

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/1068
Responsible Officer:	Dean Pattalis
Land to be developed (Address):	Lot 3 DP 617781, 69 Bassett Street MONA VALE NSW 2103
Proposed Development:	Demolition works and construction of a mixed use development including self-storage units and a take away food and drink premises
Zoning:	E4 General Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Stitch Investment Group Pty Limited
Applicant:	Mark Hurcum Design Practice Pty Ltd
Application Lodged:	10/08/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	25/08/2023 to 08/09/2023
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	4.3 Height of buildings: 9.82% 4.4 Floor space ratio: 5.2%
Recommendation:	Approval
Estimated Cost of Works:	\$ 4,542,990.00

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the demolition of existing on-site structures and the construction of a three (3) storey mixed-use development, consisting of a storage premises and take-away food and drink premises.

Specifically, the proposal involves the following:

- 3 storey building of concrete construction with a rendered and painted finish

- Storage of motor vehicles within 4 separate Units
- Owners Lounge
- Car Lift (internal)
- Coffee Shop on Ground Floor Level
- 24 hour operation
- Three (3) building identification wall signs, two of which are attached to the storage premises component whilst the remaining sign is attached to the food and drink premises
- Site landscaping

Prelodgement Meeting

A pre-lodgement meeting was held on 9 August 2022 (PLM2022/0146) and the recommendations of this meeting have been incorporated into the assessment of this application.

The proposal was also referred to the Design and Sustainability Advisory Panel (DSAP) who provided a report detailing their recommendations (dated 26 October 2023).

The proposal has incorporated these findings into the approved design as well as providing a detailed written response to the DSAP Report.

Amended information

Amended information has been provided during the assessment process in response to a *Request for Further Information* provided by Council.

Amended information was formally received on 9 February 2024 which reduced the building height of the development, amended the proposed off-street parking arrangement, provided a Clause 4.6 request to vary the Floor Space Ratio development standard, provided an updated operational management plan and provided additional traffic and parking reporting.

The amended information reduces the environmental impact of the development, reduced the building height and FSR, and therefore does not require additional community notification.

Clause 4.6 Variations

The Clause 4.6 variations for height and FSR are still required, however as they do not exceed 10%, they do not trigger referral to the Northern Beaches Local Planning Panel.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 1.9A Suspension of covenants, agreements and instruments

Pittwater Local Environmental Plan 2014 - Zone E4 General Industrial

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - D9.6 Front building line

SITE DESCRIPTION

Property Description:	Lot 3 DP 617781 , 69 Bassett Street MONA VALE NSW 2103
Detailed Site Description:	<p>The site is known as 69 Bassett St Mona Vale and is Lot 3 in DP617781.</p> <p>This land is comprised of a generally rectangular shaped lot with frontage of around 18.9m to Bassett St.</p> <p>The site presently contains a single storey industrial building.</p> <p>The site is typical of the locality where there is a combination of recent and older style 1-3 storey industrial buildings.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

PLM2022/0146 held on 9 August 2022 for Demolition works and the construction of a three-storey vehicle storage facility and take-away cafe

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent.

Section 4.15 Matters for Consideration	Comments
Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Council's Request for Further Information. As discussed within the description of development within this report, amended information was formally accepted by Council on 9 February 2024.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 25/08/2023 to 08/09/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Hugh Alistair Pickering	48 Brinawa Street MONA VALE NSW 2103
Mr Andrew James Macpherson	127 Queens Parade East NEWPORT NSW 2106

Two submissions were received during the community notification period and the following concerns were raised:

- Building Height**

Comment:

Concern was raised regarding the proposed building height of the proposal which was considered excessive. In response, Council advises that the proposed building height has been reduced significantly by way of amended plans received during the assessment process. The originally proposed maximum ridge level (inclusive of pop-up elements) located at RL16.76 has been reduced to a maximum of RL14.80. Whilst still numerically non-compliant with the standard, an assessment under Clause 4.6 PLEP 2014 within this report considers the variation to be acceptable in this instance.

- Overshadowing**

Comment:

Concern was raised regarding overshadowing impacts resulting from the proposed development. Whilst there is no solar access control for industrial development under P21 DCP, suitable shadow diagrams have been provided with the application which are considered to result in an acceptable solar access arrangement to adjoining sites.

- Easement for electrical services**

Comment:

Concern was raised regarding an easement for electrical purposes on the land title affecting No.69 and No.71 Bassett Street. The applicant has provided a written response in regards to the impact upon this existing easement, stating that relevant standards will be complied with in regards to electrical supply and metering, whilst the existence of the easement does not prevent the approval of the application. Council agrees that the electrical easement is not relevant or precondition to the determination of the development application.

- **Setback distance**

Comment:

Concern was raised regarding building setbacks, particularly towards the western adjoining site. Council advises that the proposed development is generally compliant with all numerical building setback requirements, with the exception of a minor non-compliance at first floor level towards the Bassett Street frontage. The control permits a nil setback to the side boundary to the west.

- **Parking and Traffic**

Comment:

Concern was raised regarding parking availability in the immediate locality. The applicant has provided extensive Traffic and Parking reporting with the application, which demonstrates that the proposal shall comply numerically with the off-street parking requirement for the development. Amended architectural plans submitted during the assessment process also amended the off-street parking arrangement to locate the parking bays in the internal circulation areas, as the vehicle storage area within the storage units is not considered to be included within the off-street parking requirement. This is discussed in depth within this report under Clause B6.3 Off-Street Vehicle Parking Requirements. The proposed development shall be used a storage premises and take away food and drink premises only and shall not be used for any other purpose that may require more onerous parking requirements. Furthermore, Council's Traffic Engineer has reviewed the application and provided a written assessment which raised no objection to approval, subject to recommended conditions of consent relating to Parking Standards and Traffic Management.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>NOT SUPPORTED (Based on DA as lodged)</p> <p>The application was referred to the DSAP for consideration and comment.</p> <p>The DSAP raised a number of issues with the design of the development and did not support the proposal. The Panel made a total of 18 recommendations at the DA review stage, to improve the design quality, contextual fit, landscape outcome and sustainability of the proposal.</p> <p>The applicant has sought to respond to the DSAP recommendations through the amended proposal (including the submission of an itemised written response).</p> <p>Each of the Panel's recommendations are listed below with</p>

Internal Referral Body	Comments
	<p>commentary from the assessing planner.</p> <p><u>Recommendations</u></p> <p>Strategic context, urban context: surrounding area character</p> <p><i>1. Consideration should be given to providing better connections to neighbouring sites to west and south – governing built form and access and use (for example southern building has a frontage/colonnade that establishes a good relationship with the street along this frontage).</i></p> <p><u>Comment:</u> The southern and western elevations are not considered to be inconsistent with the existing character of the industrial zone, as well as the existing character of surrounding development including the Mitre 10 Building to the west. The proposed primary and secondary frontages to the north and east are the active components of the development providing access and articulation to the streetscape.</p> <p>Scale, built form and articulation</p> <p><i>2. Address and modify height non-compliances in line with above comments. Any agreed increase in height should be a finite increase restricted to the roof plane of the building and not allowed to increase beyond that with additional pop-up elements such as skylights, parapets or lift cores.</i></p> <p><i>3. Consideration needs to be given to the likely BCA classification (and sub-classifications) that would need to apply within the building. This will potentially impact on placement of office/lounges with respect to external walls and the required level of internal separation between those spaces and the more storage-related uses.</i></p> <p><u>Comment:</u> The proposed ridge height and pop-up elements have been significantly reduced by way of amended plans following the DSAP review. The proposed building height variation has been addressed under Clause 4.6 within this report and considered acceptable in this context.</p> <p>In the context of BCA classification, the proposed office and lounge areas have been primarily deleted from the amended plans following the DSAP review.</p> <p>Access, vehicular movement and car parking</p> <p><i>4. Reduce driveways to one entry to improve street and enhance pedestrian safety</i></p> <p><i>5. Improve amenity around and inside “café” /coffee shop</i></p> <p><u>Comment:</u></p>

Internal Referral Body	Comments
	<p>It is noted the existing site contains three vehicular crossings along the Tenagh Crescent frontage and one crossing to the Bassett Street frontage. Two of these crossings are being maintained to Tenagh Crescent. The proposed arrangement is supported by Council's Development Engineer and Traffic Engineer and considered an acceptable outcome in this circumstance.</p> <p>The proposed food and drink premises, being within an industrial zoned area, shall be used primarily by local tradespeople and patrons of the storage premises on a takeaway basis, rather than being used as a traditional cafe. Notwithstanding, the proposed lawn area in the front setback area provides a suitable open space area for pedestrian amenity and on-site consumption.</p> <p>Landscape</p> <p><i>6. A revised landscape documentation package shall need to be prepared by a landscape architect or landscape designer in accordance with the submission requirements of Council.</i></p> <p><i>7. A variety of small, medium, and large trees should be considered to help revegetate the site with this opportunity this redevelopment application provides.</i></p> <p><i>8. If an area of lawn is to be utilised for outdoor relaxation or dining opportunities, a soft-leaf buffalo such as Matilda should be considered as it holds its colour better in winter and sustains wear and tear quite robustly.</i></p> <p><i>9. The existing street trees could be replaced as part of the development as they are of low landscape value and significance. This would be of great benefit to the canopy cover targets as set out in the Greener Neighbourhoods Guide.</i></p> <p><i>10. The stormwater plans must be revised to not conflict with the areas where the trees are proposed.</i></p> <p><u>Comment:</u> Council's Landscape Officer has reviewed the application and raised no objection to approval, subject to conditions. These conditions include for an amended landscape plan incorporating locally native species and a superior landscape outcome along the frontages of the site. The site is industrially zoned and not located within the Landscaped Area Map of P21 DCP, however shall maintain a suitable landscaped character and vegetative buffer along the primary and secondary frontages to the Bassett Street and Tenagh Crescent streetscape. A landscaped planter is also proposed atop the first floor and adjoining the second floor terrace to provide further visual softening. In the context of stormwater, Council's Development Engineer has also reviewed the application and raised no objection to approval, subject to conditions.</p> <p>Amenity</p> <p><i>11. Ensure adequate natural light and air to ancillary spaces. Better</i></p>

Internal Referral Body	Comments
	<p><i>to locate these spaces at exterior walls with windows. There are minimal openings to car storage spaces.</i></p> <p><i>12. Address potential impacts of areas that have no separation between habitable and non-habitable polluting uses</i></p> <p><i>13. Address amenity impacts of “café” facility located away from the street and requiring people to cross over a carpark to gain access</i></p> <p><i>14. Address potential negative impacts of roof-top lounge on neighbouring properties</i></p> <p><u>Comment:</u> The ancillary internal office and lounge areas have been generally deleted by way of amended plans following the DSAP review. This consent includes suitable conditions recommending for no part of the approved development to be used as a function space, entertainment facility or beyond the definition of a self-storage unit/take away food and drink premises. The applicant has also submitted a suitable Operational Management Plan that shall guide the operational use of the premises.</p> <p>The proposed food and drink premises, being within an industrial zoned area, shall be used primarily by local tradespeople and patrons of the storage premises on a takeaway basis, rather than being used as a traditional cafe. It is noted that the frontage to the take-away food and drink premises is in close proximity to the designated visitor parking, however this is demonstrated to be the preferred arrangement for the applicant.</p> <p>Façade treatment/Aesthetics</p> <p><i>15. Consideration should be given to coming up with viable and sustainable material solution to the solid blank walls.</i></p> <p><u>Comment:</u> The articulation of the respective elevations are not considered to be unreasonable within the industrial setting or out of character with adjoining similar development, including the adjacent Mitre 10 building.</p> <p>Sustainability</p> <p><i>16. Consideration should be given to a combination of green roof with the PV cells</i></p> <p><i>17. Consideration should be given to much lower carbon options than concrete</i></p> <p><i>18. Consideration should be given to how the building could be adapted in the future for other uses</i></p> <p><u>Comment:</u> The proposed roof plan illustrates areas to be used for purposes of solar panels and PV Cells. The option of utilising green carbon reduced concrete is also encouraged. Furthermore, it is considered</p>

Internal Referral Body	Comments
	<p>the building is designed to be reasonably adaptable for a range of future industrial uses.</p> <p>Conclusion The comments provided by the DSAP were based on the original design of the proposal when the DA was lodged, which has since been amended to respond directly to the majority of the recommendations. The amendments made improve the development's overall level of compliance and reduce impacts to the surrounding properties and public domain. The building is assessed as exhibiting a high level of design and amenity for future residents. Whilst the design and amenity of development could almost always be improved, the level provided by the revised proposal achieves that which is consistent with the provisions of the PLEP 2014, P21 DCP, SEPP 65/ADG, as detailed in this report.</p>
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant 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 (Acid Sulfate)	<p>General Comments</p> <p>This application seeks consent for the demolition of structures onsite and the construction of a vehicle storage facility and take-away cafe at 69 Bassett Street, Mona Vale.</p> <p>There is no bulk excavation proposed. However, some soil disturbance will occur for underground services and possibly for footings/piling.</p> <p>The site is in a low-lying area with shallow groundwater, and the Acid Sulfate Soils (ASS) risk mapping indicates that there is a high probability of ASS occurrence. There is the potential for ASS materials to be present and for this material to be disturbed during piling/excavation works associated with the proposed development. On this basis, a preliminary ASS assessment including soil sampling and analysis is required to establish whether ASS materials will be disturbed during the proposed works and whether an ASSMP is required.</p> <p>An ASS assessment, including soil sampling and analysis, should be undertaken to assess the need for an Acid Sulfate Soils Management Plan.</p> <p>Environmental Health recommends approval subject to conditions</p>

Internal Referral Body	Comments
Environmental Health (Contaminated Lands)	<p>General Comments</p> <p>This application seeks consent for the demolition of structures onsite and the construction of a vehicle storage facility and take-away cafe at 69 Bassett Street, Mona Vale.</p> <p>There is no bulk excavation proposed. However, some soil disturbance will occur for underground services and possibly for footings/piling.</p> <p>A Preliminary Site Investigation undertaken by JKEvironments dated 5 April 2023 has stated the following;</p> <p>JKE is of the opinion that the historical land uses and potential sources of contamination identified would not preclude the proposed development. The following is recommended to better assess the risks associated with potential contamination at the site:</p> <ol style="list-style-type: none"> 1. A Detailed Site Investigation (DSI) is to be undertaken to characterize the site contamination conditions and establish whether the site is suitable for the proposed development in its current state, or whether remediation is required. The DSI must be designed appropriately to consider the potentially affected media, area of environmental concern and the contaminants of potential concern outlined in the conceptual site model. 2. A Sampling, Analysis and Quality Plan (SAQP) is to be prepared for the DSI prior to commencement of the investigation. <p>Environmental Health recommends approval subject to conditions.</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>This application seeks consent for the demolition of existing structures and construction of a three-storey vehicle storage building with a ground floor take-away cafe at 69 Bassett Street Mona Vale.</p> <p>The acoustic assessment prepared by Acoustic Dynamics dated 4 April 2023 has provided a number of noise mitigation measures to control noise and vibration.</p> <p>UPDDATED REFERRAL COMMENTS</p> <p>The Operational Management Plan has stated the storage unit intends to operate 24hours. The proximity to the residential dwellings is approximately 30-40m. Noise in the nighttime period (10pm-6am) has the potential to cause a noise nuisance to residential occupants. It has come to Environmental Healths attention that operating hours</p>

Internal Referral Body	Comments
	<p>of 7:00am to 11:00pm have been discussed with the applicant and it has been confirmed these will be the new operating hours. Environmental Health supports these amended operating hours.</p> <p>Environmental Health recommends approval subject to conditions</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>This application seeks consent for the demolition of the existing buildings and construction of a new three-storey building designed for high-end vehicle storage with a take-away cafe on the ground floor.</p> <p>The take-away cafe design details have not been provided at this time so appropriate conditions will apply.</p> <p>Environmental Health recommends approval subject to conditions.</p>
Landscape Officer	<p>The development application is for the demolition of existing structures and construction of a vehicle storage facility and a take away cafe.</p> <p>Council's Landscape Referral staff have assessed the proposal against Pittwater Local Environment Plan zone E4 General Industrial, and the following Pittwater 21 DCP controls (but not limited to):</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C3.1 Landscaping • C3.18 Public Road Reserve - Landscaping and Infrastructure • D9 Mona Vale Locality <p>The current property contains no landscape features. The existing road reserve contains street trees and grass verge, and it is noted that two of the existing Bottlebrush trees (one in Tengah Crescent and one in Bassett Street) are over-mature and in poor condition and shall be replaced under the landscape works to the road reserve, and conditions shall be imposed. The existing Coast Tea Tree in Tengah Crescent shall remain and be protected, as imposed by conditions.</p> <p>A Landscape Plan is submitted and in principle no concerns are raised with the concept, however the Landscape Plan shall provide landscape design information as listed in Council's DA Lodgement Requirements. On review on the landscape concept it is advised that the tall and large canopy Swamp Mahogany and Spotted Gum trees proposed shall be replaced with smaller native trees in consideration of the available soil volumes and proposed building setbacks, and conditions shall be imposed. Additionally additional street tree planting within the road reserve verge shall be documented as part of road reserve verge works under a section 138/139 application, and required tree selections shall be included in the conditions. The proposed lawn area on the south of the proposed building along Tengah Crescent is not supported and this area shall rather be mass planted with shade tolerant species.</p> <p>Conditions shall be imposed for an amended Landscape Plan to</p>

Internal Referral Body	Comments
	address the above issues raised, and this shall be documented in accordance with Council's DA Lodgement Requirements for Landscape Plans.
NECC (Development Engineering)	<p>The proposal is for demolition works and the construction of a new Three -storey vehicle storage facility. The submitted stormwater plans are satisfactory subject to conditions.</p> <p>Note to Planner: It is noted that there is a covenant on title that provides twelve parking bays that also service No 71 Bassett Street. As a result of this application the covenant may need to be extinguished as the proposal will impact the access and parking for the adjacent property. The applicant has provided legal advice regarding the covenant. Planning to assess impacts of the removal of the covenant and if legal advice is required.</p> <p>It is also noted that Council's Flood team provided advise regarding floor levels in the prelodgement which has not been addressed in the architectural plans. If the proposed floor levels change due to Flood teams requirements please refer back to Development Engineering for reassessment.</p>
NECC (Flooding)	<p>The proposal seeks consent for the demolition of existing structures and construction of a three storey storage facility with an incorporated ground floor business premises.</p> <p>The property is partially affected by the 1% AEP Flood extent, PMF Flood extent, Flood Storage Area and a H4 flood life hazard category. Furthermore, the climate change flood scenario has been considered in this assessment because development proposes to increase commercial floor space.</p> <p>As detailed in the Flood Management Report prepared by Northern Beaches Consulting Engineers (14 April 2023) issue A, a maximum 1% AEP flood level of 2.96m AHD, a 300mm freeboard and a FPL of 3.26m AHD have been adopted and justified based on a change to localised flood behavior. The change to flood behaviour is a direct result of the proposed suspended ground floor structure which is expected to remove the trap point and ponding on the western side of the property and allow for the free passage of floodwaters below the structure towards Tengah Crescent beyond the eastern boundary.</p> <p>The proposed ground floor level is 3.46m AHD, above the adopted FPL of 3.26m AHD.</p> <p>Subject to the following conditions, council is satisfied that the proposal is compliant with Section B3.11 and B3.12 of the Pittwater 21 DCP 2021 and Clause 5.21(2)(a-e) of the Pittwater LEP 2014, with consideration of Clause 5.21(3)(a-d) of the Pittwater LEP 2014</p>

Internal Referral Body	Comments
NECC (Water Management)	<p>Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WM Policy), and; • Relevant LEP and DCP clauses; <p>The proposal seeks consent for demolition and construction on a lot less than 1000 square metres. No subdivision is proposed.</p> <p>Proposal reduces impervious area and includes a rainwater tank. A planter box is also included in the design and presents an opportunity for onsite water infiltration and water reuse. The applicant is encouraged to make use of this opportunity.</p> <p>The geotechnical report provided indicates that the water table is likely at a shallow depth and there is a high probability of Acid Sulfate Soil (ASS) occurrence. No bulk excavation is proposed but some soil disturbance will occur. If dewatering is required then the applicant must contact catchment@northernbeaches.nsw.gov.au for advice on Council's groundwater dewatering permit prior to excavating. Any water to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997. All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.</p> <p>Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p>
Traffic Engineer	<p>Referral comments 20/2/24</p> <p>The Applicant has provided updated plans and additional information in response to the issues raised. The amended Ground Floor Plan includes the provision of one motorcycle parking space and four bicycle racks, in accordance with the Pittwater21 DCP. A designated Delivery/Wash Bay has also been provided and the location of the Accessible Parking and visitor parking spaces relocated as recommended. However, the Shared Area for the Accessible Parking space located nearest to the takeaway coffee shop, should be marked with diagonal stripes and a bollard installed in accordance with Australian Standards AS2890.6:2009.</p>

Internal Referral Body	Comments
	<p>The reduction of the interior void on the First Floor and Second Floor has created a parking space adjacent to the car lift on both floors. The terrace area on the Second Floor Plan has also been reduced to show two additional parking spaces.</p> <p>The swept paths plan, prepared by MHDP Architects, Drawing 2204-SK14 Revision A, demonstrate that vehicles are able to enter and exit the car lift and access the Units on each floor when the parking space adjacent to the car lift is occupied. However, the access to Unit 4 appears obstructed when both of the newly created spaces next to the terrace are occupied. The swept paths show that vehicles require a manoeuvring area north of the car lift in order to undertake a 3-point turn to reverse into Units 1 and 2. It is therefore recommended that the parking space located near the Service Riser be removed and marked (similar to a Shared Area) with diagonal stripes to prevent parking at this location. The bollard can be installed in the middle of the marked area to provide additional space for turning manoeuvres.</p> <p>The Applicant has provided additional survey data from similar development uses with a Self-Storage Facility Traffic and Parking Study prepared by the Self-Storage Association of Australia. The recommended number of parking spaces for a unit between 0-3,000m² is 1 space for office parking, 2 spaces for storage area parking, 2 spaces for staff parking and 1 space for trailer/ute parking - a total of 6 spaces. The amended proposal with the recommended removal of 1 car space on the Second Floor, will provide 3 parking spaces, 1 space for Delivery/Wash Bay, 2 visitor spaces (including 1 Accessible Parking) - a total of 6 spaces. This proposal will provide an additional 3 parking spaces and does not include the capacity within each unit which provides spaces to store up to 4 vehicles as well as the space for the owner's visiting vehicle.</p> <p>Parking requirements for a motor showroom is 0.75 spaces per 100m² (based on Roads and Maritime Services Guide to Traffic Generating Developments). The Site Area is 720.5m², which generates 5.4 cars.</p> <p>The overall parking is therefore considered acceptable for the proposed use of the facility for the owner/tenant of each unit to store multiple vehicles.</p> <p>The Operational Management Plan (OMP) has been updated accordingly to show the hours of operation for the takeaway coffee shop from 7am to 5pm Monday to Saturday. Unit owners are only permitted to park in the designated car spaces, and all vehicles must be driven to and from the site by their own means. Vehicles are not permitted to be transported to the site using a car carrier of any type.</p>

Internal Referral Body	Comments
	<p>The proposal can be supported subject to the recommended Conditions.</p> <p>Referral comments 11/10/23</p> <p>The proposed development involves the demolition of existing structures on the site to facilitate the construction of a new three-storey vehicle storage building with a ground floor take-away coffee shop. The Transport Network section has reviewed the proposal with respect to parking, access and traffic generation impacting the road network.</p> <p>Parking</p> <p>A Traffic Impact Assessment (TIA) has been prepared by Urban Research and Planning for the development application at 69 Bassett Street, Mona Vale. There appears to be some discrepancies between the information provided in the TIA and other documents provided as part of the application. The number of parking spaces required for the development under the Pittwater21 DCP is calculated based on the Gross Lettable Area (GLA). The TIA indicates that 4 spaces are required for the total area of 530m², based on the motor showroom rate of 0.75 spaces per 100m². It is not clear how the total area of 530m² was determined and further clarification is therefore required. Drawing No.SK10 - Floor Space Ratio Plan, Revision B shows a total area of 703.5m² for the Floor Space Ratio calculation.</p> <p>The TIA indicates that the takeaway coffee shop will operate from 7am to 5pm six days a week while the draft Operational Management Plan (OMP), included in Appendix B, specifies hours of operation as 6am-5pm Monday to Friday and 7am-5pm Saturday and Sunday.</p> <p>The Pittwater21 DCP requires on-site parking requirements for visitor parking, accessible parking, motorcycle parking and bicycle storage. Adequate space must also be provided for delivery vehicles and garbage collection at a convenient location. The TIA specifies that each unit provides spaces to store up to 4 vehicles as well as the space for the owner's visiting vehicle. Although the DCP does not specify any wash bay requirements for storage facilities it is considered reasonable that a vehicle wash bay be provided due to the nature of the development. The draft OMP specify the delivery hours between 7am-7pm Monday to Friday. The space marked as Visitor Parking/Wash Bay, located between the storage area and car</p>

Internal Referral Body	Comments
	<p>lift, should therefore be designated as a Delivery/Wash Bay. The provision of a Visitor Parking space and Accessible Parking space may also be considered adequate for this development; however the Shared Area for the Accessible Parking space should be located nearest to the takeaway coffee shop, with the Accessible Parking space and Visitor Parking space adjacent. All parking spaces can be 2.4m wide and realigned to fit between the take-away coffee shop and the retaining wall.</p> <p>For business/industrial developments comprising of 200m² GFA or more, the DCP requires a minimum of 4 bicycle racks and 1 motorcycle parking space per 100 motor vehicle spaces. The TIA specifies that motorcycle parking and bicycle storage could be provided in the area marked for Plant and Storage, however parking should be provided in more accessible areas for visitors and customers. A 1.2m wide motorcycle space could be provided with extension of the formal parking area with minor reduction to the lawn area. Bicycle racks could be provided within the marked lawn area, which would make it more convenient for cyclists and customers for takeaway coffee.</p> <p>A swept path analysis has been undertaken using the largest vehicle type, demonstrating entry/exit from the driveway access off Tengah Crescent, as well as access to parking spaces to and from the car lift.</p> <p>Access</p> <p>The existing development contains three combined driveways accessed off Tengah Crescent. The proposed development provides a combined 6.5m access driveway situated at the centre of the site. A 3m wide single driveway located approximately 10m from the intersection with Bassett Street, provides exit only for vehicles visiting the takeaway coffee shop. The existing driveway located at the southern end of the site will be removed and provides an additional on-street parking space.</p> <p>Operational Management Plan</p> <p>The Applicant previously advised that the Operational Management Plan (OMP) would specify that unit owners are not permitted to use external parking on the ground level, as car parking for owners are to be provided within their unit. This should be clearly indicated in the final Operational Management Plan. The OMP should also specify that vehicles are not permitted to be transported to the site using a car carrier of any type. All vehicles must be driven to and from the site by their own means.</p>

Internal Referral Body	Comments
	<p>Traffic Generation</p> <p>The TIA projects that the daily trips for the 4-unit owners will not exceed 16 per day (8 inwards and 8 outward). The TIA also anticipates that the majority of customers would be from people already traveling to the area and as such no additional trips will be generated from what currently exist on the local road network.</p> <p>Parking and traffic generation for this development is based on the usage as a storage facility for private vehicles. Transport Network do not approve other usage for functions or similar events as this will create additional traffic generation and parking demands.</p> <p>The proposal is not acceptable in its current form as additional information is required to verify the Gross Lettable Area (GLA), which affects the number of parking spaces. The parking provisions and layout also requires amendment as indicated in the above comments, and the Operational Management Plan updated to include specifics regarding transport of vehicles to site and parking. The Applicant should consider the above comments and provide updated plans and the additional information so that the proposal can be reviewed for further consideration.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Industry and Employment) 2021

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

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

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

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposal is compatible with the existing or desired future character of the area or locality in which it is proposed to be located.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposal is consistent with the theme for outdoor advertising in the area or locality.	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal does not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	The proposal does not obscure or compromise important views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposal does not dominate the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposal respects the viewing rights of other advertisers.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposal is appropriate for the streetscape, setting and landscape.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal contribute to the visual interest of the streetscape, setting and landscape.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal does not contribute to any visual clutter.	YES
Does the proposal screen unsightliness?	The proposal does not create unsightliness.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposal does not protrude above buildings, structures or tree canopies in the area or locality.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposal is compatible with the scale, proportion and other characteristics of the site or building.	YES
Does the proposal respect important features of the site or building, or both?	The proposal respects important features of the site.	YES

Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal shows innovation and imagination in its relationship to the site or building.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Safety devices, platforms, lighting devices or logos have been designed as an integral part of the signage or structure on which it is to be displayed.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	Illumination shall not result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation.	YES
Can the intensity of the illumination be adjusted, if necessary?	The intensity of the illumination shall be minimal, as recommended by conditions of consent.	YES
Is the illumination subject to a curfew?	The illumination is subject to a curfew, as recommended by conditions of consent.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposal shall not reduce the safety for any public road, pedestrians or bicyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposal shall not reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of this chapter and its underlying objectives.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for industrial purposes for a significant period of time with no prior land uses.

A Preliminary Site Investigation has been provided with the application prepared by JK Environments (dated 5 April 2023). The report recommends that a Detailed Site Investigation (DSI) should be undertaken to characterise the site contamination conditions and establish whether the site is suitable for the proposed development in its current state, or whether remediation is required.

Council's Environmental Health Officer has reviewed the application and above-mentioned report, and based on the advice from the environmental consultant that the site is suitable for the change of use, the likelihood of contamination is relatively low considering the available evidence on the previous uses of the site, and the proposed use is not residential, community or for any sensitive occupants (such as a child care center, school, health related, or the like), therefore provided a deferred

commencement condition of consent that a DSI must be prepared prior to the consent becoming operational.

Subject to compliance with the deferred commencement condition of consent, the land is considered to be suitable for the proposed industrial land use.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m OR Max. 10.5m above FPL 3.34 AHD* (13.84 AHD)	12.08m	9.82%	No
Floor Space Ratio	1:1 (720.5m ²)	1.05:1 (758m ²)	5.2%	No

* FPL: Flood Planning Level. AHD: Australian Height Datum.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.4 Floor space ratio	No
4.5 Calculation of floor space ratio and site area	No
4.6 Exceptions to development standards	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	No
7.2 Earthworks	Yes
7.4 Floodplain risk management	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

1.9A Suspension of covenants, agreements and instruments

The application lodged with Council included a legal letter, prepared by Lindsay Taylor Lawyers, identifying the existence of a covenant on title set out in dealings Q218412 and Q238954 as listed on the certificate of title for the subject site.

The terms of the restrictions state that no part of the existing approved vehicle parking bays benefitting No.69 and No.71 Bassett Street, shall be used at any time for any purpose other than the parking of motor vehicles.

The legal letter was referred to Council's General Counsel who provided advice agreeing with the submitted legal letter that once consent to DA2023/1068 is granted, the covenant no longer has any effect, whilst also agreeing that the existence of the covenant is not relevant or precondition to the determination of the development application.

Should the applicant wish to remove the covenant from the land title, it may be extinguished upon agreement with Council once the consent become becomes operate and at the applicant's cost.

Zone E4 General Industrial

The application proposes a mixed-use development consisting of self-storage units and a take away food and drink premises, both of which are permitted with consent in the E4 General Industrial zone.

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	11m
Proposed:	12.08m
Percentage variation to requirement:	9.82%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 - Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

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

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

Comment:

Clause 4.3 - Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

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

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

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

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

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

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written

request under cl 4.6 must be “environmental planning grounds” by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.’

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

- The proposal is not inconsistent with the height of surrounding and adjoining development in the immediate industrial locality.
- The proposal is largely compliant with P21DCP built form controls
- No unreasonable impact to surrounding amenity is experienced as a result of the non-compliance

Comment:

It is agreed that the proposal is consistent with the height of surrounding development which are located on a flat and generally similar ground level to the subject site. The adjoining storage premises to the south at No.4 Tengah Crescent possesses an approved ridge level of RL15.35 whilst the ridge level of the Mitre 10 building to the west extends to RL14.99. These developments exceed the ridge level of the proposed development located at RL14.8. The proposal is therefore considered to be in keeping with the existing character of the surrounding development.

It is agreed that the proposal is generally compliant with the built form controls of the DCP with the exception of a minor front setback non-compliance which ensures a reasonable outcome in the context of bulk and scale. It is also agreed that the proposed area of non-compliance does not result in unreasonable impacts to surrounding amenity.

In this regard, the applicant’s written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore

satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the E4 General Industrial zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the PLEP 2014 are:

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

a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

Comment:

The building is consistent with the desired character of the locality.

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

Comment:

The development is compatible with the height and scale of surrounding and nearby development.

c) to minimise any overshadowing of neighbouring properties,

Comment:

Overshadowing to neighbouring properties is minimised.

d) to allow for the reasonable sharing of views,

Comment:

Reasonable view sharing is maintained.

e) to encourage buildings that are designed to respond sensitively to the natural topography,

Comment:

The development responds sensitively to the natural topography.

f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items,

Comment:

The visual impact of development on the natural environment, heritage conservation areas and heritage items is appropriately minimised.

Zone objectives

The underlying objectives of the E4 General Industrial zone are:

- *To provide a range of industrial, warehouse, logistics and related land uses.*

Comment:

The proposal is consistent with the desired land uses of the zone.

- *To ensure the efficient and viable use of land for industrial uses.*

Comment:

The proposal is an efficient and viable industrial land use.

- *To minimise any adverse effect of industry on other land uses.*

Comment:

The proposal shall not adversely effect surrounding land uses.

- *To encourage employment opportunities.*

Comment:

The proposal will suitably encourage employment opportunities, including within the take away food and drink tenancy.

- *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.*

Comment:

The proposal is suitably enhanced by a non-industrial take away and food drink premises.

- *To accommodate uses that, because of demonstrated special building or site requirements or operational characteristics, cannot be, or are inappropriate to be, located in other zones.*

Comment:

The proposed land uses within the mixed-use development are not permissible together in other land use zones.

- *To provide healthy, attractive, functional and safe light industrial areas.*

Comment:

The proposal shall promote the functional and safe light industrial area.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E4 General Industrial zone.

It is considered on balance, that having regard to the particular circumstances, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Exception to Development Standards conclusion

The submitted written Clause 4.6 variation request is considered to be well founded having regard to the circumstances of the development is considered appropriate that flexibility in the application of the development standard 4.3 Height of Buildings be applied. In this context the proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the Act. Consequently, the development is considered to be in the public interest, subject to conditions.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

Description of non-compliance:

Development standard:	Floor Space Ratio
Requirement:	1:1
Proposed:	1.05:1
Percentage variation to requirement:	5.2%

Assessment of request to vary a development standard:

The following assessment of the variation to 4.4 - Floor space ratio, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

Comment:

4.4 - Floor space ratio development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

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

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

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

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

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- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the*

different levels of government in the State,

(j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicants written request argues, in part:

- The non-compliance results from the nature of the proposed use being self-storage units for motor vehicles. This is a unique land use and the oversized nature of the objects being stored exacerbates the non-compliance.
- The minor gross floor area non-compliance is not inconsistent with surrounding development and will not result in any discernible difference compared to if a numerically compliant development were proposed

Comment:

It is agreed that the proposed non-compliance is minor and will not result in a development that is out of keeping with the existing or desired character of immediate industrial locality. It is also agreed that whole compliance with the numerical standard is made challenging by the nature of the unique land use. The individual self-storage units are used for vehicle storage which, while not an exclusion from the gross floor area calculation, exacerbate the FSR non-compliance by their large nature.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Floor Space Ratio development standard and the objectives of the E4 General Industrial zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the PLEP

2014 are:

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

a) to ensure that buildings, by virtue of their bulk and scale, are consistent with the desired character of the locality,

Comment:

The building, by virtue of bulk and scale, is consistent with the desired character of the locality.

b) to minimise adverse environmental effects on the use and enjoyment of adjoining properties and the public domain,

Comment:

The proposal appropriately minimises environmental effects upon adjoining properties and the public domain.

c) to minimise any overshadowing and loss of privacy to neighbouring properties and to reduce the visual impact of any development,

Comment:

Overshadowing, loss of privacy and visual impacts to neighbouring properties are effectively reduced.

d) to maximise solar access and amenity for public places,

Comment:

Solar access and amenity to public places is suitably maximised.

e) to minimise the adverse impact of development on the natural environment, heritage conservation areas and heritage items,

Comment:

The proposal minimises impacts on the natural environment, heritage conservation areas and heritage items.

f) to manage the visual impact of development when viewed from public places, including waterways,

Comment:

There is a minimal visual impact when viewed from public places, including waterways.

g) to allow for the reasonable sharing of views.

Comment:

Reasonable view sharing is maintained.

Zone objectives

The underlying objectives of the E4 General Industrial zone are:

- *To provide a range of industrial, warehouse, logistics and related land uses.*

Comment:

The proposal is consistent with the desired land uses of the zone.

- *To ensure the efficient and viable use of land for industrial uses.*

Comment:

The proposal is an efficient and viable industrial land use.

- *To minimise any adverse effect of industry on other land uses.*

Comment:

The proposal shall not adversely effect surrounding land uses.

- *To encourage employment opportunities.*

Comment:

The proposal will suitably encourage employment opportunities, including within the take away food and drink tenancy.

- *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.*

Comment:

The proposal is suitably enhanced by a non-industrial take away and food drink premises.

- *To accommodate uses that, because of demonstrated special building or site requirements or operational characteristics, cannot be, or are inappropriate to be, located in other zones.*

Comment:

The proposed land uses within the mixed-use development are not permissible together in other land use zones.

- *To provide healthy, attractive, functional and safe light industrial areas.*

Comment:

The proposal shall promote the functional and safe light industrial area.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E4 General Industrial zone.

It is considered on balance, that having regard to the particular circumstances, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Exception to Development Standards conclusion

The submitted written Clause 4.6 variation request is considered to be well founded having regard to the circumstances of the development is considered appropriate that flexibility in the application of the development standard 4.4 Floor Space Ratio be applied. In this context the proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the Act. Consequently, the development is considered to be in the public interest, subject to conditions.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Floor space ratio Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

7.1 Acid sulfate soils

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 3, as indicated on Council's Acid Sulfate Soils Planning Map.

Works at depths beyond 1.0m below the natural ground surface and/or works by which the watertable is likely to be lowered more than 1.0 metre below the natural ground surface within a Class 3 acid sulfate soil area are required to be assessed to determine if any impact will occur.

A Preliminary Acid Sulfate Soils Assessment has been provided with the application prepared by JK

Environments dated 5 April 2023. The report found that an ASS assessment, including soil sampling and analysis, should be undertaken to assess the need for an ASSMP.

The Preliminary Assessment was referred to Council's Environmental Health Officer who concurred with the findings and imposed a deferred commencement condition of consent which requires this assessment to be undertaken prior to the consent becoming operational.

This condition and the recommendations made in the Preliminary Assessment have been included in the recommendation of this report.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line (Secondary)	6.5m	6.5m (ground floor)	-	Yes
		4.5m (first floor)	30.77%	No
		6.5m (second floor)	-	Yes
	3.25m (east)	3.5	-	Yes
Side building line	Nil (south)	Complies	-	Yes
	Nil (west)	Complies	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.5 Rainwater Tanks - Business, Light Industrial and Other Development	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C2.1 Landscaping	Yes	Yes
C2.2 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C2.5 View Sharing	Yes	Yes
C2.7 Building Facades	Yes	Yes
C2.8 Energy and Water Conservation	Yes	Yes
C2.9 Waste and Recycling Facilities	Yes	Yes
C2.10 Pollution Control	Yes	Yes
C2.11 Signage	Yes	Yes
C2.12 Protection of Residential Amenity	Yes	Yes
C2.16 Undergrounding of Utility Services	Yes	Yes
C2.21 Food Premises Design Standards	Yes	Yes
C2.24 Take-away Food Premises	Yes	Yes
C3.1 Landscaping	Yes	Yes
C3.2 Safety and Security	Yes	Yes
C3.3 View Sharing	Yes	Yes
C3.4 Accessibility	Yes	Yes
C3.6 External Storage Areas	Yes	Yes
C3.7 Pollution Control	Yes	Yes
C3.8 Building Facades	Yes	Yes
C3.9 Energy and Water Conservation	Yes	Yes
C3.10 Waste and Recycling Facilities	Yes	Yes
C3.12 Signage	Yes	Yes
C3.13 Industrial Development Adjoining Residential Land	Yes	Yes
C3.14 Car/Vehicle/Boat Wash Bays	Yes	Yes
C3.15 Undergrounding of Utility Services	Yes	Yes
C3.19 Food Premises Design Standards	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	No	Yes
D9.7 Side and rear building line	Yes	Yes
D9.12 Fences - General	Yes	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D9.16 Character of the Public Domain - Mona Vale Commercial Centre	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

Comment:

The proposal consists of a mixed-use premises containing a storage premises and a take away food and drink premises.

A take away food and drink premises, as a type of a retail premises, requires the following off-street parking as per Table 1 of the control:

- 1 per 30m² GLA
- Provision of accessible parking spaces for people with disabilities must be at the rate of 3% of the required car parking spaces or part thereof, or 1 space, whichever is greater.

Based on the above, the numerical requirement for the take away food and drink component is two (2) spaces, including a space for people with disabilities. The proposal complies with this requirement.

In regards to the storage premises component, this is not a recognised land use under Table 1 of the control. For development not included in Table 1, the control states; *the minimum number of vehicle parking requirements must be determined using the appropriate guidelines for parking generation and servicing facilities based on development type comparison based on the Roads and Maritime Services Guide to Traffic Generating Development or analysis drawn from surveyed data for similar development uses. Provision must be made within the development site for access and parking of all service vehicles servicing the site, visitor parking and parking for people with disabilities.*

Given the Roads and Maritime Services Guide to Traffic Generating Development also does not provide a provision for a storage premises, the applicant has provided analysis drawn from surveyed data for similar development uses, in the form of a Traffic and Parking Study for Self-Storage Facilities (prepared by Aurecon). The recommendations of the report state that for self-storage unit sites with 0-3000m² of MLA (Maximum Leasable Floor Area), the parking requirement is 6 total spaces, consisting of 1 office space, 2 storage area spaces, 2 staff spaces and 1 trailer/ute space. Given the proposal does not contain an office, this requirement may be reasonably reduced to 5 spaces. The proposed storage premises provides 5 internal spaces (not including the area within the storage units used to store vehicles) and therefore complies with this requirement.

The proposal is therefore acceptable in this circumstance.

It is also noted that the internal parking area used to meet the above requirements (including access to that car parking), has been excluded from the Gross Floor Area calculation under Clause 4.4 Floor Space Ratio, in accordance with the definition for gross floor area under PLEP 2014.

D9.6 Front building line

Description of Non-Compliance

Part D9.6 of the P21 DCP prescribes a 6.5 metre front boundary setback line for buildings and built structures. The proposed first floor has a minimum front setback of 4.5m to the Bassett Street frontage and therefore encroaches the primary front setback area (30.77%).

Despite the non-compliance, it is noted the ground floor and second floor comply numerically with the control. The non-compliant portion of the development is also suitably articulated and softened with a green planter box atop the first floor, adjacent to the second floor terrace area.

The proposed front building line is also not inconsistent with the building line of the existing development on-site to be demolished, as well as adjoining developments along the southern side of Bassett Street.

Furthermore, the proposed front setback area to Bassett Street is significantly vegetated and provides a landscaped buffer to the streetscape, further softening the visual prominence of the non-compliant area.

The proposal also complies numerically with the secondary front setback control.

The request for variation is assessed against the following control outcomes:

- *Achieve the desired future character of the Locality.*
Comment: The proposed development achieves the desired future character of the Mona Vale Locality and will have an appropriately proportioned and designed streetscape appearance.
- *Equitable preservation of views and vistas to and/or from public/private places.*
Comment: The encroachment into the front boundary setback area is not found to result in the unreasonable loss of views or vistas from any nearby private residences or the public domain.
- *The amenity of residential development adjoining a main road is maintained.*
Comment: The proposal does not adjoin a main road.
- *Vegetation is retained and enhanced to visually reduce the built form.*
Comment: The encroachment into the front setback area does not directly result in the loss of vegetation. As described throughout this report, the built form is acceptable and is not found to be visually dominant. In addition, it is considered that the landscaping proposed enhances the visual presence of the building which mitigates building bulk.
- *Vehicle maneuvering in a forward direction is facilitated.*
Comment: The existing site does facilitate vehicle maneuvering in a forward direction when leaving the site.
- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*
Comment: The proposal sits below existing vegetation and is comparable in height and proportion to other nearby structures.
- *To encourage attractive street frontages and improve pedestrian amenity.*
Comment: The proposal is appropriately designed and not considered to result in a streetscape impact.
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*
Comment: The proposal succeeds in relating to the spatial relationship between the public and private domain and other surrounding roads.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or

their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$45,430 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,542,990.

CONCLUSION

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

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

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio has adequately addressed and demonstrated that:

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

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority permits a contravention of clause 4.3 Height of Building and 4.4 Floor Space Ratio development standards pursuant to clause 4.6 of the PLEP 2014 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2023/1068 for Demolition works and construction of a mixed use development including self-storage units and a take away food and drink premises on land at Lot 3 DP 617781, 69 Bassett Street, MONA VALE, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

DEFERRED COMMENCEMENT CONDITIONS

1. Site Contamination Assessment

A Detailed Site Investigation (DSI) is to be undertaken by a suitably qualified person to characterize the site contamination conditions and establish whether the site is suitable for the proposed development in its current state, or whether remediation is required. The DSI must be designed appropriately to consider the potentially affected media, area of environmental concern and the contaminants of potential concern outlined in the conceptual site model. A Sampling, Analysis and Quality Plan (SAQP) is to be prepared for the DSI prior to commencement of the investigation.

Refer to Preliminary Site Investigation report prepared by JKEnvironments dated 5 April 2023, ref: E35836PLrpRev1.

Any Remediation Action Plan required is to be developed by a suitably qualified person and implemented into the development to remediate contamination.

Reason: To ensure potential contamination is managed effectively.

2. Acid Sulfate Soils Assessment

Soil sampling and analysis is to be undertaken in areas of proposed soil disturbance for the

presence of Acid Sulfate Soils. A suitably qualified person is to undertake the sampling in accordance with the Acid Sulfate Soils Assessment Guidelines 1998 and determine if an Acid Sulfate Soils Management Plan is required. If a plan is required, it is to be prepared by the suitably qualified person and implemented into the development.

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

Reason: To ensure any Acid Sulfate Soils present are managed effectively.

Evidence required to satisfy these conditions must be submitted to Council (through the NSW Planning Portal) within two (2) years of the date of this consent, or the consent will lapse in accordance with the Environmental Planning and Assessment Regulation.

Applicants must submit a request for operational consent to Council via the NSW Planning Portal and upload all relevant documentation. This can be completed through accessing the relevant portal application ID and navigating to 'Request for Operational Consent' in the Actions dropdown menu.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

GENERAL CONDITIONS

3. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A001	A	Site Plan	MHDP Architects	14 April 2023
A002	A	Demolition Plan	MHDP Architects	14 April 2023
A101	D	Ground Floor Plan	MHDP Architects	6 February 2024
A102	D	First Floor Plan	MHDP Architects	6 February 2024
A103	D	Second Floor Plan	MHDP Architects	6 February 2024
A201	C	North Elevation	MHDP Architects	16 January 2024
A202	C	South Elevation	MHDP Architects	16 January 2024
A203	C	East Elevation	MHDP Architects	16 January 2024
A204	C	West Elevation	MHDP Architects	16 January 2024

A221	B	Section A-A	MHDP Architects	8 December 2023
A222	B	Section B-B	MHDP Architects	8 December 2023
SK11	A	Building Identification Signage	MHDP Architects	14 April 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Flood Management Report	A	NB Consulting Engineers	14 April 2023
Preliminary Site Investigation and Acid Sulfate Soils Assessment	1	JK Environments	5 April 2023
Waste Management Plan	A	MHDP Architects	April 2023
Traffic Impact Assessment	4.1	URaP International	8 December 2023
Operational Management Plan	-	Ingham Planning	February 2024
Acoustic Report	0	Acoustic Dynamics	4 April 2023

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

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

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

4. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a self-storage unit or take away food and drink premises, in accordance with the Dictionary of the Pittwater Local Environmental Plan 2014, as follows:

self-storage units means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

Note—

*Self-storage units are a type of **storage premises**—see the definition of that term in this Dictionary.*

take away food and drink premises means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

Note—

*Take away food and drink premises are a type of **food and drink premises**—see the definition of that term in this 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.

5. **No approval for prohibited land use**

No approval is granted under this Development Consent for any part of the site/onsite structures/units/tenancies, in particular the second floor 'owner's lounge' and terrace to be used as a *function centre*, as defined within the dictionary of the Pittwater Local Environmental Plan 2014, as follows:

***function centre** means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.*

Use and operation of the owner's lounge and terrace shall also be restricted to between 8am - 10pm, 7 days per week.

Reason: To ensure compliance with the relevant Local Environmental Plan.

6. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,

- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

7. 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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a

safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

8. Staff and Contractor Parking

The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the on-site parking once available. All necessary facilities are to be provided to accommodate this requirement including lighting, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity. Blank condition for operational conditions

9. Traffic Management

Traffic management procedures and systems must be in place and practised during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular

traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A plan of traffic management is to be submitted to and approved by the Northern Beaches Council Traffic Team.

Reason: To ensure pedestrian safety and continued efficient network operation. Blank condition for operational conditions

FEES / CHARGES / CONTRIBUTIONS

10. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$45,429.90 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$4,542,990.00.

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

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

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

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

11. Security Bond

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

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

12. Amended Landscape Plan

An amended landscape plan, prepared by a suitably qualified professional such as a Landscape Architect or Landscape Designer, shall be issued to the Principal Certifier prior to the issue of a Construction Certificate to include the following details:

- a) i) proposed surface treatments and materials, including but not limited to structures, features, walling, fences, pavements, gardens, lawns, ground stabilisation, drainage, irrigation etc; existing and proposed ground levels; ii) outline of proposed buildings, driveways and structures, including footpath pavements, walls and fences, all consistent and co-ordinated with building and services plans; iii) existing street trees or trees on neighbouring properties within 5 metres, that may be impacted by the proposed development; iv) proposed planting scheme including species selection, location, quantities, mature heights and pot sizes; and v) soil depth of planters on-slab,
- b) the existing two Bottlebrush trees (one in Tengah Crescent and one in Bassett Street) within the road reserve verge shall be identified for removal, and the existing Coast Tea Tree in Tengah Crescent shall be identified for retention and protection,
- c) the proposed Eucalyptus robusta within the property along Bassett Street shall be replaced with Xanthostemon chrysanthus 'Fairhill Gold'; nominated at a minimum pre-ordered planting size of 100 litres; and shall be located at least 3.0 metres from buildings or more, and located either within garden bed or within a prepared bed within lawn,
- d) the proposed Eucalyptus robusta and Corymbia maculata within the property along Tengah Crescent shall be replaced with Elaeocarpus eumundi, and nominated at a minimum pre-ordered planting size of 100 litres; and shall be located at least 3.0 metres from buildings, and located within garden bed,
- e) the nominated lawn area south of the building along Tengah Crescent shall be replaced with mass planting consisting of shade tolerant species,
- f) mass garden bed planting shall be installed at minimum 1metre intervals for shrubs, ferns and the like, of a minimum 200mm container size at planting, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting,
- g) the on slab second floor planter shall include following soil depths are required to support landscaping: 300mm for groundcovers, perennials, grasses and lawn; or 600mm for shrubs,
- h) the following replacement street tree planting shall be documented on the amended Landscape Plan: two Xanthostemon chrysanthus 'Fairhill Gold'; nominated at a minimum pre-ordered planting size of 100 litres; and including four post tree guard with top and mid rails,
- i) landscape construction details of all landscape works including: tree planting within the property; mass planting; lawn; and planters.

Separate landscape documentation shall be provided for the section 138/139 application for works in the road reserve including: street tree planting layout and details; street tree tree guards; grass verge details and footpath works, in conjunction with civil plans.

Certification shall be submitted to the Principal Certifier that these amendments have been documented.

Reason: Landscape amenity.

13. Flood effects caused by development

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 2.96m AHD, as detailed in the

Flood Management Report prepared by Northern Beaches Consulting Engineers (14 April 2023) issue A.

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

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

14. Building components and structural soundness

B1 - All new development below the adopted Flood Planning Level of 3.26m AHD shall be designed and constructed from flood compatible materials.

B2 - The shelter in place refuge must be designed to ensure structural integrity up to the Probable Maximum Flood level of 3.72m AHD, with the remainder of the new development designed to ensure structural integrity up to the Flood Planning Level of 3.26m AHD. The forces of floodwater, debris load, wave action, buoyancy and immersion must all be considered.

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 3.26m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

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

15. Floor levels

C1 - New floor levels within the development shall be set at or above the Flood Planning Level of 3.26m AHD.

C3 - As detailed in the Flood Risk Management Report prepared by Northern Beaches Consulting Engineer (Apr 2023) Issue A and illustrated in the plans submitted by MHDP Architects (Dec 2022) Issue A. The underfloor area of the dwelling below the 1% AEP flood level is to be designed to allow clear passage of floodwaters.

Where practical, the perimeter of the underfloor area on the Eastern and Western side of the development must be of open design and free from obstruction from the natural ground level up to the 1% AEP flood level to provide a clear flow path below the structure towards Tengah Crescent beyond the eastern boundary. The proposed rainwater tanks and supporting structure are to be raised above the 1% AEP flood level or relocated as to allow clear passage of floodwaters.

In addition, as illustrated on the submitted plans (Dec 2022) a perimeter subfloor wall designed to withstand flooding is to be constructed along the eastern side of the dwelling up to the 1% AEP flood level to ensure there are no adverse flood impacts on downstream properties.

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

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

Government policy.

16. Emergency response

E1 - The shelter-in-place refuge must:

- a) Have a floor level at or above the Probable Maximum Flood level of 3.72m AHD; and
- b) Have a floor space that provides at least 1m² per person; and
- c) Be intrinsically accessible to all people on the site, plainly evident, and self-directing, with sufficient capacity of access routes for all occupants without reliance on electrical means.

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

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

17. Fencing

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area along any straight length, from the natural ground level up to the 1% AEP flood level. Openings shall be a minimum of 75mm x 75mm.

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

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

18. Storage of Goods

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level of 3.26m AHD unless adequately protected from floodwaters in accordance with industry standards.

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

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

19. Stormwater Disposal

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the kerb in Tengah Crescent.

Details demonstrating compliance are to be submitted to the Certifier for approval prior to the

issue of the Construction Certificate.

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

20. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

21. Car Parking Standards

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of a construction certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

22. Vehicular Swept Paths

Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Details demonstrating compliance with this condition must be submitted to the Principal Certifier prior to the issue of the construction Certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

23. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP,
 - No materials or plant are to be located or parked in the private road/driveway, community title road or right of way
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
 - A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site

- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

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

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

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

24. **Removal of Redundant Driveways**

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council prior to the issue of the Construction Certificate. All costs associated with the works shall be

borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

25. Vehicle Access & Parking

All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken to the parking allocation on the Second Floor:

- Remove one parking space located adjacent to the Service Riser
- Mark the area with diagonal stripes (similar to a Shared Area)
- Install bollard in the middle of the marked area to prevent parking at this location

These amendment(s) must be clearly marked on the plans submitted to Council for approval prior to the issue of a Construction Certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicle.

26. Pedestrian sight distance at property boundary

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas.

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

Reason: To maintain pedestrian safety.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

28. Building Code of Australia Fire Safety Requirements

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Compliance Report, prepared by Ai Consultancy, dated 4/5/2023,

Ref. No. 22059B-R1.3, including any required Performance Reviews, are to be considered as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

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

29. Access and Facilities for Persons with Disabilities

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In this regard the Access Report prepared by Ai Consultancy dated 4/4/2023, Ref No. 22113-R1.1 is to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

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

30. Submission Roads Act Application for Civil Works in the Public Road

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include Civil Engineering plans for the design of vehicular crossings, kerb and gutter and footpath works which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

1. Design of two vehicular crossings in Tengah Crescent. One 6.5meters wide and one 3.0meters wide to be constructed in accordance with Council's standard drawing Normal High.
2. Reinstatement of all redundant vehicular crossings on Tengah Crescent and Bassett Street.
3. Reconstruction of the kerb and gutter along the Tengah Crescent frontage.
4. Reconstruction of the footpath along the Bassett Street frontage.
5. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.

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

An approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate

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

31. Plans of Kitchen Design, construction and fit out

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Principle certifier. These plans are to be prepared by a suitably qualified person.

The plans must detail adequate provision for storage including separate storage of food, equipment, chemicals and personal belongings.

Reason: To ensure that the food premises complies with the design construction and fit-out requirements.

32. Mechanical ventilation Plans

Where Mechanical ventilation is required to be installed in the food premises ,prior to any Construction Certificate (CC) being issued, detailed plans must be submitted to and approved by the Principle certifier that demonstrate compliance with the following:

- Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings"; and
- Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

These plans are to be prepared by a suitably qualified person.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

33. Compliance with Standards

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

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

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

34. External Finishes to Roof

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.46 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a metallic steel or reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

Details demonstrating compliance are to be submitted to the Certifier 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.

35. External Colours and Materials (Industrial, Commercial, Mixed & Apartment Buildings)

The reflectivity index of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20% (expressed as a per centum of the reflected light falling upon any surface).

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

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

36. Sydney Water "Tap In"

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

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

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

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

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

37. Projection of signage

The three (3) proposed wall signs illustrated on Drawing No.SK11(A) shall not project more than 300mm from the wall in which they are attached.

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

38. Work Zones and Permits

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

39. Demolition Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

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

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

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

40. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property / Properties:

- 71 Bassett Street, Mona Vale
- 4 Tenagh Crescent, Mona Vale

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report

must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

DURING BUILDING WORK

41. Requirement to notify about new Acid Sulfate Soils evidence

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifier and a report be obtained from a suitably qualified person. Any recommendations provided by the report are to be complied with during works.

Reason: To protect the environment.

42. Road Reserve

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

Reason: Public safety.

43. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

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

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

Reason: Protection of the receiving environment.

44. Implementation of Demolition Traffic Management Plan

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having

appropriate TfNSW accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

45. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

46. Ongoing Management

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

47. Removing, Handling and Disposing of Asbestos

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

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

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

48. Geotechnical Requirements

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

Reason: To ensure geotechnical risk is mitigated appropriately.

49. Demolition Works - Asbestos

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

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

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

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

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

50. Survey Certificate

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

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

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

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

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

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

51. Waste Management During Development

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

52. Registration of food Business

The food business must be registered with the appropriate regulatory authority, prior to the Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

53. Landscape Completion

Landscape works are to be implemented in accordance with the approved Amended Landscape Plan(s), and inclusive of the following conditions:

- a) tree, shrub and groundcover planting within the property shall be installed as indicated on the approved Amended Landscape Plan(s),
- b) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings or more, and located either within garden bed or within a prepared bed within lawn,
- c) mass planting shall be installed at minimum 1metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

Note: landscape works within the road reserve verge is subject to section 138/139 approval and conditions.

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

54. Certification of Works as Executed

A suitably qualified engineer and/or registered surveyor is to certify that the completed works have been constructed in accordance with this consent and the approved plans with respect to the following:

1. Floor levels for ground floor and shelter in place refuge are set at or above the required level
2. There has been no filling on the land other than what has been approved
3. Openings are provided under floor areas and there are not obstructions where required for the free passage of flood waters
4. Openings are provided in fencing where required for the free passage of flood waters

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

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

55. Building Components and Structural Soundness

B2 - A suitably qualified structural engineer is to certify the structural integrity of the shelter in place up to the Probable Maximum Flood level of 3.72m AHD, and the remainder of the new development up to the Flood Planning Level of 2.96m AHD. The depth, velocity, debris load, wave action, buoyancy and immersion must all be considered.

B3 - A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level

of 3.26m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

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

56. Certification of Civil Works and Works as Executed Data in accordance with Road Act Approval

The Applicant shall submit a certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed data certified by a registered surveyor in relation to boundaries and/or relevant easements, prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Assets' in an approved format shall be submitted to the Principal Certifier for approval prior to the issue of the Occupation Certificate.

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

57. Stormwater Disposal

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

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

58. Disabled Parking Spaces

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

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

Reason: To ensure compliance with Australian Standards.

59. Shared Zone Bollard

A bollard and installation of diagonal stripes is to be provided at the shared zone between the disabled space and the takeaway coffee shop in accordance to Australian Standards AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

60. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of

inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

61. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

62. Waste Management Confirmation

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

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

63. Reinstatement of Kerb

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

64. Lift Shaft

Prior to the issuing of an Occupation Certificate, the lift shaft, lift frame and rails/guides must be acoustically isolated from the adjacent building structure. Installation of resilient ties between the lift shaft and the adjacent building structure is to prevent the transmission of structure-borne noise and vibration. Suitable resilient ties would be the Matrix SB06 resilient wall tie (or equivalent).

The rails/guides for the subject lift are required to be isolated from the structure of the building via commercially available vibration isolation mounts.

All perimeter joints of the lift shaft must be sealed airtight using a suitable flexible sealant. Sealants must be flexible, durable and have capacity to retain acoustic properties for the life of the design. Appropriate sealants are polyurethane or silicone based.

Any access panels or hatches must be installed with a compressible rubber perimeter seal or

gasket to ensure an airtight seal when closed.

The lift motor and associated equipment should be located on an isolated platform. The platform should be isolated from the building structure through the use of suitbale vibration mounts. Alternatively, a resilient layer (such as Embelton Supershearflex) can be installed between the motor and the basement garage structural slab or mounting bracket.

Passive ventilation to the motor enclosure can be supplied via an acoustic vent installed through the wall of the enclosure. An appropriate acoustic vent is the Silenceair 64m Passive Acoustic Wall Ventilator (or equivalent).

Reason: To ensure noise and vibration is effectively managed

65. Kitchen Design, construction and fit out of food premises certification

Prior to the issuing of any occupation certificate, certification is to be provided to the Principal Certifier by a suitably qualified person demonstrating that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Reason: To ensure that the kitchen complies with Australian Standard design requirements.

66. Mechanical Ventilation certification

Where Mechanical ventilation is required to be installed in the food premises it must comply with the following:

- Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings"; and
- Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

Certification is to be provided to the Principal Certifier prepared by a suitably qualified person to demonstrate that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

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

67. Deliveries, waste and recycling collection hours

Deliveries, waste and recycling collection from the site is to be carried out between 7am and 7pm only to minimise noise.

Reason: To minimise noise to residential receivers.

68. Landscape Maintenance

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. 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 Amended Landscape Plan(s) and any conditions of consent.

All tree planting within the road reserve verge is subject to a 12 month maintenance establishment period.

Reason: To maintain local environmental amenity.

69. Flood Management

Flood Effects Caused by Development (A2)

There shall be no filling of the land below the 1% AEP flood level of 2.96m AHD, blocking of areas required by DA consent to be left open, or any other obstruction of flow paths through the property.

Storage of Goods (G1)

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 3.26m AHD unless adequately protected from floodwaters in accordance with industry standards.

Flood Emergency Response (E1)

Appropriate access to the shelter in place refuge is to be maintained at all times from all areas within the development and it must contain as a minimum: sufficient clean water for all occupants; portable radio with spare batteries; torch with spare batteries; and a first aid kit.

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

70. Landscaping adjoining vehicular access

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1,140mm

Reason: To maintain unobstructed sight distance for motorists.

71. Sight lines within carparks

The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

72. Geotechnical Recommendations

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

Reason: To ensure geotechnical risk is mitigated appropriately.

73. Dewatering Management

Council proactively regulates construction sites for sediment management.

Discharge of groundwater or tailwater must achieve the following water quality targets in addition to any conditions/ documentation of this consent, any requirements of the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Water Quality (<one hour of planned discharge)

Oil and grease, not visible

pH, 6.5-8.5

Total Suspended Solids (TSS), <50mg/L NTU from a meter/grab sample

NOTE: The correlation between NTU and TSS must be established by a NATA accredited laboratory prior to the commencement of dewatering activities.

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

Tailwater must be discharged to the nearest stormwater pit in accordance with Council's Auspec1 Design Manual and must not spread over any road, footpath and the like. Discharge to the kerb and gutter will not be accepted. If an alternative solution is required, you must contact Council's Catchment Team at catchment@northernbeaches.nsw.gov.au

Reason: Protection of the receiving environment

74. **Hours of Operation - Various Uses**

The hours of operation of the various uses are to be restricted to:

- 7am - 11pm, 7 days per week for the storage premises
- 8am - 10pm, 7 days per week for the owner's lounge and terrace on the second floor
- 7am - 5pm, Monday - Saturday with no trading on Sunday for the take away food and drink premises

Upon expiration of the permitted hours, all uses approved under this consent shall immediately cease, no customers or patrons shall be permitted entry, and all patrons and customers on the premises shall be required to leave within the following 30 minutes.

Reason: To ensure the orderly carrying out of the development and that amenity of the surrounding locality is protected.

75. **Hours of Illumination**

Illumination of signage at the subject premises shall cease between the hours of 12.00 midnight and 6.00 am daily.

Signs must not flash, move or be constructed of neon materials.

Reason: To ensure residential premises are not affected by inappropriate or excessive illumination.

76. **Illumination Intensity and design**

The level of illumination and/or lighting intensity used to illuminate the signage is to be minimised and the design is to be such to ensure that excessive light spill or nuisance is not caused to any nearby premises.

Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties.

77. **Operational Management Plan**

The operational management plan dated February 2024 prepared by Ingham Planning is to be complied with for the life of the development excluding the statement to operate 24hours a day.

Reason: To ensure the amenity of the area

78. Staff and Patronage

No greater than 16 patrons, including staff and customers, are permitted at the storage premises at any one time.

No greater than 2 staff members are permitted at the take away food and drink premises at any one time.

Reason: To ensure surrounding amenity is maintained.

79. Vehicle Transport

Vehicles are not permitted to be transported to the site using a car carrier of any type.

Reason: To ensure surrounding amenity is maintained.

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

Signed



Dean Pattalis, Principal Planner

The application is determined on 27/03/2024, under the delegated authority of:



Steven Findlay, Manager Development Assessments