

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0433
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Responsible Officer:	Nick England
Land to be developed (Address):	Lot 2 DP 543012, 4 Cross Street BROOKVALE NSW 2100
Proposed Development:	Construction of building for use as a storage premises
Zoning:	Warringah LEP2011 - Land zoned IN1 General Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Motaland Pty Ltd
Applicant:	Motaland Pty Ltd

Application Lodged:	04/05/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	14/05/2020 to 28/05/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 27%
Recommendation:	Approval

Estimated Cost of Works:	\$ 8,072,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The application consists of the erection of a building for the purposes of a "storage premises", specifically self-storage units ("Rent-A-Space").

In detail, physical works will consist of:

- a four-storey building of concrete panel and metal construction, with a total of 7,142m² in gross floor area devoted to storage;
- ground floor office and amenities, 113m² in area;
- eleven (11) parking spaces, consisting of two (2) for the use of employees, one (1) disabled space, 1 space for car/trailers and the remaining spaces for the use of customers;
- relocated vehicular access from Cross Street, with the primary entrance/exit from the southern boundary frontage and an exit only from the western boundary access handle;
- one (1) illuminated pylon sign, 9m in height, situated on the south-west corner of the site;

- two (2) illuminated wall signs on the south and east elevations of the proposed building, 18m² in area; and
- a 4.5m wide landscaped setback on the south boundary frontage with Cross Street, incorporating various landscape plantings including three (3) trees that will reach a mature height of 8m.

Operational aspects of the proposal include:

- Maximum of three (3) employees; and
- hours of operation between 8.00am to 6.00pm, seven (7) days a week.

The applicant has amended the plans since lodgement, in response to correspondence forwarded to the applicant on 21 July 2020. The original proposal was not supported, based on: non-compliance with the Height of Buildings development standard; non-compliance with objectives of the Side Setback control; traffic management and safety; and insufficient information in regard to site contamination and potential impact on Council's stormwater assets. The proposal has since been amended and further information provided, to address these matters.

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

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings

Warringah Development Control Plan - B6 Merit Assessment of Side Boundary Setbacks

Warringah Development Control Plan - B10 Merit assessment of rear boundary setbacks

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D9 Building Bulk

Warringah Development Control Plan - D23 Signs

SITE DESCRIPTION

Property Description:	Lot 2 DP 543012 , 4 Cross Street BROOKVALE NSW 2100
Detailed Site Description:	The subject site consists of one (1) allotment located on Cross Street, Brookvale. The site is irregular in shape with a frontage of 30.48m along Cross Street and a secondary access to the same street on its north-west boundary, 4.7m wide. The site has a surveyed area of 2,630m². The site is located within the IN1 General Industrial zone and is currently vacant. The site previously accommodated a self-storage premises, which was demolished as a consequence of fire damage. The existing slab and access points remain on the site. The site is generally flat, being in a low-lying area potentially effected by flooding and the Brookvale Lagoon catchment. Adjoining and surrounding development is characterised by a range of industrial and warehouse activities to the west, east and north of the site. To the south is a B3 Commercial Core zone. Adjoining the site on its south boundary is a multi-storey carpark and retailing commercial activities associated with Warringah Mall.

Map:



SITE HISTORY

The land has been used for warehouse (self-storage) purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

LGA2019/0011: A Notice of Intention to Issue an Order was issued to the owners of the land on 15 April 2019. The order was issued for the purposes of ensuring adequate measures were taken to ensure

public safety as a consequence of a fire that occurred on the land on 28 March 2019. This fire extensively damaged the existing self-storage premises building that was on the land.

PEO2019/0020: An Order And Clean-Up Notice, related to the Order mentioned above, was issued on 31 May 2019.

EPA2019/0226: An Emergency Development Control Order (Demolition Order No.3) was issued on 24 July 2019, which required the owner of the land to demolish the fire-damaged premises and undertake clean-up works and secure it for purposes of public safety. The building has subsequently been demolished.

PLM2020/0300: A pre-lodgement meeting was held between Council and the applicant on 28 January 2020, to discuss the construction of a new self-storage premises. An extract from the concluding advice is provided below:

"In its current form, the proposal is not acceptable and requires redesign prior to lodgement.

The area of re-design need to address the following issues:

- *Front setback;*
- *Building Height;*
- *Flood Planning Level; and*
- *Car parking.*

The provision of the minimum 4.5m front setback is essential in achieving the LEP aim of ensuring that new development does not have an adverse effect on the amenity of public places. It is also important in ensuring that the visual bulk of the new building, in the instance of part of it not complying with the height standard, is mitigated.

The non-compliance with the Height of Buildings development standard may be acceptable but only if the upper level of the building is setback at a further distance to mitigate the visual impact and to present the appearance of a compliant building when viewed from Cross Street."

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. Sufficient information has been provided to Council to ensure that the provisions of the draft instrument has been complied with.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal. Consideration of the relevant provisions of this policy are provided elsewhere in this report.
Section 4.15 (1) (a)(iiia) – Provisions	None applicable.

Section 4.15 Matters for Consideration'	Comments
of any planning agreement	
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. Additional information was requested in relation to: architectural plans; stormwater management; land use contamination; traffic management and the location of Council stormwater infrastructure. <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. <u>Clause 143A</u> 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 Warringah Development Control Plan 2011 section in this report. (ii) Social Impact The proposed development will not have a detrimental social

Section 4.15 Matters for Consideration'	Comments
	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.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 14/05/2020 to 28/05/2020 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Contaminated Lands)	General Comments General Comments The proposal is for the construction of a storage premises at 4 Cross Street, Brookvale. The site was previously a storage premises that was destroyed due to fire and subsequently contaminated with friable asbestos. The asbestos contamination was remediated and a clearance certificate provided. The site following the fire is now predominately hardstand A Pre-Lodgement Meeting was held with Northern Beaches Council on 28 January 2020.

Internal Referral Body	Comments
	Comments from environmental health at the time were: <i>Environmental Health understands that 4 Cross st has provided all the required information on the Clean up Notice referenced as PEO2019/0020. This includes an asbestos clearance certificate. To facilitate a timely assessment, the documentation provided as part of the clean-up notice should be provided with the development application and mentioned in the statement of environmental effects under contamination. Based on the provided information Environmental Health are satisfied that the site does not require further contamination testing at this stage.</i> Notwithstanding the above, there are potential concerns regarding any potential contamination located beneath the hardstand. In particular, any chemicals that could have been released during the fire, any fill materials below the hardstand and impacts from previous uses of the warehouse. Furthermore, the Geotechnical Report prepared by JKGeotechnics and provided as part of the application states the following on Page 4: <i>From review of the following architectural drawings, we understand that the proposed development will comprise a four storey Rent-A-Space self storage building, with no basement, founded on piles. Localised minor excavation may however be required for the centrally located lift and stair cores, and perhaps buried services. Existing floor slabs will be removed and new slabs constructed at about 0.1m to 0.2m below the existing levels.</i> And on Page 9: <i>In summary, the proposed development comprises a ground floor level plus three commercial levels for storage. The building footprint extends over almost all of the site. No bulk excavation is planned but proposed finished floor levels will be about 0.1m to 0.2m lower than existing. The investigation has confirmed uncontrolled, poorly compacted fill, a high groundwater level, and deep highly variable soils over rock which occurs at varying depths and is of varying quality.</i> From the above it appears that the works will involve the disturbance of soils located beneath the hardstand and that fill materials may also be present. This proposal is not for a change of use however, as part of SEPP 55 a Consent Authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. There needs to be consideration of the risks during the construction and operation of the development. This includes work safety issues and the potential for construction to disturb contamination and cause

Internal Referral Body	Comments
	off-site movement of chemicals. A preliminary site investigation (Stage One) in accordance with SEPP 55 and NSW EPA guidelines is required in order to establish if there will be any risks from contamination during the construction and operation of the development. Depending on the outcome of the preliminary site investigation, a detailed site investigation (Stage 2) may also be required in accordance with SEPP 55 and NSW EPA guidelines. If the land is found to be contaminated and not suitable for the proposed development, a Remedial Action Plan (RAP) will also be required for the remediation of the land. Recommendation REFUSAL New Information – Additional Review 18.08.2020 The applicant has submitted a Stage 1 Environmental Site Assessment prepared by JKE Environments, Report Dated 30 January 2020 (Reference: E32885PRrpt). The report advises/recommends the following: <i>The limited soil assessment did not include analysis for all identified contaminants of potential concern (CoPC). Based on those pre-selected CoPC that were analysed for in the samples, the concentrations were below the adopted site assessment criteria (SAC). Overall significant, widespread soil contamination was not identified based on the scope of the Stage 1 assessment. However, a number of potential on-site and off-site sources of contamination and/or CoPC were not assessed due to the limited scope of the Stage 1 assessment. Further investigation (i.e. Stage 2) is therefore required.</i> <i>Based on the findings of this Stage 1 assessment, contamination that would preclude the proposed development described in Section 1.1 has not been identified, therefore we consider that the site can be made suitable for the proposed development. The potential risks from contamination were assessed to be relatively minor at this stage, however, further characterisation is required in order to confirm that the site is suitable without the need for remediation, or that remediation is actually required.</i> <i>JKE recommend the following:</i> • A Stage 2 Detailed Site Investigation (DSI) is to be

Internal Referral Body	Comments
	<i>undertaken. The objective of the investigation is to characterise groundwater across the site. This will require installation of a groundwater monitoring well network across the site. Fill material will also require further characterisation with additional boreholes drilled across the site on a systematic sampling plan to meet the minimum sampling densities specified by the NSW EPA. Additional laboratory analysis for an extended suite of PFAS group of chemicals is also recommended, as well as confirmatory testing for asbestos fines across the surface of the concrete slab in place across the site to address the identified Data Gaps (refer to Section 10.3); and</i> • <i>An ASS management plan (ASSMP) is to be prepared to manage the potential disturbance of potential ASS (PASS) materials during the proposed development works.</i> The preliminary site investigation (Stage One) has determined that a detailed site investigation (Stage 2) is required. In order to assess the application a detailed site investigation (Stage 2) by a suitably qualified and experienced environmental consultant is required in accordance with SEPP 55 and NSW EPA guidelines. If the land is found to be contaminated and not suitable for the proposed development, a Remedial Action Plan (RAP) prepared by a suitably qualified and experienced environmental consultant in accordance with SEPP 55 and NSW EPA guidelines will also be required for the remediation of the land. An Acid Sulfate Soils Management Plan (ASSMP) is also to be prepared by suitably qualified and experienced persons to manage the potential disturbance of Potential Acid Sulfate Soils (PASS) during the proposed development works. Recommendation REFUSAL New Information – Additional Review 31.08.2020 The applicant has submitted a Stage 2 Detailed Site Investigation for contamination prepared by JKEnvironments, Report Dated 14 August 2020 (Reference: E32885PArpt2). The report advises/recommends the following: <i>The DSI has not identified any soil or groundwater contamination that was assessed to pose a risk to on-site receptors and/or in relation to the proposed development and anticipated land use. Exceedances above the ecological SAC were identified for total recoverable hydrocarbons (TRH F3) in soil and for heavy metals arsenic, lead and</i>

Internal Referral Body	Comments
	<i>zinc in groundwater.</i> <i>The contaminant concentrations were relatively minor, risks were assessed to be low and acceptable, and no complete source-pathway-receptor (SPR) linkage was expected to occur. On this basis, the DSI did not identified any triggers for remediation.</i> <i>Based on the findings of the investigation, JKE are of the opinion that remediation is not required and that the site is suitable for the proposed development.</i> Environmental Health previously advised that an Acid Sulfate Soils Management Plan (ASSMP) is also to be prepared by suitably qualified and experienced persons to manage the potential disturbance of Potential Acid Sulfate Soils (PASS) during the proposed development works. Environmental Health have no objects subject to conditions regarding Acid Sulfate Soils and contamination. Recommendation APPROVAL - subject to conditions
Environmental Health (Industrial)	General Comments The proposal is for the construction of a storage premises at 4 Cross Street, Brookvale. The site was previously a storage premises that was destroyed due to fire. The premises is on land zoned for General Industrial and the new storage facility proposes the same hours of operation as the previous storage facility approved for the site (Mon-Sun 8am-6pm). Recommendation APPROVAL - no conditions
Landscape Officer	The Landscape plans submitted with the application are noted. The plans provide for a 4.5, wide front setback containing three tall canopy trees as well as shrubs and groundcovers in a well considered arrangement. The existing street tree is indicated to be retained. No objections are raised to approval subject to conditions as recommended.
NECC (Development Engineering)	Comments 27/8/2020 The applicants surveyor has now visually located the 825mm Council

Internal Referral Body	Comments
	and confirmed via survey it now runs within the adjoining property. No objections to the development subject to conditions. Comments 20/8/2020 The applicant has failed to provide a CCTV review and location of Council's 825mm Stormwater Line running adjacent to the side boundary . This is critical in determining if there are any impacts from the proposed development on Council's stormwater line. If the contractor needs assistance in lifting the concrete pit covers , Council's maintenance crews can assist. At this stage the application cannot be supported. Previous comments. The proposed storage facility is not supported for the following reasons: The applicant was advised at a pre lodgement meeting (PLM 2019/0300) that the Council stormwater line running adjacent to the eastern property boundary needed to be located and surveyed as follows: v Council's records indicate that the property at 4 Cross Street, Brookvale is located adjacent to four 825mm stormwater pipelines (SPI20571, SPI20572, SPI20573, SPI13266) and associated infrastructure along the Eastern boundary of the lot, and a 525mm stormwater pipeline (SPI01948) and associated infrastructure along the Southern boundary of the lot. This is shown on Council's stormwater map which is available on the webpage. (Please follow the relevant link below and select the 'Stormwater' map from the 'No Overlay Map' drop down menu. You can then search by address and use the zoom functionality to see pipe diameters and asset id numbers. i.e. 600 mm and SPP or SPI etc.). o Council's Stormwater Planning Map: https://services.northernbeaches.nsw.gov.au/icongis/index.html v Based on the plans submitted for this Pre-lodgement meeting, the construction of the self-storage premises will be located within the vicinity of Council's public drainage system along the Eastern Boundary of the site. The applicant will need to accurately locate, confirm dimensions including depth and plot to scale Council's public drainage system and associated infrastructure on the DA site plans that outline the proposal. This should be carried out by a service locating contractor and registered surveyor.

Internal Referral Body	Comments
	All structures will need to be located clear of any Council pipeline, pit, channel or easement and comply with minimum horizontal and vertical clearance requirements for Construction and Maintenance Access as outlined in Council's "Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specifications". v To demonstrate compliance with Warringah Council's Development Control Plan 2011 and Northern Beaches Council's Water Management policy PL 850 Water (Section 6- Building Over or Adjacent to Council Drainage Systems and Easements), it is recommended that the following details are submitted with any application: § Accurately locate, confirm dimensions including depth and plot to scale Council's public drainage system and associated infrastructure on the DA site plans that outline the proposal. This should be carried out by a service locating contractor and registered surveyor. (Evidence of methodology used for locating stormwater system should be provided); § If the applicant proposes to use a CCTV pipeline survey to confirm the location of the pipeline, it is recommended that the survey is carried out in accordance with Council's guideline attached; § All structures are to be located clear of any Council pipeline, pit or easement and comply with minimum vertical and horizontal clearances; § Footings of any structure adjacent to an easement, pipeline or channel are to be designed in accordance with the above-mentioned policy; and § Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance with Council's policy are to be submitted.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed development is a new multi-storey storage facility. Subject to conditions, the proposal is compliant with Council's flood prone land development controls.
NECC (Water Management)	Proprietary filtration devices are being accepted for this application due to the site's location in an industrial area and the impervious nature of the site. The incorporation of planter boxes is welcomed,

Internal Referral Body	Comments
	and the applicant is encouraged to make use of rainwater where possible on the site. This site is located over a groundwater aquifer that feeds Manly Lagoon, a highly sensitive receiving waterway, so great care should be taken with any excavation work and dewatering of any tailwater or groundwater on the site. Conditions apply.
Strategic and Place Planning (Urban Design)	The proposal has complied with the 4.5m front setback with appropriate landscaping buffer to complement the future 'Green Street' concept of Cross Street. The breach in building height will result in minor builtform impact to the surrounding amenities and will be softened by the street front landscaping proposed. Amended drawings were submitted in August 2020 to indicate the following built form changes: Step-down in the Cross Street facade to comply with the 11m height control is an improvement. Stepped built form up to the lift cores will help to break down the scale of the building when viewed from Cross Street side.
Traffic Engineer	Reviewing the applicant's traffic response and the amended plans provided in response to the concerns previously raised by Council's traffic team, the proposal can be supported by traffic team subject to condition. <u>Earlier Traffic Comments:</u> The proposed development is for the removal of the existing structures and the construction of a four (4) storey storage premises in the form of self-storage units, comprising approximately 8,345m² of gross floor area (GFA). <u>Traffic generation:</u> The traffic generation is projected to be the total of 19 vehicle trips per peak traffic hours, which resulting in 5 additional vehicle trips per peak hours. The proposed traffic generation is acceptable in the context of Brookvale business area. <u>Parking:</u> The proposal includes the provision of 11 parking spaces including one accessible space. The proposed parking provision is considered acceptable. <u>Car park design:</u> The following concerns are raised on the car park design: - The 90 degree parking spaces proposed adjacent to the access driveway would result in conflict between the vehicles manoeuvring in/out of the parking spaces and the ingressing vehicles. Given the location of the premises within close proximity to a roundabout as well as Warringah Mall, any waiting on the street will not be acceptable. To prevent this, the parking spaces No.1 and 2 are to be allocated to staff. - The proposed accessible space is not in compliance with AS2890.6

Internal Referral Body	Comments
	in regards to the allocated shared area. - The plans indicate that heavy rigid trucks (HRVs) will be able to access the site, but there is no provision of loading and unloading bay / area within the car park. - It shall be demonstrated that vehicles exiting the driveway will have the the minimum sight distance triangle of 2m by 2.5m clear of any obstruction to visibility of pedestrians in compliance with Australian Standards AS2890.1:2004. In view of the above, the proposal is not supported in the current proposed form.

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.

In response to the above requirements of the SEPP, the applicant has submitted a Preliminary Environmental Site Investigation dated 30 January 2020 and prepared by JK Environment. In its conclusion, the investigation states on Page 31:

"A detailed site investigation is to be undertaken. The objective of the investigation is to characterise groundwater across the site. Fill material will also require further characterisation with additional boreholes across the site on a systematic sampling plan to meet the minimum sampling densities specified by the NSW EPA. Additional laboratory analysis for an extended suite of PFAS group of chemicals is also recommended, as well as confirmatory tested for asbestos fines across the surface of the concrete slab in place across the site to address the identified Data Gaps (refer to Section 10.3)"

Therefore, as the Investigation indicates that there is a potential for contaminants to exist on the site, Clauses 7(1)(b) and 7(1)(c) of the SEPP must be considered.

Clause 7(1)(b) stipulates that *"if the land is contaminated, it [Council] is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out"*.

Given the claimed potential of contamination on the site as noted in the Phase 1 Investigation, a Phase 2 Environmental Site Assessment should be provided to confirm whether contamination is actually

present, at what levels and at what locations. A Phase 2 Environmental Site Assessment has been provided which confirms the location and type of contaminants on the site and provides recommendations for the remediation of the site to enable the development to be safely carried out. In this regard, Council is satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the Recommendation of this report.

Clause 7(1)(c) stipulates that *"if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose"*.

Council is satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the Recommendation of this report.

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.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided, of the one (1) pole sign and two (2) wall signs proposed:

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 character of the surrounding area is industrial land uses to the north, east and west and high-intensity retail and commercial land uses to the south. In this context, the proposed signage is appropriate.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Signage in the immediate vicinity is typified by business identification signage for surrounding industrial and commercial activities, many of it large-scale. The proposed signage is of a scale and style that is consistent with this character.	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?	No such areas exist within close or visual proximity to the site.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	No views will be effected by the proposed signage.	YES

Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage will not dominate the surrounding landscape.	YES
Does the proposal respect the viewing rights of other advertisers?	No adjoining existing signage will be compromised 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 presents a scale, proportion and form consistent with the surrounding built environment.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage will represent as a contemporary visual form that will make a positive contribution to the existing built environment on the north side of Cross Street which is predominated by older 20th century buildings.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	As the site is vacant, this is not applicable to the proposed signage.	YES
Does the proposal screen unsightliness?	Not applicable.	N/A
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed wall signs will protrude above adjoining buildings to the east and west of the site, however these are affixed to the part of the building that is consistent with the maximum building height. Hence, the proposed signage is consistent with this requirement.	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 proposed signage represents an appropriate proportion and style to the proposed building.	YES
Does the proposal respect important features of the site or building, or both?	Not applicable, as the site is vacant.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is consistent with the architectural vernacular of the proposed 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?	Not applicable.	N/A
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 illuminated pole sign will not be readily visible from the distant adjoining residential areas. The illuminated wall sign is located on the south and west elevations and hence largely invisible from the greater, elevated residential areas to the west. No impacts to pedestrians or vehicles is likely given the relatively modest size of the signs in	YES

	relation to the other existing signs in the area.	
Can the intensity of the illumination be adjusted, if necessary?	Under the context, no adjustment to the signage is necessary.	YES
Is the illumination subject to a curfew?	Given the industrial / commercial nature of the surrounding area and the sites significant distance from residential areas, no curfew is considered necessary.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	No adverse road safety impact is likely from the proposed signage.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No adverse pedestrian safety impact is likely from the proposed signage.	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.

Warringah Local Environmental Plan 2011

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

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Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	14.04m	27	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	11m
Proposed:	13.4m (roof) 14m (lift over-runs)
Percentage variation to requirement:	22% (roof) 27% (lift over-runs)

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 judgements 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 (attached to this report as an Appendix) 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.*

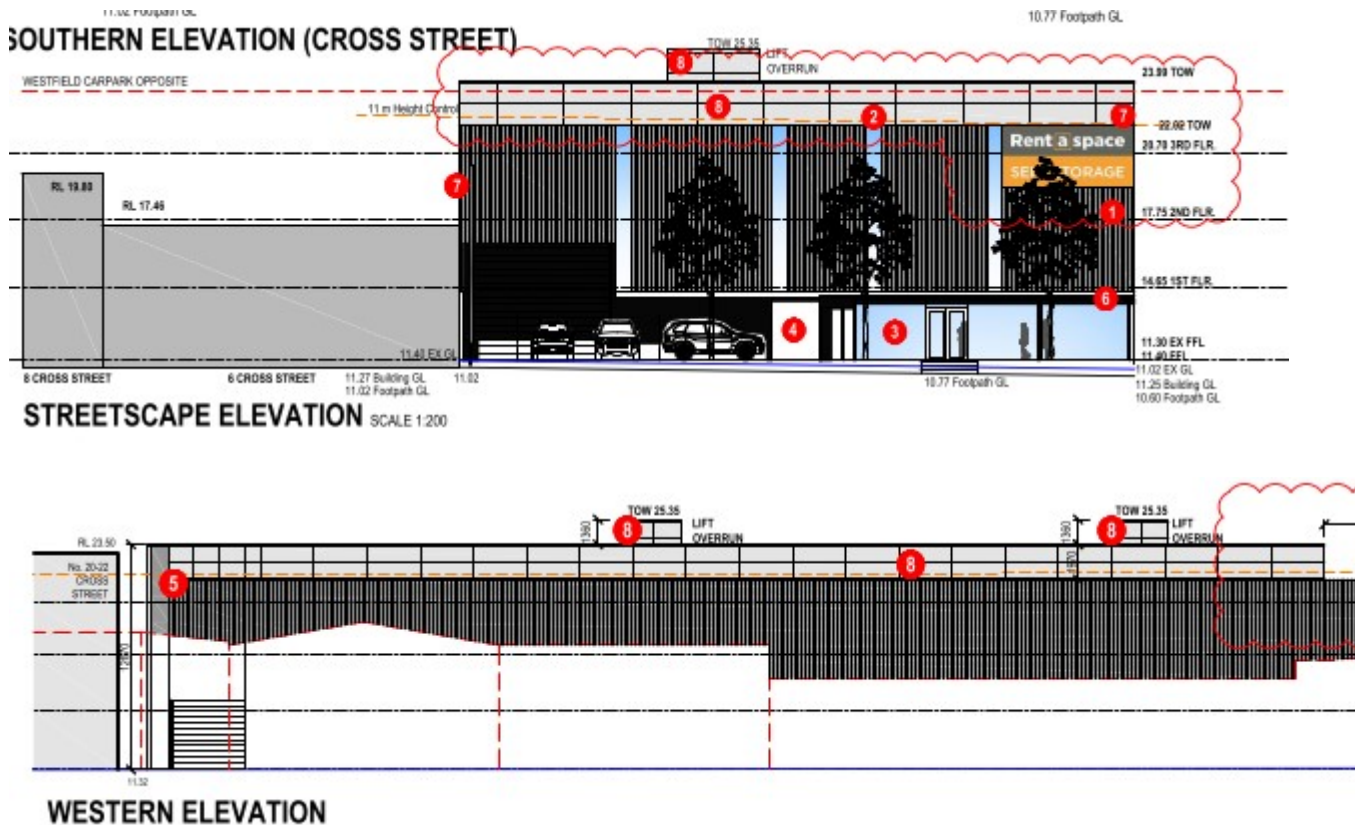
The applicants written request argues, in part (as summarised):

- the proposal represents a built form that is consistent in scale and style with the surrounding Brookvale industrial and commercial areas and the existing land uses and buildings within them;
- the height context of surrounding existing buildings, which exceed the height of the proposed building, in particular the multi-storey parking building for Warringah Mall and the adjoining industrial / warehouse building at No.20-22 Cross Street, provides an element of compatibility to the proposal, despite the variation proposed;
- the non-compliant element of the proposal is setback a significant distance from the southern front boundary from Cross Street (and other streets) making this element virtually unidentifiable from the public domain; and
- through the incorporation of appropriate colours, materials and finishes, the development has been designed to visually relate to, and be commensurate with, its surrounding urban environment.

These reasons are considered relevant and present a cogent argument in justifying that strict compliance with the Height of Buildings development standard is not required. The overall built form of the surrounding area is typified by functional buildings designed to accommodate industrial and warehouse uses, many of which achieve heights in excess of 14m. The total height of the proposed building hence will achieve a level of compatibility.

However the most persuasive reason provided relates to the manner in which the upper 3rd level and lift over-runs have been setback a significant distance from the Cross Street frontage, to strongly limit their visibility. This in effect presents a prominent, dark coloured, building facade on the Cross Street frontage which reads visually as a compliant building (with the 11m standard) and then an upper level that is separately defined by greater front setback and materials to be an inconspicuous separate element of the building.

Focusing on this upper level, in the context of the overall design of the building, if for example this level was to be removed, there would be limited planning benefit to doing so. It would only deliver a minor reduction in the visual impact of the proposal, when viewed from certain parts of Cross Street to the southern boundary. This southern boundary adjoins a B3 Commercial Core zone, where buildings of a similar height to the subject proposal are permitted. The elevations below illustrate the proposed building in context with the part of the building that is consistent with the 11m height and portion of the building that exceeds the control:



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 IN1 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 WLEP 2011 are:

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

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

Comment: The proposal has been designed to represent largely as a compliant proposal to the principal frontage on Cross Street, with the non-compliant upper level composed of different colours and materials and greater front setback from the levels below to render it mostly invisible from this frontage. On the prominent east side elevation, a range of materials, openings and colours have been employed to create visual interest and break down the perceived bulk of the building. Hence, the proposed development will achieve this objective.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment: In the context of the surrounding industrial and commercial zones, and there being no residential dwellings in close proximity to the site, there will be no adverse amenity impact in respect to view loss, visual/acoustic privacy and solar access. As stated previously, the proposal has been designed to represent largely as a compliant proposal to the principal frontage on Cross Street, with the non-compliant upper level mostly invisible from this frontage.

c) to minimise adverse impact of development on the scenic quality of Warringah’s coastal and bush environments,

Comment: There are no significant coastal or bush environments in close proximity to the site, with the exception of Allenby Park, which is approximately 570m to the west. The extent of the proposed variation, when viewed from these areas, is likely to have negligible impact, in contrast to a fully compliant proposal.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment: As detailed previously, the overall design of the proposal has achieved an acceptable visual impact when viewed from the adjoining public roads of Cross Street and Green Street.

Zone objectives

The underlying objectives of the IN1 General Industrial zone are:

- *To provide a wide range of industrial and warehouse land uses.*

Comment: The proposed storage premises are a permissible use in the zone and in nature will

be consistent with other industrial and warehouse uses in the surrounding area.

- *To encourage employment opportunities.*

Comment: A maximum of three (3) staff will be employed on the premises. This continues the previous use of the site and will make a contribution to the employment generating potential of the Brookvale industrial area.

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

Comment: The proposed storage premises will have a minimal impact on other land uses and the surrounding area.

- *To support and protect industrial land for industrial uses.*

Comment: The proposal will result in no loss of existing industrial land, as the storage premises is a complimentary land use to industry.

- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

Comment: Not relevant to the application.

- *To enable a range of compatible community and leisure uses.*

Comment: Not relevant to the application.

- *To maintain the industrial character of the land in landscaped settings.*

Comment: The proposed building represents a sufficient industrial character and a landscaped front setback is provided on the southern Cross Street frontage.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the IN1 General Industrial zone.

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 PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning & Infrastructure, 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 Local Planning Panel.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B5 Side Boundary Setbacks	Merit assessment (west)	Nil	N/A	Yes
	Merit assessment (east)	Nil	N/A	Yes
B7 Front Boundary Setbacks	4.5m	4.5 (ground, 1 st and 2 nd floors) 14.5m (3 rd floor)	N/A N/A	Yes Yes
B9 Rear Boundary Setbacks*	Merit assessment	Nil	N/A	Yes

***Note:** measured from the northern boundary adjoining No.20-22 Cross Street.

****Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - 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: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D9 Building Bulk	No	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D23 Signs	No	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

B6 Merit Assessment of Side Boundary Setbacks

No numerical control applies to the side boundary setbacks in the IN1 General Industrial zone, with a merit assessment to be made of the proposed setback.

A nil setback is proposed on the side (western and eastern) boundaries of the site, adjoining the properties at No.2 and 6 Cook Street.

The development is therefore considered against Objectives of the Control as follows:

- *To provide ample opportunities for deep soil landscape areas.*

Comment: Sufficient landscaped open space is provided elsewhere on the site, specifically on the southern boundary frontage with Cook Street, which is the primary address of the subject site.

- *To ensure that development does not become visually dominant.*

Comment: The amended proposal has setback the upper level of the building at least 14.5m from the primary frontage of the site and applied a lighter coloured material (in contrast to the darker colours used on the levels beneath) to mitigate the visual impact of the proposed building, when viewed from the west and east of the site.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment: As stated above, the upper level of the building has been modified to create a distinction from the levels beneath it. On the eastern elevation, which is the most prominent side setback of the building, a variety of materials are used to create differentiation in the expression of each level and provide visual interest. In this regard, the bulk and scale of the proposed building is now adequate in its context and this objective is satisfied.

- *To provide adequate separation between buildings to ensure a reasonable level of amenity and solar access is maintained.*

Comment: In the context of the adjoining industrial land uses to the east and west side boundaries, there will be negligible amenity impacts as a result of the proposed nil setbacks.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment: There are no significant views enjoyed from adjoining public and private properties that will be effected by the proposed nil side setbacks.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 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.

B10 Merit assessment of rear boundary setbacks

No numerical control applies to the rear setbacks in the IN1 General Industrial zone, with a merit assessment to be made of the proposed setback.

A nil setback is proposed on the rear (northern) boundary of the site, adjoining the property at No.20-22 Cook Street.

The development is therefore considered against the Objectives of the Control as follows:

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment: Sufficient landscaped open space is provided on the southern boundary of the site, which is the primary frontage of the site.

- *To Create a sense of openness in rear yards.*

Comment: This control is not applicable to the proposed development as it relates to residential zones and contexts.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment: The adjoining building at No.20-22 is a warehouse / industrial building, which is setback approximately 1m from its boundary with the subject site. No openings are proposed on the northern rear elevation. Based on the current use of this building and its similar setback to the proposed development, no adverse amenity impact is likely.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment: The pattern and orientation of the land and buildings adjoining the northern rear setback is varied and shows no regular pattern. Hence, the proposal nil setback is adequate under the circumstances and is consistent with this objective.

- *To provide opportunities to maintain privacy between dwellings.*

Comment: Not applicable to the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 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.

C3 Parking Facilities

Part C3 / Schedule 1 of WDCP 2011 provides no specific requirement for "storage premises".

A traffic and parking report was provided by the applicant, to justify the provision of parking in the proposal. This report made use of the recommendation made by Council at the pre-lodgement meeting, that studies and parking rates provided in similar recent applications be applied to this proposal.

Council's Traffic Engineer has reviewed this report and is satisfied that the parking provision on site (11 spaces) is adequate to accommodate the likely traffic generated from the proposed use.

D9 Building Bulk

Description of the Non-Compliance

Of relevance to this aspect of the proposal is Requirement 2 of Part D9 which states:

2. Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.

The eastern elevation of the proposed building will have a nil setback from its boundary with No.2 Cross Street, for the length of the proposed building. A nil setback is also proposed on the west elevation adjoining No.6 Cross Street.

This length is 76m at the ground, 1st and 2nd floors and 66m on the 3rd floor. There is no variation in the building side setback for these lengths.

Consideration of the Objectives

To encourage good design and innovative architecture to improve the urban environment.

Comment: Whilst no variation is provided in building setbacks on either the west or east elevations, the visually prominent eastern elevation employs a range of techniques that will improve the adjoining urban environment. These measures include: using light coloured concrete panels on the ground floor; employing dark coloured concrete panels on the 1st and 2nd floor; using a series of opaque fixed windows arranged vertically to segment these panels; and a light coloured upper level in compressed metal sheets. The effect of using a range of such materials and the manner of their arrangement, is such that adequate vertical relief is provided. Therefore, sufficient innovative design has been employed to achieve this objective.

To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.

Comment: The east elevation of the building will be visually prominent from Cook Street, despite it being a side boundary. Notwithstanding, the building has been designed on this elevation to mitigate its visual impact when viewed from this public domain. As such, it will not result in an adverse visual impact, in the context of the surrounding industrial area to the east, west and north and the high-intensity retail and services land uses to the south.

In summary, proposal has achieved the objectives of the control and the strict application of the Requirements are not necessary.

D23 Signs

The application proposes three (3) forms of signage, consisting of the following:

Sign	Requirement	Width	Height	M ²	Complies
1 x Pole or pylon sign (erected on a pole or pylon independent of any building or other structure)	Shall not be less than 2.6 metres above ground level; Shall not exceed 6 metres in height above the existing natural ground level; Must have a maximum area of no more than 4sqm on any single face; Shall not project beyond the boundary of the premises; and No more than one pole/pylon sign per site is permitted.		1m	14m ²	No
			9m		No
					No
					Yes
					Yes
2 x Wall sign (painted onto a wall of a building or attached to the wall of a building, not being a sign elsewhere listed in this table) on south and east elevation	Shall not extend within 200mm of the top and sides of the wall. Shall not cover any window or architectural projections; Must be of a size and shape that relates to the architectural design of the building to which it is attached; Where illuminated, shall not be less than 2.7 metres above the existing natural ground level ground; and Shall not project more than 300mm from the wall.	6m		18m ²	Yes
			11m		Yes
					Yes
			11m		No
					Yes

Description of Non-Compliances

The signage will have the following non-compliances:

Pole sign: Exceeds the maximum 6m height (9m) and 2.6m minimum height (1m); exceeds the maximum 4m² (14m²)

Wall sign: Illuminated (where higher than 2.7m above natural ground level)

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To encourage well designed and suitably located signs that allow for the identification of a land use, business or activity to which the sign relates.*

Comment: The proposed pylon sign has a scale that is appropriate for the proposed building and is consistent in scale to the context of the surrounding area, which is an industrial area bordering a high-intensity retail and commercial land use (Warringah Mall). Despite the non-compliance with the numerical requirements, the proposed pole sign is consistent with this objective. The illumination of the wall sign above the height limit is also appropriate in this context.

- *To achieve well designed and coordinated signage that uses high quality materials.*

Comment: The proposed signs utilize a built form, style and materials that present as a coherent theme for the land use on the site. The proposed signs are hence consistent with this objective.

- *To ensure that signs do not result in an adverse visual impact on the streetscape or the surrounding locality.*

Comment: As stated previously, the surrounding context is predominantly industrial and high-intensity retail. Hence the scale, style and illumination is consistent with other signage in this area and the nature of the surrounding locality. The proposed signage is hence consistent with this objective

- *To ensure the provision of signs does not adversely impact on the amenity of residential properties.*

Comment: The nearest residential areas are approximately 350m to the east, 230m to the north and 630m to the west. Hence, the proposed signage and its illumination will not have an adverse impact on adjoining residential properties.

- *To protect open space areas and heritage items or conservation areas from the adverse impacts of inappropriate signage.*

Comment: There are no open space area or heritage items in close or visual proximity to the site.

An assessment of the application has also found the development to be consistent with the requirements of *State Environmental Planning Policy No. 64 - Advertising and Signage*.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 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 2019

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

A monetary contribution of \$80,720 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$8,072,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah 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 Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings 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 vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 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 DA2020/0433 for Construction of building for use as a storage premises on land at Lot 2 DP 543012, 4 Cross Street, BROOKVALE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
1915 DA01	October 2019	Harding Architects
1915 DA200 Revision C	October 2019	Harding Architects
1915 DA201 Revision A	October 2019	Harding Architects
1915 DA202 Revision A	October 2019	Harding Architects
1915 DA203 Revision B	10 August 2020	Harding Architects
1915 DA204 Revision C	10 August 2020	Harding Architects
1915 DA300 Revision B1	10 August 2020	Harding Architects
1915 DA301 Revision C	7 September 2020	Harding Architects
1915 DA302 Revision B	10 August 2020	Harding Architects
1915 DA303 Revision A	October 2019	Harding Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
20192073 Revision C	6 April 2020	Tonkin

Reports / Documentation – All recommendations and requirements contained within:		
Report Title / No.	Dated	Prepared By
BCA Assessment Report 200054 Revision 2	16 April 2020	Concise Certification
Geotechnical Investigation 32885Srpt	22 January 2020	JK Geotechnical
Flood Management Report	20 March 2020	Tonkin

20192073R002RevA		
Detailed (Stage 2) Site Investigation E32885PArpt2	14 August 2020	JK Environments

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
000 Issue C	7 April 2020	Site Image
101 Issue C	7 April 2020	Site Image
501 Issue C	7 April 2020	Site Image

Waste Management Plan		
Report / Drawing No.	Dated	Prepared By
20NL025 - WMP2	26 March 2020	Loka Consulting Engineers

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

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

2. 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.

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) 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 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

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$80,720.00 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 \$8,072,000.00.

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.

5. **Security Bond**

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

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

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

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

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

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

The applicant is to lodge a Bond of \$10000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

7. **Construction, Excavation and Associated Works (Security Bond -Councils Road and Drainage assets)**

A bond of \$40000 as security against damage to Council's roads fronting the site and Councils 825mm stormwater line which runs adjacent to the eastern side boundary caused by the construction works.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

8. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development is disposed of to an existing approved system or in accordance with Northern Beaches Council's **WARRINGAH WATER MANAGEMENT POLICY PL850**, Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows and compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the Stormwater Management Plan prepared by Tonkin dated April 2020 and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment

10. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

11. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. 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 facilitate suitable vehicular access to private property.

12. **Acid Sulfate Soils Management Plan (ASSMP)**

An Acid Sulfate Soils Management Plan (ASSMP) is to be prepared by suitably qualified and experienced persons to manage the potential disturbance of Potential Acid Sulfate Soils (PASS) during works.

The Acid Sulfate Soils Management Plan (ASSMP) is to be submitted to the satisfaction of the Principal Certifying Authority and Councils Environmental Health Team.

Reason: To ensure management of potential acid sulfate soils.

13. **Flooding**

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

Building Components and Structural Soundness – C1

All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the relevant Flood Planning Level, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the relevant Flood Planning Level. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed cut electricity supply during flood events.

Flood Emergency Response – E2

Appropriate access to the shelter in place refuge (above the Probable Maximum Flood level of 13.8m AHD) should be available from all areas of the new development.

Floor Levels – F1

New floor levels (excluding car parking and driveways) within the development shall be set at or above the relevant Flood Planning Level

Recommendations

The development must comply with all recommendations outlined in Section 3.5 of:

- The Flood Management Report prepared by Tonkin Consulting Pty Ltd dated 20 March 2020

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.

14. **Pre-Construction Stormwater Assets Dilapidation Report- Councils 825mm Stormwater line**

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's 825mm Stormwater line that is located adjacent to the eastern boundary within the adjoining site. The survey is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at: <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The pre-construction / demolition dilapidation report must be submitted to Council for review prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

15. **Pre-commencement Dilapidation Report**

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The pre-construction / demolition dilapidation report must be submitted to Council prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

16. **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.

17. **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.

18. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and

submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:-

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- Make provision for parking 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 traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum 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; and

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

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

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP 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(DACTRCPC1).

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

19. Pre-Construction Dilapidation Report

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

- Lot 100 DP 817162 (No.2) Cross Street, Brookvale;
- Lot 30 DP 200041 (No.6) Cross Street, Brookvale;
- Lot 28 DP 204107 (No.10) Cross Street, Brookvale;
- Lot 27 DP 204107 (No.12) Cross Street, Brookvale;

- Lot 26 DP 204107 (No.14) Cross Street, Brookvale;
- Lot CP SP 39226 (No.20-22) Cross Street, Brookvale;

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority 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 Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Any properties in the same ownership as the person/s or entities who are the owners of the land subject to this consent will not require reports.

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 Certifying Authority prior to the commencement of any works on site.

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

20. **Tree trunk, branch and root protection**

- (a) Existing trees which must be retained
 - i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
 - ii) Trees located on adjoining land
 - iii) All street trees
- (b) Tree protection
 - i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
 - ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.
 - iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
 - iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
 - v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. **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.

22. 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.

23. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site 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.

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

24. 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 Roads 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.

25. Vehicle Crossings

The Applicant is to construct **one** vehicle crossing **8.2** metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ **Normal** and the driveway levels application approval. 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 Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

26. 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 and in accordance with the Water Management for Development Policy.

27. **Waste Management During Development**

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

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

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

28. **Requirement to Notify about New Contamination Evidence**

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

Reason: To protect human health and the environment.

29. **Acid Sulphate Soils**

All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soils Management Plan.

Reason: To ensure management of potential acid sulfate soils.

30. **Installation and Maintenance of Sediment Control**

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

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

31. **Dewatering Management**

Council proactively regulates construction sites for sediment management.

Where a one-off instance of dewatering of groundwater or tailwater is required during works, Council's Catchment Team must be notified of your intention to discharge. Discharges should meet the water quality requirements below. Notification must be via the Team's email address - catchment@northernbeaches.nsw.gov.au.

If continuous dewatering or dewatering on multiple events is expected, a dewatering permit is required from Council's Catchment Team at catchment@northernbeaches.nsw.gov.au.

To obtain a permit, the following information must be contained in a dewatering management plan and provided to Council's Catchment Team. The dewatering management plan must be

certified by a suitably qualified civil engineer who has membership of Engineers Australia and appears on the National Engineering Register (NER). Council will issue a permit based on the plan and general terms of approval from WaterNSW, and a dewatering permit provided by WaterNSW prior to dewatering commencing.

1. Preliminary testing of groundwater/tailwater must be conducted by a NATA accredited laboratory to establish a correlation between NTU and TSS. This will allow the use of grab sampling at short notice prior to planned discharges.
2. Grab samples from at least three locations must be collected within 1 hour of discharge that comply with the parameters in the table below.
3. The groundwater/tailwater to be discharged must be compliant with the water quality requirements below, 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

4. All records of approvals, water discharges and monitoring results are to be documented and kept on site. Records must include a diagram showing testing locations, and photos of the water to be discharged at the time of testing. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

5. 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. Where there is no stormwater pit within 100 metres of the site, Council's Catchment Team must be contacted to discuss alternative arrangements.

On receipt of a satisfactory dewatering management plan, Council's Catchment Team will issue a permit that will allow dewatering for up to one year.

Reason: Protection of the receiving environment

32. **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 prepared by Tonkin dated March 2020 prior to commencement of any other works on site.

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

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

Reason: Protection of the receiving environment

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

33. Landscape completion certification

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

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

34. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with Councils Water Management Policy and the approved stormwater drainage plans and all relevant Australian Standards and Codes by a RPENG or NER registered Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

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

35. Certification for the Installation of Stormwater Treatment Measures

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by Tonkin April 2020. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment.

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

Reason: Protection of the receiving environment

36. 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.

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

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

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

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

Additionally for vegetated devices:

 - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure
3. Maintenance schedule and procedure - ongoing
 - a) Activity description, and duration and frequency of visits
 - b) Routine maintenance requirements
 - c) Work Health and Safety requirements
 - d) Waste management and disposal
 - e) Traffic control (if required)
 - f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
 - g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

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

Reason: Protection of the receiving environment.

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

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

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

Reason: Protection of the receiving environment

39. **Required Planting**

Trees, shrubs and groundcovers shall be planted in accordance with the Landscape Plans Dwg Nos. 000 C and 101 C dated 07.04.2020 prepared by Site Image:

Reason: To maintain environmental amenity.

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

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

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

Reason: To ensure bushland management. (DACPLF01)

41. **Undergrounding of Telecommunications Services**

Arrangements are to be made for the provision of underground telecommunications services to the building.

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

Reason: Provision of telecommunication facilities in a manner that facilitates the future underground provision of cable services and minimises visual impact on the adjoining streetscape. (DACPLF06)

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

42. **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.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

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

43. **Landscape maintenance**

i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched,

watered and fertilized as required at the time of planting.

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

Reason: To maintain local environmental amenity.

44. **Visitors Sign**

A sign, legible from the street, and attached to the building shall be permanently displayed to indicate that parking is available on site and only for the use of customers. The parking spaces shall also be clearly marked as such.

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

Reason: To ensure that visitors are aware that parking is available on site and to identify those spaces to visitors.

45. **Hours of Operation**

The hours of operation are to be restricted to 8.00am to 6.00pm, seven (7) days a week.

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

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

46. **Loading and Unloading**

All loading and unloading of vehicles and the delivery of goods must be carried out wholly within the site.

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)