

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0479
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Responsible Officer:	Nick England
Land to be developed (Address):	Lot A DP 405025, 79 Barrenjoey Road MONA VALE NSW 2103
Proposed Development:	Construction of a service station
Zoning:	IN2 Light Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	The Shed Group Pty Ltd
Applicant:	RCI Group

Application Lodged:	14/05/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Industrial
Notified:	03/07/2019 to 17/07/2019
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,600,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks to construct a service station with associated convenience store. Other works include:

- installation of four (4) underground fuel tanks;
- 4 fuel dispensers;
- canopy over the fuel dispensers;
- one (1) pylon sign on the north-east corner of the site;
- five (5) business identification signs on the store building and canopy;
- parking for seven (7) vehicles;
- underground waste water system;
- waste storage area;
- landscaping; and

- modified vehicular access to Barrenjoey Road on east boundary of the site.

The store proposes 24 hour operation per day, 7 days a week.

A maximum of two employees are proposed.

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 21 Development Control Plan - D9.6 Front building line

SITE DESCRIPTION

Property Description:	Lot A DP 405025 , 79 Barrenjoey Road MONA VALE NSW 2103
Detailed Site Description:	The subject site consists of one (1) allotment located on the western side of Barrenjoey Road, Mona Vale. The site is irregular in shape with a frontage of 49.6m along Barrenjoey Road and a depth of varying between 30 and 38m. The site has a surveyed area of 1,628m². The site is located within the IN2 Light Industrial zone and is currently vacant. Previous development on the site consisted of a service station. The site has a south-easterly aspect with the slope falling towards the rear boundary. The site has no significant vegetation.

Adjoining and surrounding development is characterised by a range of land uses. To the south and west of the site are industrial and warehouse land uses. A car dealership is situated to the north. On the opposite side of Barrenjoey Road is a residential zone, predominated by dwelling houses, interspersed with residential flat buildings.

Map:



SITE HISTORY

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

- Application 0189/90 for a fuel storage tank was approved on 31 May 1990.
- Application 0123/93 for signage was approved on 27 August 1993.
- Application 8030/93 for advertising structure was approved on 27 October 1993.
- N0488/00 for upgrading the Caltex service station signage was withdrawn on 6 September 2000.
- N0793/01 for Retail upgrading including replacement of existing advertising signs was refused on 10 October 2001.
- N0140/03 for Replacement and upgrading signage at service station was approved on 18 June 2003.
- N0532/06 for demolition of site buildings and removal of petroleum infrastructure was approved on 13 October 2006.
- N0286/14 for Construction of a self-storage facility was refused on 5 February 2015.
- N0533/15 for Construction of a 3-storey mixed use building including car wash and gym with underground parking was refused on 13 October 2016.
- Pre-lodgement Meeting PLM2017/0170 was held on 11 January 2018 in response to the refusal of Development Application N0533/15.
- DA2018/0519 for Construction of a three 3 storey building to be used as a carwash, gym and lounge with basement parking refused on 27 March 2019.

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	None applicable.
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 Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 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. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 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. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <u>Clause 98</u> of the EP&A Regulation 2000 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.

Section 4.15 Matters for Consideration'	Comments
	Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Mr Stephen Geoffrey Perks	PO Box 345 CREMORNE NSW 2090
Ms Ann Trewin Payne	4 / 60 Barrenjoey Road MONA VALE NSW 2103
Mrs Linda Jane Calvert	66 Barrenjoey Road MONA VALE NSW 2103

A total of three (3) submissions were received in regard to the proposed development.

One of these submissions (Perks) has been resolved via a condition of consent (Deferred Commencement - see below).

Hence there is a total of two (2) unresolved objections.

The following issues were raised in the submissions and each have been summarised and are addressed below:

- *The owners of No.2 Polo Avenue request that conditions of consent be applied to any approval to ensure no adverse impact on the existing drainage infrastructure of this property.*

Comment: The recommended approval is a Deferred Commencement, which will require that both an easement is created through the adjoining land and that the approved engineering plans be upgraded to ensure adequate stormwater management. Further conditions will apply to the development consent which will ensure the ongoing management of stormwater throughout the life of the development. Therefore, the issues in this submission have been resolved and it does not constitute an unresolved objection.

- *The proposed service station is not of any benefit to the community of Mona Vale.*

Comment: Section 4.15 (1) (b) of the Environmental Planning & Assessment Act 1979 requires Council to consider any likely "social" impacts of a proposed development in the locality in which it is situated. Whilst the exact nature of social impact is not defined in the Act, it relates to broader impacts on the surrounding community, separate to specific environmental impacts on residences such as privacy, noise, overshadowing etc. The proposed service station will provide an additional level of service for residents in the area, as well as providing opportunities for employment. In this regard, there will be identifiable impact on the surrounding community that will be adverse. This issue is not considered a relevant reason to refuse the application.

- *The proposal will generate adverse noise impact on adjoining residences, including those at No.60 Barrenjoey Road.*

Comment: Council's Environmental Health Officer has reviewed the proposal and the noise report provided with the application and is satisfied that the potential noise impact of the proposal will not adverse to the extent that would warrant refusal of the application. A condition of consent is recommended that will require all additional noise attenuation measures in the report to be undertaken during the ongoing operation of the service station.

- *The proposed signage will generate levels of illumination in evening periods that will have an adverse impact on the adjoining property at No.60 Barrenjoey Road.*

Comment: The size, location and orientation of the proposed signage is not of a nature that is likely to result in an adverse impact on adjoining residences to the east of the site. To ensure no unreasonable impact, conditions of consent are recommended to ensure the ongoing operation of the signage will not result in adverse impact and a curfew (6.00am to 10.00pm) on the business identification signage is recommended.

- *The proposal will generate adverse levels of air pollution.*

Comment: The proposed land use is an additional service on a heavily trafficked arterial road. It will provide a service to existing traffic on Barrenjoey Road. Hence, there is likely to be no specific additional air pollution by vehicles accessing the site.

- *The only land uses that should be approved on the land are those that operate between the hours of 9.00am and 5.00pm.*

Comment: Restricting the hours of operation of the proposed land use to these times are not considered reasonable. Nonetheless, a range of conditions have been recommended to restrict the hours of operation of certain activities, to minimise impact.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The development application seeks approval for the construction of service station and convenience store on the site with associated signage and ancillary works. No objections subject to conditions.
Environmental Health (Contaminated Lands)	General Comments There are 2 issues that have been or need to be addressed; Acid Sulfate Soil and Previous site contamination (service station) These issues can be dealt with by way of conditions, Recommendation APPROVAL - subject to conditions
Environmental Health (Industrial)	General Comments Conditions have been added in regard to Noise and Food Premises Recommendation APPROVAL - subject to conditions
Landscape Officer	The development application seeks approval for the construction of service station and convenience store on the site with associated signage and ancillary works. The proposal in terms of landscape outcome is acceptable subject to provision of amended landscape plans. Council's Landscape section has assessed the proposal against the following Pittwater 21 DCPC Controls: C3.1 Landscaping C3.18 Public Road Reserve - Landscaping and Infrastructure

Internal Referral Body	Comments
	A Landscape Plan is provided that generally satisfies the DA Lodgement Requirements. Amended landscape design information shall be provided and conditions of consent shall be imposed on landscape works.
NECC (Coast and Catchments)	The subject land is not within the coastal zone and not affected by coastal or estuarine hazards. No further assessment needed on coastal and estuarine issues.
NECC (Development Engineering)	The proposed access and parking for the development is to comply with Council's Traffic Engineering comments and any conditions by RMS. The proposed development is flood affected and as such on-site stormwater detention (OSD) in accordance with Council's DCP is not required. The submitted drainage design indicates the connection of stormwater from the site into an inter-allotment drainage system through the adjoining property(s) to the south west of the site. No evidence of any easement rights have been provided with the application. Also there is no evidence that there is any pipeline within the easement with sufficient capacity to cater for the proposal. In this regard the applicant must provide Council with evidence of the drainage easement rights and capacity check of the pipeline within the easement prior to the full assessment of the application. It appears that portions of the site are to be filled as part of the works. The proposed extent of fill exceeds 1 metre in height and as such a Geotechnical report in accordance with Council's Geotechnical Risk Management Policy is required for the proposal. The proposed development cannot be supported due to insufficient information to assess:- - the management of stormwater in accordance with Clause B5.10 of Pittwater 21 DCP 2014 - the proposed landfill in accordance with Clause B8.1 of Pittwater 21 DCP 2014 Additional Information Received 15/08/2019 The Water Cycle Management Plan and Flood Management Report has been reviewed and the document does not provide evidence of the drainage easement rights or capacity check of any pipeline within the easement. The above comments still apply. It is considered that this report must be reviewed by the Flood Assessment Officer and Council's Water Management Officer in Coast & Catchment. Additional commentary provided by applicant 27/09/2019 The applicant has indicated that they are liaising with their adjoining

Internal Referral Body	Comments
	property owners to negotiate an easement and will accept a deferred commencement condition for the creation of an easement prior to activation of the consent. The OSD system although not required due to flood affectation has been provided to limit the flow from the site into the easement which is acceptable. A review of the submitted bulk excavation plan indicates that the fill will not exceed 1 metre and as such a Geotechnical report addressing the DCP is not required. No objection to approval, subject to conditions as recommended.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The revised civil drawings (Revision B, 27.09.19) show the details of the suspended slab. The Flood Management Report now satisfactorily addresses the issue of flood storage. The proposed development now generally complies with the flood requirements of the DCP and LEP.
NECC (Water Management)	This application has been assessed under Pittwater DCP B5.9 - Water Quality. The applicant is required to provide an updated stormwater drainage/civil works plan set and water management report that demonstrates that sufficient water treatment measures will be installed that remove not only litter and coarse sediments but particularly hydrocarbons, given the risks to water quality posed by the proposed use of the site as a service station. Evidence must be provided that stormwater quality targets have been met. The proposed SPEL stormsacks proposed are not regarded as a suitable solution for a service station. SPEL recommends installing a Puraceptor or Stormceptor, but alternative systems will be accepted with the provision of evidence that pollutant removal targets, including for hydrocarbons can be met. Sediment and erosion controls must be installed prior to any demolition or disturbance of soil on the site and maintained until all work is complete and groundcover re-established.
Traffic Engineer	The proposal is for construction of a service station and associated service station store. Traffic: The site is not deemed to produce high levels of traffic. In any case which results in high volumes (low petrol pricing on a particular day) the 3 lanes along this section of Barrenjoey Road will be capable of queue storage without impacting adversely on the traffic flow along Barrenjoey Road. Parking: Adequate parking numbers have been provided. Pedestrian Access: General operation of a Service station would promote a low speed environment for pedestrian and vehicular interactions. No concerns

Internal Referral Body	Comments
	are raised. Servicing: The site is classified as commercial and will be required to engage their own waste contractor. All servicing of the site must occur wholly within the site. All conditions issued by RMS must be complied with and a copy of any requested documents must be submitted to Council.
Waste Officer	There is no residential component to this application so should not have triggered a waste referral.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Roads and Maritime Services - (SEPP 64 signage)	The NSW Roads and Maritime Services raise no objection to the proposed development subject to condition.
NSW Police - Local Command (CPTED)	NSW Police Force have advised that no CPTED report is required. No objection is raised to the proposed development.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses.

In the assessment of a previous application, DA2018/0519, a service station was formerly located on the site and remediation works have been undertaken with regard to contaminated land. The applicant had submitted:

- Addendum (dated 18 April 2016) to Review of human health risks specific to the proposed development at 79, Barrenjoey Road, Mona Vale prepared by WSP Parsons Brinckerhoff dated March 2016; and
- Basement Seepage Risk Assessment Addendum prepared by Environmental Risk Sciences Pty Ltd dated 19 February 2018.

Council's Environmental Health Officer reviewed the subject application and was satisfied that the application represented no significant risk of contamination.

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

SEPP 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy 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.

Signage as part of the development relates to: one (1) pylon sign; three (3) wall signs on the north-east elevation; and two (2) panel signs on the proposed canopy.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment of this signage is provided below:

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 extent of proposed signage is consistent with both a) the proposed land use and b) the desired future character of the surrounding light industrial zone.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	No particular theme is apparent on the western side of Barrenjoey Road, hence the signage proposed is consistent with this matter.	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?	Not applicable - no such areas adjoin the subject site.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	No views will be adversely impacted by the proposed signage.	YES

Does the proposal dominate the skyline and reduce the quality of vistas?	No existing vistas will be adversely impacted by the proposed signage.	YES
Does the proposal respect the viewing rights of other advertisers?	No viewing rights will be adversely impacted by the proposed signage.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signage is consistent with the light industrial zone streetscape.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage will provide an active street use that will provide adequate visual interest.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	Not applicable - the site is currently vacant.	YES
Does the proposal screen unsightliness?	Not applicable.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No existing tree canopy is evident on the site or on any adjoining industrial site. The signs will be relatively modest and not visually adverse.	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 signage represents an acceptable scale and proportion with the proposed buildings.	YES
Does the proposal respect important features of the site or building, or both?	Not applicable - the site and the proposed building have no important features.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Not applicable.	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?	Not applicable.	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?	The location and size of the proposed signage is unlikely to result in any unacceptable glare to adjoining residences, pedestrians, vehicles or aircraft.	YES
Can the intensity of the illumination be adjusted, if necessary?	A condition of consent is recommended in this regard.	YES
Is the illumination subject to a curfew?	A condition of consent is recommended in this regard.	YES
8. Safety	There will be no adverse impact on the safety of	YES

Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	adjoining pedestrians or cyclists as a result of the proposed signage.	
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage will result in no adverse impact on the safety of pedestrians along Barrenjoey Road.	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 the SEPP and its underlying objectives.

SEPP (Infrastructure) 2007

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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	8.2m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.3 Flood planning	Yes
7.4 Floodplain risk management	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	10 or established building line, whichever is the greater	10m (store/office) 5m (canopy) 5m (parking)	N/A 50 50	Yes No No
Rear building line	Nil (west)	0.9m	N/A	N/A
Side building line	Nil (south)	15.5m	N/A	N/A
	Nil (north)	0.5m	N/A	N/A

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)

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
A5.1 Exhibition, Advertisement and Notification of Applications	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
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C2.1 Landscaping	Yes	Yes
C2.7 Building Facades	Yes	Yes
C2.11 Signage	Yes	Yes
C2.12 Protection of Residential Amenity	Yes	Yes
C2.20 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C2.23 Service Stations	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
D9.16 Character of the Public Domain - Mona Vale Commercial Centre	Yes	Yes

Detailed Assessment

D9.6 Front building line

Description of Non-compliance

The canopy and parking area are both located 5m from the front boundary with Barrenjoey Road. This represents a 50% variation with the minimum front building line.

Consideration of the Variation Against the Outcomes

An assessment of the proposed variation against the relevant Outcomes is provided below:

Achieve the desired future character of the Locality.

Comment: With reference to the Mona Vale locality, the DCP states that: "Light industrial land uses in Darley and Bassett Streets will be enhanced as pleasant, orderly, and economically viable areas.". The subject land is currently vacant and has been in this state for a number of years. The development of this land for a service station will provide an active frontage to Barrenjoey Road which is consistent with this requirement of the desired future character.

Equitable preservation of views and vistas to and/or from public/private places. (S)

Comment: The non-compliance will not result in any loss of views or vistas from any private property or area of public domain.

The amenity of residential development adjoining a main road is maintained. (S)

Comment: The built form of the canopy will not result in any loss of views, overshadowing or privacy issues for the residences on the opposite side of Barrenjoey Road.

Vegetation is retained and enhanced to visually reduce the built form. (En)

Comment: The site has no significant vegetation. New landscaped areas will be provided on the frontage.

Vehicle manoeuvring in a forward direction is facilitated. (S)

Comment: The new vehicular access will facilitate forward direction in both entry and exit.

To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.

Comment: The service station canopy is a transparent structure that will facilitate a scale and density consistent with adjoining development in the light industrial zone.

To encourage attractive street frontages and improve pedestrian amenity.

Comment: The new development will occupy a currently vacant piece of land, improving the local streetscape. Adequate pedestrian movement is provided.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.

Comment: The proposed service station is a permissible land use in the zone and will provide an adequate response to the existing urban environment.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$16,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,600,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- 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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0479 for Construction of a service station on land at Lot A DP 405025, 79 Barrenjoey Road, MONA VALE, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. **Stormwater Drainage Easement**

The disposal of stormwater drainage is to be generally in accordance with the drainage plan submitted by Eclipse Consulting Engineers, drawing number 9892 C13 - B dated 27/09/2019. The easement is to be created either via a transfer granting easement or under Sections 88B and/or 88K of the Conveyancing Act 1919.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

2. **Revised stormwater drainage plan and water management report**

The Concept Stormwater/Civil Works Plan set must be amended to include a stormwater filter(s) that captures all stormwater runoff from the site prior to the boundary pit that is appropriately sized to remove 80 percent of total suspended solids (TSS) and all hydrocarbons.

The Water Cycle Management Plan & Flood Management Report must be amended to demonstrate that the stormwater treatment methods applied meet the targets above, with the report to include amended output from a MUSIC model or evidence from the device manufacturer that the targets can be met.

Reason: To reduce the risk of pollution to downstream waterways (DACPLADC1)

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

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

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

3. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
02 Revision 9	15 July 2019	Brown Commercial Building
03 Revision 9	15 July 2019	Brown Commercial Building
04 Revision 9	15 July 2019	Brown Commercial Building
05 Revision 9	15 July 2019	Brown Commercial Building
10 Revision 9	15 July 2019	Brown Commercial Building
2103-F02 Issue A	March 2019	Brown Commercial Building

Engineering Plans		
Drawing No.	Dated	Prepared By
C01 - B	27 September 2019	Eclipse Consulting Engineers
C02 - B	27 September 2019	Eclipse Consulting Engineers
C03 - B	27 September 2019	Eclipse Consulting Engineers
C04 - B	27 September 2019	Eclipse Consulting Engineers
C05 - B	27 September 2019	Eclipse Consulting Engineers
C06 - B	27 September 2019	Eclipse Consulting Engineers
C07 - B	27 September 2019	Eclipse Consulting Engineers
C08 - B	27 September 2019	Eclipse Consulting Engineers
C09 - B	27 September 2019	Eclipse Consulting Engineers
C10 - B	27 September	Eclipse Consulting

	2019	Engineers
C11 - B	27 September 2019	Eclipse Consulting Engineers
C12 - B	27 September 2019	Eclipse Consulting Engineers
C13 - B	27 September 2019	Eclipse Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:

Report Title / No.	Dated	Prepared By
Water Cycle Management Plan & Flood Management Report	27 September 2019	Eclipse Consulting Engineers
Noise Impact Assessment No.19-2310-R1	April 2019	Reverb Acoustics

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
-	3 May 2019	Brown Commercial Building

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

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

4. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
NSW Roads & Maritime Services	Response RMS Referral	1 November 2019

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

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

5. Limitation of Development Consent for Signage

Pursuant to the provisions of State Environmental Planning Policy No 64-Advertising and Signage this development consent will expire 15 years after the date on which this Development Consent becomes effective and operates

Reason: Statutory requirement under State Environmental Planning Policy No 64-Advertising and Signage. (DACPLB08)

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 Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention

to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

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

Reason: Legislative requirement.

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) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) 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.
- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

8. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$16,000.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,600,000.00.

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

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

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

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

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

9. Security Bond

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

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

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

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

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

10. **Construction, Excavation and Associated Works Bond (Crossing / Kerb)**

A Bond of \$10,000 as security against any damage or failure to complete the construction of any footpath works required as part of this consent.

Reason: Protection of Council's Infrastructure.

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

11. **Amended Landscape Plan**

The Landscape Plans sheet 1 of 3, sheet 2 of 3, and sheet 3 of 3, prepared by JK's Garden Creations shall be amended to include the following requirements and amendments:

- a) all proposed *Raphiolepis* species (self-seeding into bushland) shall be deleted from the schedule, and replaced with an alternative shrub species, which may include, but not limited to dwarf forms of *Acmena*, *Banksia*, *Callistemon*, *Metrosideros* or *Westringia*, or a combination of these species,
- b) three (3) canopy trees planted at 75 litre container size shall be provided on the site to soften the built form, with one (1) *Melaleuca linariifolia* planted in the garden area at the western corner, and two (2) *Eucalyptus robusta* to be planted to the northern and southern garden areas along the frontage,
- c) a 2.1m wide multiuse pathway shall be provided along the road corridor in accordance with C3.18 Public Road Reserve - Landscaping and Infrastructure,
- d) street tree planting to satisfy the requirements of C3.18 Public Road Reserve - Landscaping and Infrastructure, is to include street trees planted to the road reserve frontage of the development placed at 6m centres,
- e) all trees planted shall be certified from the supply Nursery that the trees are compliant to Natspec's 'Specifying Trees: a guide to assessment of tree quality',
- f) street trees are to be planted so as not to obstruct the free passage of pedestrians along the road verge and not interfere with any existing power lines and underground utilities,
- g) the street tree shall be *Callistemon 'Hannah Ray'*,
- h) tree species are to be a minimum 400 litre size, subject to availability and presence of existing underground utilities, and subject to Council approval,
- i) planting holes shall be a minimum of 700mm depth x 2.0 metres wide, and shall consist of the following backfilled material: 100% sandy loam, followed by a 100mm depth top layer of organic humus mix, and a 75mm coarse mulch layer. Trees are to be staked with 2/50mm x 50mm stakes with hessian ties.
- j) grassed areas are to be turfed with Couch species (weed free) and even grade to a maximum 4% grade.

The Certifying Authority shall document acceptance of the Landscape Plans satisfying the above conditions a) to j) inclusive.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and ensure appropriate landscape treatment to soften the built form.

12. **Detailed Design of Stormwater Quality System**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the amended plans from Eclipse Consulting Engineers.

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

Reason: Protection of the receiving environment

13. **On-site Stormwater Detention Compliance**

Drainage plans by a suitably qualified Hydraulic Engineer are to be submitted, detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's Pittwater 21 DCP 2014 Clause B5.7 and the concept drawings by Eclipse Consulting Engineers, drawing number 9892 C01, C03, C04, C05, C07 and C08 Issue B dated 27.09.2019. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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

An Application for Works to be approved within Council Roadway, including engineering plans 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 four (4) copies of Civil Engineering plans for the design of the footpath along the frontage of the site which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and/ or Council's Minor Works Policy. The plan shall be prepared by a qualified Civil Engineer. The 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 Certifying Authority prior to the issue of the Construction Certificate.

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

15. **Structural Adequacy and Excavation Work**

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

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

16. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

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

17. Construction Management Program

An application for Traffic Management Plan is to be submitted to Council for approval. The Traffic Management Plan shall be prepared to RMS standard by an appropriately certified person. An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community

18. Contaminated Land Requirements

Prior to the issue of any Construction Certificate a Contamination Management Plan is to be prepared by an appropriately qualified Environmental Consultant and provided to the satisfaction of the Certifying Authority. The plan shall detail:

- a) How all the requirements and / or recommendations contained within the Contamination Report by Douglas Partners Project 91501.01 4 April 2019 are to be implemented;
- b) A Remedial Action Plan (RAP) prepared by a suitably qualified Environmental Consultant in accordance with State Environmental Planning Policy No. 55 - Remediation of Land, and with any contaminated land planning guidelines under the Contaminated Land Management Act 1997;
- c) Stipulate reporting and processes associated with discovery of any new contamination that is revealed during excavation, demolition or development works.
- d) A requirement to complete ongoing water and soils testing during excavation, demolition and development works as follows:
 - (a) During construction in order to monitor water and soil quality the following is to be implemented:
 - i) Water testing is to be completed in accordance with Section 3 of the NSW RTA's Guideline for Construction Water Quality Monitoring
 - ii) Soil Testing in order to detect contaminants is occur weekly with two (2) samples in accordance with the NSW EPA Contaminated Site Sampling Design Guidelines.
 - (b) The requirements of (i) and (ii) above are to be implemented from the commencement of works as follows:
 - i) Fortnightly during excavation works
 - ii) Monthly during building works
- e) To ensure water quality is maintained runoff must be drained to an adequately bunded central collection sump and treated, to meet NSW Department of Environment and Climate Change (formerly Environment Protection Authority) discharge criteria.

Note: Other options for the disposal of excavation pump-out water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transported for treatment/disposal to an appropriate waste treatment/processing facility. All stockpiles of potentially contaminated soil must be stored in a secure area on the site (no greater than 48 hours) so as not to cause pollution or public health risk until disposed of at a waste facility. All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and

Guidelines. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

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

Reason: Protection of the environment, SEPP 55 compliance.

19. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – C2

The suspended slab and supporting columns must be designed and constructed to ensure structural integrity up to the Flood Planning Level of 4.31m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

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

20. **Compliance with Standards**

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

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

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

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

(a) External Glazing - 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).

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

(c) Anti Graffiti Coating - The finishes of the walls adjoining Barrenjoey Road must be finished in heavy duty long life, ultra violet resistant coating with a high resistance to solvents and chemicals as an anti-graffiti coating easily cleaned by solvent wipe.

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

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC04)

22. Sydney Water "Tap In"

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

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

23. RMS Conditions/Requirements

The applicant is to ensure that all conditions and comments raised by RMS in their correspondence (Ref. SYD19/00715) dated 25 June 2019 are addressed and a copy of any documents requested as part of that correspondence is to be submitted to and approved by Council prior to the release of any Construction Certificate.

Reason: To ensure Council is satisfied with the details provided by the applicant to RMS. (DACTRCPC1)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

24. Public Liability Insurance - Works on Public Land

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

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

25. Acid Sulfate Soil

All relevant recommendations contained within the report Acid Sulfate Soil Management Plan by Douglas Partners Project 91501.01 4 April 2019 being implemented prior to commencement and managed during excavation.

Reason: To manage Acid Sulfate Soil.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

26. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority

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

27. Footpath Construction

The applicant shall reconstruct the footpath for the entire frontage of the site 2.1 metres wide up to the existing bus shelter to the north of the site. The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Council's Specification.
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Council's specification for footpath.

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

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

28. Notification of Inspections

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

- (a) Prior to pouring footpath

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

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

29. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety

30. Vehicle Crossings

The provision of two vehicle crossings 9.5 and 12 metres wide in accordance with RMS requirements in their letter dated 25 June 2019. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by the Roads Authority.

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

Reason: To facilitate suitable vehicular access to private property.

31. Maintenance of Road Reserve

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

Reason: Public Safety.

32. Protection of Adjoining Property - Excavation

Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.

Reason: To ensure private and public safety

33. Substitution of Stormwater Treatment Measure

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

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

Reason: To ensure stormwater is appropriately managed.

34. Tree and vegetation protection

a) Existing trees and vegetation shall be retained and protected as follows:

- i) all road reserve trees and vegetation,
- ii) all trees and vegetation located on adjoining properties.

b) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained, vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,
- ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

Reason: to retain and protect significant planting on development and adjoining sites.

35. **Installation and Maintenance of Sediment and Erosion Control**

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 prepared by Eclipse Consulting Engineers.

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 the site is sufficiently stabilised with vegetation.

Stormwater treatment filters must not be installed or must be kept offline until the site has been fully stabilised.

Reason: To protect the surrounding environment and stormwater treatment measures from the effects of sedimentation and erosion from the site.

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

36. **Landscape works**

Landscaping is to be implemented in accordance with the approved Amended Landscape Plan.

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

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

37. **Certification for the Installation of Stormwater Quality System**

A certificate from a Civil Engineer, who has membership to the Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by Eclipse Consulting Engineers.

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

Reason: Protection of the receiving environment.

38. **Stormwater Treatment Measure Operation and Maintenance Plan**

An Operation and Maintenance Plan is to be prepared to ensure proposed stormwater quality system remain effective.

The Plan must be attached to the Positive Covenant and contain the following:

- a) Inspection and maintenance schedule of all stormwater treatment measures
- b) Maintenance requirements for establishment period

- c) Routine maintenance requirements
- d) Funding arrangements for the maintenance of all stormwater treatment measures
- e) Identification of maintenance and management responsibilities
- f) Vegetation species list associated with each type of vegetated stormwater treatment measure
- g) Waste management and disposal
- h) Traffic control (if required)
- i) Maintenance and emergency contact information
- j) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- k) Work Health and Safety requirements
- l) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

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

Reason: Protection of the receiving environment

39. **Works as Executed Drawings - Stormwater Quality System**

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

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

Reason: Protection of the receiving environment.

40. **Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and hydraulic engineers certification. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

41. **Registration of Encumbrances for On-site Stormwater Detention**

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

42. **On-Site Stormwater Detention Compliance Certification**

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council.

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

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

43. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

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

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

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

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

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

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

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

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

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

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

45. **Installation of Fuel Tanks**

Certification shall be provided from a suitably qualified professional that the fuel tanks have been installed in accordance with Australian Standard 1940. A copy of the Workcover NSW Dangerous Goods License must be submitted.

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

Reason: To ensure the proper installation of fuel tanks.

46. **Installation/Operation Fuel Pumping Systems**

Certification shall be provided from a suitably qualified professional that the fuel pumping system of underground storage tanks has been installed with all relevant Codes including Australian Institute of Petroleum's Code of Practice for the Design, Installation and Operation of Underground Petroleum Storage Systems (CP22-1994).

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

Reason: To ensure proper installation of fuel pumping systems.

47. **Validation for Remediation**

A validation and site monitoring report, including a survey of all sites used for landfill disposal is to be prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.

The plan must identify the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all sites used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

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

Reason: To ensure environmental amenity is maintained.

48. **Compliance with Contamination Management Plan**

Prior to the issue of any interim / final occupation certificate, certification from an appropriately qualified environmental consultant is to be provided stipulating that the requirements of the Contamination Management Plan have been compliance with throughout excavation, demolition and development work stages. The certification shall also include:

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

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

Reason: Protection of the environment, SEPP 55 compliance.

49. **Petrol Station Certification requirements**

Prior to the issue of any interim / final occupation certificate, documentation is to be submitted to the satisfaction of the Principal Certifying Authority in relation the matters detailed as

follows, including updated current standards:

- a) That the fuel tanks have been installed in accordance with Australian Standard 1940. A copy of the Workcover NSW Dangerous Goods License must be provided.
- b) That the fuel pumping system of underground storage tanks has been installed with all relevant Codes including Australian Institute of Petroleum's Code of Practice for the Design, Installation and Operation of Underground Petroleum Storage Systems (CP22-1994).
- c) That any the LPG facility has been installed in accordance with the relevant Australian Standards including Australian/New Zealand Standard 1596 - The Storage and Handling of LP Gas.
- d) That fuel filling area shall be operated in accordance with all relevant Codes and Manuals including the Australian Institute of Petroleum's Code of Practice for the Design, Installation Operation of Underground Petroleum storage systems (CP22-1994).
- e) That delivery tankers shall be parked wholly within the site during unloading. Tankers shall enter and exit the site in a forward direction and tankers shall only remain on-site during unloading operations. All tanker deliveries shall only be made during the approved hours of operation outside peak usage periods.
- f) That any washing of vehicles/boats/trucks/buses etc is to be conducted in a car wash bay, which is roofed and bunded to exclude rainwater. All wastewater from car washing is to be discharged to the sewer under a Trade Waste Agreement from Sydney Water. Alternative water management and disposal options may be possible where water is recycled, minimised or re-used on the site. Any such alternative option is to comply with all relevant Standards.

Note: The following Standards applied at the time of determination:

- Environment Protection Authority's Environment Protection Manual for Authorised Officers: Technical Section Small Business (Car Washing Waste)
- Environment Protection Authority's Environment Protection Manual for Authorised Officers - Technical Section Water (Bunding and Spill Management)

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

Reason: To ensure that wastewater is disposed of in a manner that is not harmful to the environment.

50. **Noise compliance prior to occupation certificate**

The Certifier shall ensure compliance with the findings and recommendations by Reverb Acoustics Report No. 19-2310-R1 have been carried out.

Reason: To minimise any potential noise implications to neighbouring residential occupiers

51. **Food Premises - Design, construction and fit out**

The design construction and fit out of the kitchen shall comply with Australian Standard AS 4674 – 2004 – 'Design, Construction and fit-out of food premises'. Such details are to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate and Certification of compliance shall be required prior to Occupation .

Reason: To ensure compliance with the Australian Food Standards Code.

52. Notification of the food premises

The proprietor of a food business must notify the Council of the details of the business prior to commencement of trading.

Reason: To ensure compliance with the Australian Food Standards Code.

53. Fire Safety Matters

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

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

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

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

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

54. Fuel-Filling Area

The fuel filling area shall be operated in accordance with all relevant Codes and Manuals including the Australian Institute of Petroleum's Code of Practice for the Design, Installation Operation of Underground Petroleum storage systems (CP22-1994 or as updated).

Reason: To provide for the correct disposal of liquid wastes.

55. Maintenance of Stormwater Treatment Measures

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

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

Reason: Protection of the receiving environment

56. Fuel tanker deliveries

Fuel tanker deliveries must not be undertaken between the hours of 10pm and 7am on any day.

Reason: To ensure the acoustic amenity of surrounding properties. (DACHEGOG1)

57. **Noise general**

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

58. **Noise Tyre Inflation**

Noise from compressors and alarm indicating correct Tyre inflation pressure shall not be audible in any residential premises between the hours of 10pm and 7am any day

Reason: To maintain amenity to any residential premises at night

59. **Hours of Illumination**

Illumination of signage at the subject premises shall cease between the hours of 10.00pm 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. (DACPLG11)

60. **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. (DACPLG12)

61. **Commercial Waste Collection**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 9pm and 8am on any day.

Reason: To ensure the acoustic amenity of surrounding properties. (DACPLG24)

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

Signed



Nick England, Planner

The application is determined on 05/11/2019, under the delegated authority of:



Anna Williams, Manager Development Assessments