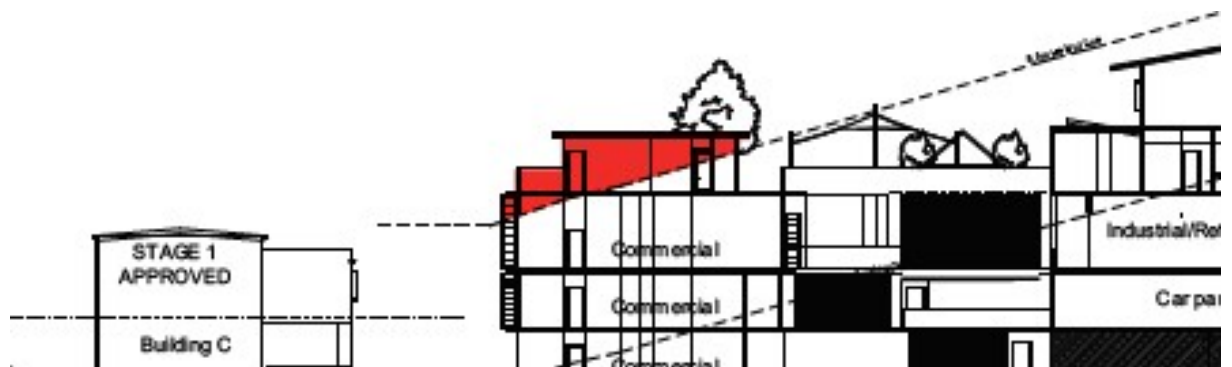


Figure 7: View of Non-compliant Building Height (Plans as prepared by Gelder Architects, dated 15 November 2019, with extent of non-compliance added in red)

Merit consideration of Non-compliance

In assessing this element of the proposal, it is necessary to consider the merit considerations of the Building Height control. Accordingly, consistencies with the merit considerations are addressed below:

- ***Ensure that development does not become visually dominant by virtue of its height and bulk***

The proposed height is considered excessive and will set an undesirable precedent for the locality that envisages a low-scale and low density character. Accordingly, the height of the proposed development is not compatible and would be excessive in terms of its scale as compared to other developments in the surrounding locality.

The combination of the vertical and horizontal massing of the front and side elevations of the building in conjunction with the proposed side setbacks results in visually dominant building bulk that is not sympathetic to the bulk of surrounding development or development that was approved on the subject site as part of Stage 1.

- ***Preserve the amenity of the surrounding land.***

The non-compliance with the height standard will not result in inconsistencies with this objective as adjoining and nearby development will not experience adverse impacts with regards to views, privacy and loss of solar access.

It is noted that there is limited visual exposure of the site when viewed from surrounding properties, however the visual quality of the built form in this setting is inappropriate.

The impacts associated with this proposal have not been “minimised” and a compliant building would achieve greater consistency with this objective.

The visual impact of the development is found to be unacceptable in its current form.

- ***Ensure that development responds to site topography and minimises excavation of the natural landform;***

The proposed side setbacks does not respond to the topography of the site, as the development requires a significant excavation into the large rock escarpment traversing the

southern portion of the site, and impacting on dense natural bushland that is located to the south of the escarpment.

Conclusion on Building Height Variation

The development is not consistent with the objectives underlying the Building Height control. In this respect, the variation to the Building Height control is not supported.

Side Boundary Setback Built Form Control

Area of Non-compliance

The development is non-compliant 10m requirement, providing a 7.5m setback to the western boundary.

Merit Consideration of Non-compliance

In assessing this element of the proposal, it is necessary to consider the merit considerations of the Side Boundary Setback Built Form Control. Accordingly, consistencies with the merit considerations are addressed below:

- **Ensure that development does not become visually dominant by virtue of its height and bulk**

The non-compliances occur throughout the entire length of the western elevation and will have a visual impact in terms of the height and bulk of the development.

- **Preserve the amenity of the surrounding land**

Whilst, the extent of the non-compliance will not significantly impact on views, privacy or solar access of the adjoining property to the west, the visual impact of the development is unacceptable in its current form

- ***Ensure that development responds to site topography***

The proposed side setbacks do not respond to the topography of the site, as the development requires a significant amount of excavation into the large rock escarpment traversing the southern portion of the site, and impacting into dense natural bushland which is located to the south of this escarpment.

- **Provide separation between buildings**

Given the size and scale of the development, there is insufficient separation to the western boundary of the subject site. If the development was designed to achieve compliance with the DFC statement, and was broken up to minimise the building bulk, then this could be considered a sufficient mitigation that may warrant some variation to the side boundary setback.

- **Provide opportunities for landscaping**

Given the non-compliance through the entire length of the development, the non-compliant side setbacks are considered to have a significant impact on the provision of landscaping for the site.

- **Create a sense of openness**

The non-compliant building height indicates unreasonable massing within close proximity to the side boundary to the west. The visual impact and general lack of articulation to the side elevation is unsatisfactory.

Conclusion on Side Setback Variation

The development is not consistent with the objectives underlying the Side Boundary Setback Built Form Control. In this regard, the variation to the Side Boundary Setback Built Form Control is not supported.

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

The General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development. The relevant general principles are addressed below.

General Principles	Applies	Comments	Complies
CL38 Glare & reflection	YES	Issues of glare and reflection, including building colours and materials, internal and external lighting of the buildings and flood lighting of the site will be the subject of conditions if the application was recommended for approval requiring: <ul style="list-style-type: none"> • Compliance with the approved colours and materials as shown on the submitted sample board which is considered satisfactory; • Full details of lighting in the form of a Lighting Strategy which is to minimise impacts on the night time's amenity adjoining residential properties. 	YES (subject to condition)
CL39 Local retail centres	NO	The site is not located within a Local Retail Centre.	Not Applicable
CL40 Housing for Older People and People with Disabilities	NO	No Comment	Not Applicable
CL41 Brothels	NO	No Comment	Not Applicable
CL42 Construction Sites	YES	The potential exists for the future demolition, excavation and construction to have an adverse impact upon surrounding locality in terms of traffic, noise, dust, parking, accessibility and sediment. Therefore, comprehensive conditions of consent will be required to be imposed for Construction Management Plan to be submitted, should this application be approved. Issues to be addressed include stormwater and wastewater disposal, waste management, air	YES (Subject to conditions)

General Principles	Applies	Comments	Complies
		<p>quality, noise management and truck movement, frequency and parking.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	
CL43 Noise	YES	<p>Insufficient information has been submitted with the application (i.e. an acoustic report) for Council to determine the proposal's compliance with the requirement of this Clause.</p> <p>Further to the above, It is also considered that the acoustic impact arising from vehicles accessing the development is not in keeping with the rural and residential nature of the locality or that of a 'low intensity, low impact' use as discussed in the DFC section of this report.</p> <p>This issue has been included as a reason for refusal.</p>	NO
CL44 Pollutants	Yes	<p>The proposed use increases the population density of the site and introduces additional warehouse facilities. Therefore, the development has the potential to introduce new pollutants into the local environment through increased the disposal of grey water and through the possible discarding of industrial type of waste.</p> <p>In this regard, appropriate conditions could be imposed, should this application be approved, to address these additional impacts of the proposed development to ensure that the operation of these facilities does not have any adverse impact upon the Environment.</p>	Yes (Subject to conditions)
CL45 Hazardous Uses	NO	No Comment	Not Applicable
CL46 Radiation Emission Levels	NO	No Comment	Not Applicable
CL47 Flood Affected Land	NO	The site is not located within, or near to, any identified flood affected land.	Not Applicable
CL48 Potentially Contaminated Land	YES	The requirements of Clause 48 have been addressed under 'State Environmental Planning Policy No.55 – Remediation of Land' in this report.	Yes
CL49 Remediation of Contaminated Land	NO	No Comment	Not Applicable
CL49a Acid Sulfate Soils	NO	The site is not located within, or near to, any land categorised as containing acid sulphate soil.	Not Applicable
CL50 Safety & Security	YES	The proposed development will provide adequate surveillance.	YES

General Principles	Applies	Comments	Complies
		Accordingly, the proposed development is considered to be consistent with the requirements of Clause 50.	
CL51 Front Fences and Walls	No	No front fence is proposed.	Not Applicable
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	No	<p>Clause 52 requires that Development adjacent to parks, bushland reserves and other public spaces, including land reserved for public open space, it to complement the landscape character and public use and enjoyment of that land.</p> <p>The subject site adjoins Middle Creek Reserve (No. 2 Wakehurst Parkway) to the north of the subject site. The proposal will provide adequate separation of the site from the surrounding public open space. The proposal is therefore considered to satisfy the requirements of Clause 52.</p>	Yes
CL53 Signs	NO	No signage is proposed as part of this application. A condition can be included in the consent if the application was recommended for approval to require a separate development application to be lodged for signage where required under the provisions of WLEP 2000.	Not Applicable
CL54 Provision and Location of Utility Services	YES	Conditions could be imposed if the application was approved requiring connection to all utility services including an approved telecommunications provider, energy, water and sewerage.	YES (Subject to condition)
CL55 Site Consolidation in 'Medium Density Areas'	NO	No Comment	Not Applicable
CL56 Retaining Unique Environmental Features on Site & CL58 Protection of Existing Flora	YES	<p>As noted in the referral section of this report, by Council's Natural Environment Unit (Biodiversity Section) and the Landscape Officer, the proposed development will result in a significant impact upon the site including its natural drainage features, vegetation and topography through the removal of significant number of trees and the modification of significant portion of the site area for the proposed development and the provision of APZs within the site. The proposed also proposes significant excavation into the site.</p> <p>This issue has been included as a reason for refusal.</p>	No
CL57 Development on Sloping Land	YES	<p>Clause 57 requires that the geotechnical stability of sloping land to support development is to be demonstrated.</p> <p>Clause 57 specifically indicates that consent must not be granted for development involving the erection of a structure, including</p>	No

General Principles	Applies	Comments	Complies
		<p>additions to an existing structure, on land Identified as being potentially subject to landslip on the Landslip Hazard Map unless the consent authority has considered a report from a suitably qualified engineer as to the geotechnical stability of the land to support such development and an assessment of stormwater prepared by a suitably qualified hydraulic engineer.</p> <p>Therefore, a Geotechnical report that addresses the proposed development within the subject site has not been prepared or submitted with the application and therefore Council is unable to confirm the geotechnical stability of the land and the proposed development.</p> <p>This issue has been included as reason for refusal.</p>	
CL59 Koala Habitat Protection	YES	There no koala activities identified on site and therefore the proposed development is consistent with the requirement of this Clause.	YES
CL60 Watercourses & Aquatic Habitats	YES	<p>The application was referred to the Riparian Section of Council's Natural Environment Unit who advises (see 'Internal Referrals' in this report) that insufficient information has been submitted with the application to determine compliance with the requirement of this Clause.</p> <p>Based on the above advice, the proposed development is therefore not consistent with the requirement of this Clause and this issue has been included as a reason for refusal.</p>	NO
CL61 Views	YES	<p>Due to the topography and location of the site, it is unlikely that the proposed development will affect any significant views.</p> <p>In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, were applied to the proposal. While no objections regarding view loss were received, the view assessment has been undertaken to have regard to all surrounding properties and the proposal is satisfactory in providing reasonable view sharing.</p>	YES
CL62 Access to sunlight	YES	Given the location of the subject site, the proposed development will achieve compliance with the requirement of this Clause.	YES
CL63 Landscaped Open Space	YES	Clause 63 required that Landscape open space is to be such dimensions and slope and of such characteristics that it will:	NO

General Principles	Applies	Comments	Complies
		<ul style="list-style-type: none"> • <i>Enable the establishment of appropriate plantings to maintain and enhance the streetscape and the desired future character of the locality;</i> • <i>Enable the establishment of appropriate plantings that are of a scale and density commensurate with the building height, bulk and scale;</i> • <i>Enhance privacy between dwellings;</i> • <i>Accommodate appropriate outdoor recreational needs and suit the anticipated requirements of dwelling occupants;</i> • <i>Provide space for service functions, including clothes drying;</i> • <i>Facilitate water management including on-site detention and the infiltration of stormwater;</i> • <i>Incorporate the establishment of any plant species nominated in the relevant Locality Statement;</i> • <i>Enable the establishment of indigenous vegetation and habitat for native fauna;</i> • <i>Conserve significant features of the site.</i> <p>Whilst the development complies with the numeric requirement, it is considered that the landscaped area does not meet the requirements of the desired future character statement that is commensurate with the scale of the development. As such the development is not considered to be consistent with the requirements of Clause 63 and this issue has been included as reason for refusal.</p>	
CL63A Rear Building Setback	YES	The building is setback in access of 10m from the rear boundary which compliance with the built form control relating to the rear setback and therefore the proposed development is consistent with the requirement of this Clause.	YES
CL64 Private open space	No	No comment	Not Applicable
CL65 Privacy	YES	Given the proximity and use of the adjoining lands from the proposed development no adverse privacy impacts will result from the proposed development.	YES
CL66 Building bulk	YES	Clause 66 requires buildings to have a visual	No

General Principles	Applies	Comments	Complies
		<p>bulk and an architectural scale consistent with structures on adjoining or nearby land.</p> <p>The vertical and horizontal massing of development, when viewed from the public domains of Meatworks, and from the side elevations, results in visually dominant building bulk that has no sympathy or relationship to the bulk of surrounding residential development.</p>	
CL67 Roofs	YES	The proposed roof form is considered to be satisfactory and is integral to the style of the buildings proposed.	YES
CL68 Conservation of Energy and Water	YES	If the application is approved, conditions can be included in the consent, which requires that the proposed development is connected to appropriate services	YES (subject to conditions)
CL69 Accessibility – Public and Semi-Public Buildings	YES	A condition could be included in the consent if the application is recommended for approval to ensure the development complies with the intent of the DDA and the requirements of the BCA and AS1428.2.	YES (subject to condition)
CL70 Site facilities	YES	<p>No details have been provided within documentations submitted with the application in relation to how the general waste and recycling storage will be located on site.</p> <p>Notwithstanding the above, it is considered that the site as whole contains adequate space for general waste and recycling storage that can readily achieve compliance with the requirement of this Clause.</p> <p>Accordingly, the proposed development is satisfactory with regards to this Clause.</p>	YES
CL71 Parking facilities (visual impact)	YES	The parking facilities (being basement level) are sited and designed to not dominate the street frontage or other public spaces and is satisfactory in addressing the General Principle.	YES
CL72 Traffic access & safety	YES	<p>Clause 72 requires that vehicle access points for parking, servicing or deliveries, and pedestrian access, are to be located on such a way to minimize:</p> <ul style="list-style-type: none"> • <i>Traffic hazards, and</i> • <i>Vehicles queuing on public roads, and</i> • <i>The number of crossing places to a street, and</i> • <i>Traffic and pedestrian conflict, and</i> • <i>Interference with public transport facilities.</i> <p>Council's Traffic Engineer has reviewed the proposal and has indicated that based on the information, the application cannot be supported on Traffic grounds.</p>	No

General Principles	Applies	Comments	Complies
		This issue is therefore included as reason for refusal.	
CL73 On-site Loading and Unloading	YES	All loading and unloading will occur within the boundaries of the subject site and therefore considered to be satisfactory in relation to this Clause.	Yes
CL74 Provision of Car parking	YES	<p>Clause 74 stipulates that adequate off-street car parking is to be provided to serve a development and that the application must be assessed against the provisions of Schedule 17 of WLEP 2000.</p> <p>Assessment under the provisions of Schedule 17</p> <p>Schedule 17 stipulates the following relevant parking rates:</p> <p><i>“Warehouse/industrial Development - 1.3 spaces per 100m² GFA (including up to 20% of floor area as office space component)”.</i></p> <p>The proposal according to the Traffic proposes:</p> <p>Industrial units 13 units (2,318m²) - 31 spaces Commercial/industrial (1,423m²) - 36 spaces Ancillary building (365m²) - 10 spaces</p> <p>Total parking required: 77 spaces</p> <p>The proposed development provided a total of 111 spaces which exceeds the requirement of schedule 17.</p>	YES
CL75 Design of Carparking Areas	YES	<p>The car parking area is accommodated within a basement parking area, which is incorporated into the design of the development. Access/egress is provided to the variable width driveway.</p> <p>The design of the carpark and driveway will enable safe and convenient pedestrian and traffic movement and will enable vehicles to enter and leave the site in a forward direction.</p>	YES
CL76 Management of Stormwater	YES	<p>Council's Development Engineer has reviewed the proposal and raised no objection to the proposed development subject to conditions of consent.</p> <p>Should the application be approved, the conditions as recommended by Council's Development Engineers.</p>	Yes (subject to conditions)
CL77 Landfill	YES	No significant landfill is proposed as part of the proposed development and therefore the requirement of this Clause is achieved.	YES
CL78 Erosion &	YES	Appropriate conditions associated with	YES

General Principles	Applies	Comments	Complies
Sedimentation		management of erosion and sedimentation can be included on the consent if the application is worthy of approved.	(subject to conditions)
CL79 Heritage Control	NO	No Comment	Not Applicable
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	No Comment	Not Applicable
CL81 Notice to Heritage Council	NO	No Comment	Not Applicable
CL82 Development in the Vicinity of Heritage Items	Yes	The adjoining land on the northwest of the subject site is identified as Conservation Area. The proposed development does not extend into the Conservation area and therefore, the proposal will have no impact upon the significance of the heritage conversation area. The proposed development is consistent with the requirement of this Clause.	Yes
CL83 Development of Known or Potential Archaeological Sites	YES	The Aboriginal Heritage office has reviewed the proposal and has raised no objection to the proposed development.	Yes

Schedule 8 - Site analysis

Adequate site analysis documentation has been submitted with this application.

Schedule 15 - Statement of Environmental Effects

Under Clause 15 of WLEP 2000, there are specific provisions relating to Category 3 development.

Pursuant to Clause 15 of WLEP 2000, consent may be granted to development classified as Category Three, only if the consent authority has considered a Statement of Environmental Effects that includes the items in Schedule 15.

The applicant has submitted a Statement of Environmental Effects which addresses the items listed in Schedule 15 of WLEP 2000. An assessment of the Category 3 elements of the proposal against the provisions of Schedule 15 is provided below:

(1) Summary of the statement of environmental effects	<p>A Statement of Environmental Effects (SEE) has been submitted with the application, as prepared by Boston Blyth Flemming Town Planner.</p> <p>Comment: The statement submitted adequately addresses the proposal's consistency with all relevant planning controls.</p>
(2) Consistency of the proposal with the Desired Future Character Statement and General Principles of	<p>The applicant has addressed the consistency of the proposal with the desired future character statements for the B2 Locality and the General Principles of Development Control. In summary, the applicant has concluded that the proposal is consistent with DFC statements for the B2 Locality and the development is also consistent with the General</p>

Development Control established by the plan	<p>Principles as contained in Part of the WLEP 2000.</p> <p>Comment: An assessment of the proposal with all relevant controls in WLEP 2000 is detailed in this report. The assessment has found that the proposal is inconsistent with the DFC for the B2 Locality and the number of the General Principles as contained within WLEP 2000.</p>
(3) Objectives of the proposed development	<p>The applicant has advised that the primary objectives of the proposed development are to:</p> <p><i>The objective of the proposed development is to provide for the orderly and economic use and development of the land and in doing so meet a clear demand for industrial/ warehouse development in this locality and within the Northern Beaches LGA generally.</i></p> <p>Comment: The objectives of the development are considered to have been sufficiently discussed and documented. Although it is not necessarily agreed (through the lack of supporting evidence) that the development will for orderly and economic use of the land.</p>
(4) An analysis of feasible alternatives including the consequences of not carrying out the development and the reasons justifying the carrying out of the development.	<p>The applicant has provided the following comments in regard to the possibility of feasible alternatives;</p> <p>(a) The consequences of not carrying out the development</p> <p><i>The consequence of not carry out the development would be that an opportunity to meet a clear demand for warehouse/ industrial development in this area would be missed with market feedback being that the proposal warehouse/ industrial building typology proposed provides a superior built form/ land use/ amenity outcome than existing industrial zoned land within the LGA.</i></p> <p>(b) The reason justifying the carrying out of the development.</p> <p><i>The development provides for the orderly and economic use and development of the land and in doing so meets a clear demand for industrial/ warehouse development in this locality and within the Northern Beaches LGA generally.</i></p> <p><i>The same land use with similar building typology and environmental outcomes has previously been approved on the subject site and as such found to be consistent with the DFC. The expansion of this approved development utilises a majority of the previously approved infrastructure without compromising the enhanced environmental and land use outcomes afforded through approval of the previous application which required the cessation of the long established waste management land use operating on the site.</i></p> <p>Comment: The applicant's comments in regard to the possibility of feasible alternatives, and the consequences of not carrying out the development, are not concurred with as the site can be developed in manner that achieves compliance with requirement of relevant planning controls.</p> <p>Further to the above, the site is already developed for industrial/warehouse development and it's reached at its capacity.</p>
(5) Development and context analysis	<p>The applicant has provided a context analysis of the development.</p> <p>Comment: The SEE has provided an appropriate description of the development and an analysis of the context of the site.</p>

<p>(6) The reasons justifying the carrying out of the development in the manner proposed having regard to the biophysical, economic and social considerations and the principles of ecologically sustainable development</p>	<p>The applicant states:</p> <p><i>The development has been designed to minimise the impact of the proposed on the biophysical environment.</i></p> <p><i>The development will generate employment during construction and post occupation. In this regard, the development will have a positive economic impact.</i></p> <p><i>The development provides for the orderly and economic use and development of the land and in doing so will meet a clear demand for industrial/ warehouse development in this locality and within the Northern Beaches LGA generally. In this regard, the development will result in a positive social impact.</i></p> <p><i>The proposed development provides for environmental sustainability and the proper management of stormwater, drainage and bushland on and adjoining the site and the maintenance of the water and bushland quality of the catchment overall.</i></p> <p>Comment: Given the long-standing industrial character of the site the development is unlikely to have any significant impact on the biophysical, economic and social environment.</p>
<p>(7) Measures to mitigate any adverse effects of the development on the environment</p>	<p>The applicant within Section D of the SEE provides an explanation of the proposed to mitigate any adverse effects of the development on environment.</p> <p>Comment: The measures proposed to mitigate any adverse impacts on the environment are considered satisfactory. If the application was recommended for approval, conditions should be included to minimise the adverse effects of the development on the environment.</p>
<p>(8) Other approvals required</p>	<p>The comments received external bodies have been addressed elsewhere in this report.</p>

Schedule 17 – Car parking Provision

For further details please refer to ‘Clause 74 Provision of car parking’ in the General Principles of Development Control table in this report.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$96,250 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$9,625,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects and all other documentation supporting the application and public submissions.

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

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

The assessment of the application has revealed that the application cannot be supported for a number of critical planning reasons and deficiencies in the accompanying documentation.

The assessment of the proposed development has found it is inconsistent with the Desired Future Character as outlined in the B2 Oxford Falls Locality and as a Category 3 development, should the Panel also find that the proposal is inconsistent, consent cannot be granted by the consent authority on this basis.

The proposal is also found to be inconsistent with the number of General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000.

The assessment of the DA against the provisions of WLEP 2000, found that the proposal does not comply with the Building Height and Side Setback Built Form Controls. Because of the inconsistency of the proposal with the Desired Future Character statement and the General Principles of Development Control, it is not able to be considered for a variation under the provisos in Clause 20 of WLEP 2000.

The public exhibition of the DA resulted in a significant response from the community, which included 121 written submissions, all which objected to the proposal. The fundamental concerns raised in the submissions related to traffic issues, inconsistency of the development with the DFC and that the development is an inappropriate development for this locality having regard to the environmental sensitive nature of the subject site and the nature of surrounding development.

The issues raised in the public submissions have been addressed in detail in the "Public Notification Section" of this report and many are concurred with and where relevant constitute reasons for refusal of the application.

The assessment of this application concludes that the proposal has not responded adequately to its context and the elements that make up the existing and Desired Future Character of the site and its locality under the B2 Locality of the WLEP 2000. For these reasons, it is considered that the proposal is an inappropriate and unsuitable development for the site, insofar as it is unable to satisfactorily reconcile its impact on the site and the character of the Oxford Falls Valley locality.

Accordingly, the application is referred to an independent public hearing with a recommendation for refusal.

RECOMMENDATION (REFUSAL)

Part A:

That the Independent Hearing Panel make its findings and recommendations on Development Application No. DA2019/1340 for alterations and additions to the existing premises on land at Lot 100 DP 1023183 Meatworks Ave, OXFORD FALLS having regard to the assessment and recommendation for REFUSAL in the Assessment Report and the associated draft reasons for refusal attached to this report.

Part B:

That the outcome of the Independent Hearing Panel's findings and recommendations be reported to the Northern Beaches Local Planning Panel, as the consent authority, for determination of Development Application No. DA2019/1340.

Draft Reasons for Refusal

1. Pursuant to Section 4.15 (1) (a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of *Warringah Local Environmental Plan 2000*, in that the development is inconsistent with the Desired Future Character statement in the B2 Oxford Falls Valley Locality.
2. Pursuant to Section 4.15 (1)(a) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the provisions of *Warringah Local Environmental Plan 2000*, in that the proposed development is does not comply with the Building Height and Side Boundary Setback Built Form Controls.
3. Pursuant to Section 4.15(1)(a) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the provisions of *Warringah Local Environmental Plan 2000*, in that the development is inconsistent with the following 'General Principles of Development Control':
 - a. Clause 43 Noise
 - b. Clause 56 Retaining Unique Environmental Features
 - c. Clause 57 Development on Sloping Land
 - d. Clause 58 Protection of Existing Flora
 - e. Clause 60 Watercourses & Aquatic Habitats
 - f. Clause 63 Landscaped open space
 - g. Clause 66 Building Bulk
 - h. Clause 72 Traffic and Access and Safety
4. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not considered to be in the public interest as the development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and locality.