



Land and Environment Court
New South Wales

Case Name: Trend Living Pty Ltd v Northern Beaches Council

Medium Neutral Citation: [2018] NSWLEC 1215

Hearing Date(s): Conciliation conference on 4 May 2018

Date of Orders: 4 May 2018

Decision Date: 4 May 2018

Jurisdiction: Class 1

Before: Dickson C

Decision: See [5] below

Catchwords: DEVELOPMENT APPLICATION: conciliation conference; agreement between the parties; orders

Legislation Cited: Land and Environment Court Act 1979

Category: Principal judgment

Parties: Trend Living Pty Ltd (Applicant)
Northern Beaches Council (Respondent)

Representation: Solicitors:
G McKee, McKees Legal Solutions (Applicant)
S Patterson, Wilshire Webb Staunton Beattie (Respondent)

File Number(s): 2017/135399

Publication Restriction: No

JUDGMENT

- 1 **COMMISSIONER:** This in application by Trend Living Pty Ltd against the deemed refusal by Northern Beaches Council pursuant to Section 97(1)(b) of the Environmental Planning and Assessment Act 1979, to grant consent to

Development Application number DA2017/0256 for excavation works and the construction of a mixed use building containing self-storage units and industrial warehouse units in relation to Lot 27 in Deposited Plan 28882 and Lot 9 in Deposited Plan 201553 being 69 Middleton Road & 6 Villiers Place, Cromer.

- 2 In this matter, at or after a conciliation conference, an agreement under s 34(3) of the *Land and Environment Court Act 1979* (the Court Act) was reached between the parties as to the terms of a decision in the proceedings that was acceptable to the parties. As the presiding Commissioner, I was satisfied that the decision was one that the Court could have made in the proper exercise of its functions (this being the test applied by s 34(3) of the Court Act). As a consequence, s 34(3)(a) of the Act required me to “dispose of the proceedings in accordance with the decision”.
- 3 The Court Act also required me to “set out in writing the terms of the decision” (s 34(3)(b)). The orders made to give effect to the agreement constitute that document.
- 4 In making the orders to give effect to the agreement between the parties, I was not required to make, and have not made, any merit assessment of the issues that were originally in dispute between the parties.
- 5 The final orders to give effect to the parties’ agreement under s34(3) of the Land and Environment Court Act 1979 are:
 - (1) The applicant is granted leave to amend their development application in accordance with the plans referred to in Condition 1 a) of Annexure "A".
 - (2) The Appeal is upheld.
 - (3) Development Application No. DA2017/0256 for excavation works and construction of a mixed use building containing self-storage units and industrial warehouse units at 69 Middleton Road and 6 Villiers Place, Cromer is approved subject to the conditions set out in Annexure "A" to this agreement.
 - (4) The Applicant is to pay the Respondent's costs arising under s8.15 of the Environmental Planning and Assessment Act 1979 in the amount as agreed or assessed.

.....

D M Dickson

Commissioner of the Court

[Annexure A \(140 KB, pdf\)](#)

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Annexure A

Trend Living Pty Ltd v Northern Beaches Council

Development Consent Operational Conditions

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA010 Issue B	9 February 2018	PBD Architects
DA101 Issue B	9 February 2018	PBD Architects
DA102 Issue C	15 March 2018	PBD Architects
DA103 Issue C	15 March 2018	PBD Architects
DA104 Issue C	15 March 2018	PBD Architects
DA105 Issue C	15 March 2018	PBD Architects
DA106 Issue C	15 March 2018	PBD Architects
DA201 Issue B	9 February 2018	PBD Architects
DA301 Issue B	9 February 2018	PBD Architects
DA302 Issue B	9 February 2018	PBD Architects
DA501 Issue C	14 February 2018	PBD Architects
DA511 Issue B	9 February 2018	PBD Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
C001 5	28 February 2018	Jones Nicholson Pty Ltd
C010 10	14 March 2018	Jones Nicholson Pty Ltd
C0011 7	28 February 2018	Jones Nicholson Pty Ltd
C012 3	28 February 2018	Jones Nicholson Pty Ltd
C013 5	28 February 2018	Jones Nicholson Pty Ltd
C014 3	28 February 2018	Jones Nicholson Pty Ltd
C020 5	28 February 2018	Jones Nicholson Pty Ltd
C030 7	28 February 2018	Jones Nicholson Pty Ltd
C031 7	28 February 2018	Jones Nicholson Pty Ltd
C032 8	14 March 2018	Jones Nicholson Pty Ltd
C033 8	14 March 2018	Jones Nicholson Pty Ltd

C034 5	14 March 2018	Jones Nicholson Pty Ltd
C050 2	28 February 2018	Jones Nicholson Pty Ltd
C051 4	28 February 2018	Jones Nicholson Pty Ltd
ESM1 5	28 February 2018	Jones Nicholson Pty Ltd
ESM2 6	28 February 2018	Jones Nicholson Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Acoustic Assessment - TJ326-02F01	9 February 2018	Renzo Tonin & Associates
Arboricultural Impact Assessment Rev. 0.3	8 March 2017	Footprint Green Pty Ltd
BCA Report	9 February 2018	Philip Chun Building Code Consulting
Bushland Rehabilitation Plan Rev. 0.3	8 March 2017	Footprint Green Pty Ltd
Construction Management Program	February 2017	Trend Living
Design Compliance Review - Accessibility - AN16 207510	9 February 2018	Philip Chun Building Compliance
Geotechnical Investigation	September 2016	Douglas Partners Pty Ltd
Letter - <i>Environmental Services / DA Lodgement - Outstanding Matters</i> - 85649.01.C.001.Rev0	24 February 2017	Douglas Partners Pty Ltd
Letter - <i>RE: Flora & Fauna Assessment - 2017</i>	8 March 2017	Footprint Green Pty Ltd
Obtrusive Lighting Report	14 February 2018	Haron Robson
Operational Management Plan Rev. 1	15 February 2018	Trend Living
Overland Flow study - CRPT-20160916.1B	16 February 2017	Jones Nicholson Consulting Engineers
Revised Traffic and Parking Assessment Report - ref16457	13 February 2018	Varga Traffic Planning Pty Ltd
Waste Management Plan	February 2017	Trend Living

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

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L/01 Rev. F	9 February 2018	ATC
L/02 Rev. F	9 February 2018	ATC
L/03 Rev. E	7 February 2018	ATC

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

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

2. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	eServices Reference	Dated
Ausgrid	Ausgrid Referral Response	28 April 2017

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's.

3. Occupancy

Nothing in this consent shall authorise the use of:

- The lower ground floor as anything other than self-storage units, defined as:
Self storage units means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).
- The ground and upper ground floor as anything other than a warehouse or distribution centre, defined as:
Warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

(development is defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary)

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

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

4. Telecommunications in New Developments

Prior to the issue of the Construction Certificate in connection with the development, the

developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

(i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

and

(ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

Reason: To ensure that telecommunications infrastructure is considered early in the planning process.

5. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and

(ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(iii) stating that unauthorised entry to the work site is prohibited.

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

(c) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

(i) protect and support the adjoining premises from possible damage from the excavation, and

(ii) where necessary, underpin the adjoining premises to prevent any such damage.

(iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

(iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)

6. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

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

(i) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

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

(k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished

- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

(l) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at www.northernbeaches.nsw.gov.au

7. Allocation of stacked parking

Each stacked pair of parking spaces to be allocated to the same warehouse unit/office space

Reason: To ensure efficient use of parking spaces (DACTRBOC2)

FEES / CHARGES / CONTRIBUTIONS

8. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 16,070,000.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 152,665
Section 94A Planning and Administration	0.05%	\$ 8,035
Total	1%	\$ 160,700

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

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

Reason: To provide for contributions in accordance with Northern Beaches Council's Development Contributions Plan.

9. Security Bond

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

as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

10. Works Bonds

(a) Construction, Excavation and Associated Works Bond (Drainage)

A Bond of \$1,032,570.00 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent. This bond is to be refunded upon Condition 55 being satisfied.

(b) Construction, Excavation and Associated Works Bond (Crossing/Kerb)

A Bond of \$20,000 as security against any failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

(c) Construction, Excavation and Associated Works Bond (Pollution)

A Bond of \$5,000 as security to ensure that there is no transmission of material, soil etc off the site and onto the public road and/or drainage systems.

(d) Construction, Excavation and Associated Works Bond (Failure to Remove Waste)

a bond of \$5,000 as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipment to and from the site.

(e) Construction, Excavation and Associated Works Bond (Maintenance for civil works)

the Council will retain from the Drainage bond referred to in condition 10(a) above, a Maintenance Bond of \$51,628.50 for the construction of stormwater drainage system that reverts to Council's care and control. The Maintenance Bond will only be refunded on completion of the Maintenance Period, if work has been completed in accordance with the approved plans to the satisfaction of Council.

(Note: This bond may be refunded and replaced by the Maintenance Bond upon submission to Council of the final Compliance Certificate or Subdivision Certificate.)

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

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

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

Reason: To ensure adequate protection of Councils infrastructure. (DACENZ01)

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

11. Fire Safety Requirements

The building is required to comply with the Building Code of Australia 2016. In this regard details contained in the Final BCA Report by Philip Chun dated 9 February 2018 and any subsequent reports are to be addressed in the Construction Certificate application and as required be implemented prior to release of the occupation certificate.

Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety.

12. On-site Stormwater Detention Compliance Certification

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Jones Nicholson, drawing number 160916 C010 issue 8, C011 issue 7, C012 issue 3, C013 issue 5 and C051 issue 4.

A Construction Certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979 must be issued by a C3 and C15 Accredited Certifier, ensuring that the stormwater drainage design and plans comply with all requirements of this condition.

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

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

13. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

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

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

Reason: Safety.

14. Submission of Engineering Plans for Infrastructure Works on Council Roadway

An Application for Infrastructure Works on Council Roadway, including engineering plans is to be submitted to the Roads Authority for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. All requirements of the Roads Authority must be complied with.

The application is to include four (4) copies of Civil Engineering plans for the design of the vehicle crossings, stormwater drainage pits and pipes within the public road reserve which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and/ or Council's Minor Works Policy.

The plan shall be prepared by a qualified civil engineer. The design must be developed to full construction plan stage. This must include confirmation of utility service clearances from non-destructive excavations. The existing pipeline to be abandoned is to be either removed or backfilled with grout or cement stabilised sand.

Written approval to re-locate any utility services from the relevant utility service providers to accommodate Council's new stormwater drainage infrastructure must be submitted with the above application. All requirements of the relevant utility service providers must be complied with.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

The Infrastructure Works on Council Roadway approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

15. Vehicle Crossings Application Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

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

Reason: To facilitate suitable vehicular access to private property.

16. Submission of engineering plans for Infrastructure Works on Private Properties

A Stormwater Drainage Application, including engineering plans is to be submitted to Council for approval under the provisions of Section 68 of the Local Government Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of the stormwater drainage pits and pipes, permeable security gate, open channel, waterfall retaining wall, rock benching and all civil works associated with the collection and conveyance of upstream public road stormwater runoffs on private properties which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and/ or Council's Minor Works Policy.

Engineering plans are to be designed in accordance with Part 6 : Building Over or Adjacent to Council Drainage Systems and Easements, of Council's PL 850 Water – Water Management Policy.

The plan shall be prepared by a qualified civil engineer. The design must include but not be limited to the following information:

- full construction plan details
- Demonstration of compliance with the above mentioned Water Policy and in particular the horizontal and vertical clearance requirements and also zone of influence clearances.
- Pit A05 plus the 900mm low flow channel is to have an inlet capacity to accommodate the 20-year flow allowing for a minimum 50% blockage. The low flow channel is to be a minimum width of 900mm.
- Rock fall arrestor fencing is required to ensure safe maintenance access at the rear of the site

- Permeable security gate fronting Middleton Road is to be designed for 50% blockage for the 1 in 100 year ARI storm event
- Finished ground floor surface levels of the development must be minimum 300mm freeboard above the predicted 1 in 100 year ARI top water surface levels.

Building Certificate(s) must be issued for any unauthorised built structures and works associated with the collection and conveyance of upstream public road stormwater runoff to protect the development.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

The Stormwater Drainage approval must be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

17. Structures Located Adjacent to Council Pipeline or Council Easement

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification. <https://www.warringah.nsw.gov.au/sites/default/files/documents/policies-register/environment/water-management-policy/2016-011845-water-management-policy-current.pdf>. Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted).

Structure details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

18. Shoring of Adjoining Property

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings. Council approval is required if temporary rock anchors are to be used within Council land.

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

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

19. External post-mounted light fixtures

Post-mounted light fixtures proposed at the open-air roof car parking and driveway areas should not be more than 1 metre in height to be less prominent and to minimize light-spill nuisance to the surrounding neighbours.

Details are to be provided to the Certifying Authority prior to the release of the construction certificate.

Reason: External post-mounted lighting to be more inconspicuous.

20. Dilapidation Survey

A dilapidation survey will be required for the public accessway which runs adjacent to the western boundary of the site.

Reason: To ensure that Council has recourse for any damage to Council infrastructure as a result of construction works.

21. Deleted

22. Amended Plans – Landscaping Ground Floor and Upper Ground Floor

i) Landscape Plans are to be amended to provide additional soft landscape planters as indicated on the approved Ground Floor and Upper Ground Floor Plan.

ii) Planters are to provide a minimum height of 1 metre.

iii) Details shall be submitted to the Principal Certifying Authority indicating the proposed method of waterproofing to all internal walls and slab, and drainage of the concrete slab over which soil and planting is being provided.

iv) Landscape plans are to include details indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

v) Landscape Plans are to include a minimum of 3 trees capable of attaining a minimum height of 5 metres to the extended planters on the Upper Ground Floor and details of shrubs and groundcovers to provide full soft landscape coverage to the Ground Floor and Upper Ground Floor planters.

Reason: Environmental amenity.

23. Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland protection and rehabilitation measures are carried out.

The Project Ecologist will provide certification that all tasks identified in the Bushland Rehabilitation Plan (Footprint Green 2017) are carried out. The Project Ecologist is to be a member of the NSW Ecological Consultants Association and have at least 4 years experience in the management of native bushland in the Sydney region.

Reason: To ensure bushland management.

24. Compliance with Standards

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

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

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

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**

- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**
- (n) AS 4674 Design, construction and fit out of food premises
- (o) AS1668 The use of mechanical ventilation

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.

25. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

26. Surrender of Consent

The applicant shall surrender to Council Development Consent No: DA2007/0974 in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

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

Reason: To prevent inconsistencies between consents applying the site (ref s80A (5) EPAA & cl97 EPA Reg).

27. Sewer / Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

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

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

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

28. Traffic control on access ramp

The vehicle ramps to both Middleton Road and Villiers Place to be provided with 'Give Way' signs and markings to provide priority for entering vehicles. Such signs to be installed at a location where exiting vehicles have clear sight distance to traffic entering the site.

Reason: To minimize traffic conflict (DACTRCPC1)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

29. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

30. Tree protection

(a) Existing trees which must be retained

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

(b) Tree protection

- i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by the project Arborist on site.
- iii) All tree protection to be in accordance with the Arboricultural Impact Assessment dated 8 March 2017 prepared by Footprint Green and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

31. Project Arborist

- i) A Project Arborist with minimum qualification equivalent to AQF Level 5 is to be appointed prior to commencement of works.
- ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the Arboricultural Impact Assessment dated 8 March 2017 prepared by Footprint Green and any other works undertaken within 3 metres of any tree, including stormwater works.
- iii) The Project Arborist is to familiarize themselves with and ensure compliance as relevant with, any other environmental requirements conditioned under this consent.

Reason: Environmental protection

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

32. Property Boundary Levels

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the existing levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

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

33. Progress Certification (Road & Subdivision)

Written certification is to be provided by a suitably qualified engineer upon completion and/or as and when requested by the Certifying Authority for the following stages of works.

- (a) Silt and sediment control facilities
- (b) Laying of stormwater pipes and construction of pits
- (c) Sub-grade trimmed and compacted **
- (d) Base-course laid and compacted **
- (e) Kerb and gutter construction
- (f) Pavement
- (g) Landscaping and vegetation
- (h) Clean-up of site, and of adjoining Council roadway and drainage system.

(**To be tested by a recognised N.A.T.A. approved laboratory).

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

Reason: To ensure compliance of civil works with Council's specification for engineering works (see www.northernbeaches.nsw.gov.au).

34. Stormwater Pipeline Construction

Where connection to Council's nearest stormwater drainage system is required, the applicant shall construct the pipeline in accordance with Council's specification for engineering works (see www.NorthernBeaches.nsw.gov.au) and shall reconstruct all affected kerb and gutter, bitumen reinstatements, adjust all vehicular crossings for paths, grass verges and household stormwater connections to suit the kerb and gutter levels. All works shall be undertaken at the applicant's cost, and upon completion certified by an appropriately qualified and practicing Civil Engineer.

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

Reason: To ensure compliance of drainage works with Council's specification for engineering works.

35. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer.

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

Reason: To ensure compliance of civil works with Council's specification for engineering works.

36. Deleted

37. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

38. Notification of Inspections

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter
- (e) Subgrade level / basecourse level
- (f) Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification.

Reason: To ensure new Council infrastructure is constructed to Council's requirements.

39. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with Council's Minor Works Policy and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety.

40. Waste Management During Development

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

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

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

41. Requirement to Notify about New Contamination Evidence

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment.

42. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.

- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

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

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

Reason: Protection of Trees.

43. Bushland Rehabilitation Plan

All works and recommendations in the bushland rehabilitation plan prepared by Footprint Green dated 8th March 2017 are to be implemented by qualified staff with a minimum of TAFE certificate 2 in Bush Regeneration or Conservation and Land Management-Natural Area Restoration (or equivalent).

Reason: To ensure Bushland Management.

44. Protection of rock, escarpments and sites of significance

- a) All existing rock outcrops, natural rock features and escarpments located above existing ground levels are to be preserved and protected from any further excavation during demolition excavation and construction works.
- b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features

45. Off-site Disposal of Contaminated Soil - Chain of Custody

'Chain of Custody' documentation shall be kept and submitted for the transport of the validated fill material from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and Council within seven (7) days of transport.

Reason: For protection of environment.

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

46. Authorisation of Legal Documentation Required for On-site Stormwater Detention

The original completed request forms (NSW Land Registry Services standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineer's certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

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

Reason: To create encumbrances on the land.

47. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To identify encumbrances on land.

48. Restriction as to User for On-site Stormwater Detention

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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

Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval.

49. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

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

(Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard AS/NZS 3500.3 - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard AS/NZS 3500.3 - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.)

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

50. On-Site Stormwater Detention Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

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

Reason: To ensure stormwater disposal is constructed to Council's satisfaction.

51. Civil Works Construction

- (a) All infrastructure works relating to Council's Stormwater Infrastructure, and in particular the culvert and other works directing stormwater through the site as proposed by the applicant by the approved stormwater plans, must be completed prior to the issue of the occupation certificate relating to the lower ground level..

- (b) All other infrastructure works for the balance of the development, approved under the provisions of Section 68 of the Local Government Act 1993 and Sections 138 and 139 of the Roads Act 1993, must be completed prior to the issue of the Occupation Certificate.

Reason: To ensure infrastructure civil works are completed.

52. Maintenance Period for Civil Works

A Maintenance Period of six (6) months shall apply to the all civil infrastructure works on the public roadway and on private property that revert to Council's care and control, after it has been completed and approved in writing by Council. In that period the applicant shall be liable for any part of the work which fails to perform in the manner outlined in Council's specifications, or as would be reasonably be expected under the design conditions.

Reason: To ensure works are appropriately constructed and repaired where defective.

53. Easement for Drainage

An easement to drain water shall be created and registered in favour of Northern Beaches Council over the piped system, open channel, and waterfall sections near the rear boundary to encompass the 1 in 100 year recurrence frequency predicted water surface level traversing the development site. Dimensions of the easement must be in accordance with Part 6 : Building Over or Adjacent to Council Drainage Systems and Easements, of Council's PL 850 Water – Water Management Policy. Terms of the easement for drainage are to be prepared to the satisfaction of Northern Beaches Council at the applicant's expense and endorsed by Council prior to lodgement with the NSW Land Registry Services. The applicant must lodge an Authorisation of Legal Documents Application with Northern Beaches Council.

Written evidence that the easement is registered with NSW Land Registry Services must be submitted to the Principal Certifying Authority and Northern Beaches Council prior to the issue of the Occupation Certificate.

Reason: To identify Council's stormwater drainage infrastructure on the property and flood affected areas on the property title.

54. Certification of Structures Located Adjacent to Council Pipeline or Council Easement

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification. <https://www.warringah.nsw.gov.au/sites/default/files/documents/policies-register/environment/water-management-policy/2016-011845-water-management-policy-current.pdf>

A statement of compliance is to be prepared by a suitably qualified Civil Engineer and submitted to the Certifying Authority for approval prior to the issue of the Occupation Certificate.

Reason: Protection of Council's Infrastructure

55. Certification of Drainage Works and Works as Executed Data

A suitably qualified Civil Engineer shall certify that the completed works have been constructed in accordance with this consent and the approved Construction Certificate plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' shall be submitted to the Council to Council's satisfaction prior to the issue of the Occupation Certificate. Council's guidelines are available

at <https://www.warringah.nsw.gov.au/sites/default/files/documents/general-information/stormwater-and-development/guideline-preparing-works-executed-data-council-stormwater-assets.pdf>

Council will use its best endeavours to issue review comments or acceptance within 14 days of receiving all of the relevant information required by Council's guidelines.

Written acceptance of the above from Northern Beaches Council must be submitted to the Principal Certifying Authority prior to the issue of the interim Occupation Certificate relating to the Lower Ground Floor level of the development. For clarity, the issuing of the occupation certificate is not required prior to Council refunding the bond referred to in condition 10(a).

Reason: To ensure compliance of drainage works with Council's specification for engineering works.

56. Positive Covenant for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

Reason: To ensure ongoing maintenance of the on-site stormwater detention system.

57. Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (NSW Land Registry Services standard forms 13PC and/or 13RPA), shall be submitted to Northern Beaches Council for authorisation.

A certified copy of the documents shall be provided to Northern Beaches Council after final approval and registration has been affected by the "NSW Land Registry Services".

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

Reason: To identify encumbrances on land.

58. Required Planting

Trees shall be planted in accordance with the following schedule:

As indicated on Landscape Plans Dwg Nos. L/01 and L/02 Revision F Dated 09/02/2018 prepared by ATC Landscape Architects

No. of Trees Required.	Species	Location	Pot Size
All trees	As indicated on the Landscape Plans	As indicated on the Landscape Plans	

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

prior to the issue of the Occupation Certificate.

Reason: To maintain environmental amenity.

59. Bushland Management

Prior to the final compliance certificate being issued an appropriately qualified ecologist is to certify that all works as outlined within the bushland rehabilitation plan – 69 Middleton Rd. prepared by Footprint Green dated 8th March 2017 have been satisfactorily carried out.

Reason: To ensure Bushland Management.

60. Landscape Works Certification

a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and conditions of consent.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

61. Deleted

62. Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)

The units within the development are to be numbered in accordance with the Australia Post Address Guidelines (<http://auspost.com.au/media/documents/australia-post-addressing-standards-1999.pdf>).

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website

(<https://www.warringah.nsw.gov.au/sites/default/files/documents/pdf-forms/unit-numbering-multi-unit-developments-residential-commercial-and-industrial-form/unit-numbering-multi-unit-developments-residential-commercial-and-industrial-form.pdf>).

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with the Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

63. Waste Management Confirmation

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

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

64. Positive Covenant – Stormwater Deflection Walls

A Positive Covenant shall be created on the title over the stormwater deflection walls which are designed and constructed to protect the development, to maintain the above structures. The terms of such positive covenant are to be prepared to Council's satisfaction, at the applicant's expense and endorsed by Council prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such positive covenant.

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

Reason: To ensure adequate maintenance of the stormwater deflection walls.

65. Restriction as to User – Stormwater Deflection Walls

A restriction as to user shall be created on the title over the stormwater deflection walls which are designed and constructed to protect the development, restricting any alteration to the above structures. The terms of such restriction are to be prepared to Council's satisfaction, at the applicant's expense and endorsed by Council prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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

Reason: To ensure modification of the stormwater deflection walls are only carried out with Northern Beaches Council's written approval. (DACENF04)

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

66. Noise Impact on Surrounding Areas

The on-going use of premise shall not exceed more than 5dB (A) above the background level when measured from within any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy and any appropriate legislation to prevent offensive noise.

Reason: To ensure that noise generated from the premise does not create offensive noise

67. Acoustic reporting

Council may require the owner or occupier of the premises to engage the services of a suitably qualified professional to undertake an acoustic assessment of the premises in the event concerns regarding the emission of 'offensive noise' are raised and/or justified by Council.

Reason: To protect the acoustic amenity of neighbouring properties.

68. Bushland Management

Ongoing maintenance of the bushland Rehabilitation and Regeneration zones is to be carried out to remove regenerating weeds and manage the indigenous vegetation and rock habitats for fauna in accordance with specifications in the bushland rehabilitation plan prepared by Footprint Green dated 8th March 2017.

Reason: To ensure Bushland Management.

69. Landscape maintenance

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) If any tree, shrub or groundcover required to be planted under this consent fails, they are

to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity.

70. Implementation of Bushland Rehabilitation Plan

The Bushland Rehabilitation Plan (Footprint Green 2017) prepared and submitted in support of this development is to be fully implemented on site.

Details demonstrating compliance are to be submitted by the Bush Regeneration Contractor and Project Ecologist to the Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Bushland Management.

71. Hours of Operation

The hours of operation are to be restricted to the following:

Lower Ground Floor self-storage facility

- 24 hours - 7 days a week

Ground and Upper Ground Floor warehouse units

- 6:00am - 7:00pm - Monday to Saturday (inclusive)

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

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

72. Loading Within Site

All loading and unloading operations, both during construction and on-going operation, shall be carried out wholly within the confines of the site and within the approved loading areas, at all times.

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

73. Delivery Hours for Warehouses

No deliveries, loading or unloading associated with the warehouse unit component of the premises are to take place between the hours of 9:00pm and 7:00am on any day.

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

74. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with the current Landcom Managing Urban Stormwater: Soils and Construction Manual. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

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