

# AGENDA

## DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held in the Walamai Room, Civic Centre, Dee Why

**WEDNESDAY 25 SEPTEMBER 2019**



**Ashleigh Sherry**  
**Manager Business Systems and Administration**



**Agenda for a Meeting of the Development Determination Panel  
to be held on Wednesday 25 September 2019  
in the Walamai Room, Civic Centre, Dee Why**

|            |  |          |
|------------|--|----------|
| <b>1.0</b> | <b>APOLOGIES &amp; DECLARATIONS OF INTEREST</b>  |          |
| <b>2.0</b> | <b>MINUTES OF PREVIOUS MEETING</b>   |          |
| 2.1        | Minutes of Development Determination Panel held 11 September 2019  |          |
| <b>3.0</b> | <b>DEVELOPMENT DETERMINATION PANEL REPORTS .....</b>   | <b>5</b> |
| 3.1        | DA2019/0108 - 11-13 Cook Street, Freshwater - Demolition and Construction<br>of Self Storage Units ..... | 5        |

## **2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

### **2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 11 SEPTEMBER 2019**

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#### **RECOMMENDATION**

That the Panel note that the Minutes of the Development Determination Panel held 11 September 2019 were approved by all Panel Members and have been posted on Council's website.

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### 3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

|                   |  |
|-------------------|--|
| ITEM 3.1          | DA2019/0108 - 11-13 COOK STREET, FRESHWATER -<br>DEMOLITION AND CONSTRUCTION OF SELF STORAGE UNITS |
| REPORTING MANAGER | Anna Williams  |
| TRIM FILE REF     | 2019/530798  |
| ATTACHMENTS       | 1 Assessment Report<br>2 Site Plan & Elevations<br>3 Clause 4.6                                    |

#### PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

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#### RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approve** Development Consent to DA2019/0108 for Demolition and Construction of Self Storage Units on land at Lot 100 DP 615225, 11-13 Cook Street, Forestville, subject to the conditions outlined in the Assessment Report.

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## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|   |  |
|---|--|
| <b>Application Number:</b>                | DA2019/0108  |
| <b>Responsible Officer:</b>               | Nick England   |
| <b>Land to be developed (Address):</b>    | Lot 100 DP 615225, 11 - 13 Cook Street FORESTVILLE NSW 2087  |
| <b>Proposed Development:</b>              | Demolition and Construction of Self Storage Units  |
| <b>Zoning:</b>                            | Warringah LEP2011 - Land zoned IN2 Light Industrial<br>WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011 |
| <b>Development Permissible:</b>           | Yes  |
| <b>Existing Use Rights:</b>               | No   |
| <b>Consent Authority:</b>                 | Northern Beaches Council   |
| <b>Delegation Level:</b>                  | DDP  |
| <b>Land and Environment Court Action:</b> | No   |
| <b>Owner:</b>                             | Eaton & Sons Pty Ltd   |
| <b>Applicant:</b>                         | Boston Blyth Fleming Pty Ltd   |
| <b>Application lodged:</b>                | 08/02/2019   |
| <b>Integrated Development:</b>            | No   |
| <b>Designated Development:</b>            | No   |
| <b>State Reporting Category:</b>          | Industrial   |
| <b>Notified:</b>                          | 05/03/2019 to 21/03/2019   |
| <b>Advertised:</b>                        | Not Advertised   |
| <b>Submissions Received:</b>              | 8  |
| <b>Clause 4.6 Variation:</b>              | 4.3 Height of buildings: 9%  |
| <b>Recommendation:</b>                    | Approval   |
| <b>Estimated Cost of Works:</b>           | \$ 8,200,000.00  |

### Executive Summary

This application is for the demolition of existing structures and construction of self storage units. The proposal does not comply with the Height of Buildings development standard in WLEP 2011 and Number of Storeys control of WDCP 2011. A total of six (6) objections were received raising issues with: visual impact; privacy, streetscape, overshadowing, noise impact, fire hazard, parking and tree removal. The number of objections together with the cost of works triggers the delegations for determination by the DDP.

A condition of consent restricting hours of operations has now satisfied the concerns of the

Environmental Health officer. Amended plans / information has now satisfied the previous concerns of the Development Engineers. The amendments made to the plans, in relation to: increasing the setback of the north-west corner of the building from Cook Street; providing a further setback and landscaping from the northern boundary; and conditions relating to signage and building colour are considered to address the various issues raised in the submissions.

In summary, the proposal has demonstrated consistency with the adjoining streetscape and makes an adequate response to the character and amenity of the adjoining residential properties to the south, east and north of the site. It is recommended that the application be approved subject to conditions attached to this report.

### **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 - B2 Number of Storeys  
 Warringah Development Control Plan - B5 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 - D6 Access to Sunlight  
 Warringah Development Control Plan - D23 Signs

### **SITE DESCRIPTION**

|                                   |  |
|-----------------------------------|--|
| <b>Property Description:</b>      | Lot 100 DP 615225 , 11 - 13 Cook Street FORESTVILLE<br>NSW 2087  |
| <b>Detailed Site Description:</b> | <p>The subject site consists of two (2) allotments located on the eastern side of Cook Street, Forestville.</p> <p>The site is irregular in shape with a surveyed area of 11,230m<sup>2</sup>.</p> |

The site is located within the IN2 Light Industrial zone of Warringah Local Environmental Plan 2011 and accommodates a hardware store (Mitre 10) and timber yard, within numerous buildings (approximately 10) around the site. A telecommunications tower, approximately 22m in height, is located adjacent the existing office building.

The site is generally flat with the aspect of the topography generally being to the south-east.

Vegetation on the site consists of numerous shrubs and trees of varying maturity on its south, east and north boundaries.

The site has two (2) vehicular access points from Cook Street.

Given the site's unusual shape and location, adjoining and surrounding development is characterised by a range of land uses and zones. The west and north-west of the site is the IN2 Light Industrial zone, which contains a range of land uses including: motor vehicle repair, warehouses and service stations. On the eastern boundaries of the site is the Forestville Catholic Church and associated primary school. Residential dwellings and zones adjoin the southern, eastern and northern boundaries, by properties from Currie Road, View Street and Landscape Avenue

Map:



## SITE HISTORY

The land has been used for commercial purposes for an extended period of time. A search of Council's



records has revealed the following relevant history:

74/182: Land use consent issued by Council on 22 October 1974 to "Erect free standing mast 80' in height" on the land, adjacent the existing hardware and timber yard. The mast supports an existing telecommunications tower, which is proposed to be demolished under this application.

1073/81: Consent granted for the "Erection of Timber Yard/Factory/Offices & Hardware Retail" on 7 February 1984. This consent related to significant alterations and additions to the existing hardware and timber yards and reflects the current layout of development on the site. A total of fifty (50) car spaces were provided for the land uses on the site, with approximately thirty-two spaces (32) being set aside for the use of the hardware store.

### PROPOSED DEVELOPMENT IN DETAIL

The application consists of the demolition of existing structures on the site and the erection of a new building for the purposes of a storage premises.

In detail, the proposal involves:

- demolition of nine (9) existing structures on the land, including telecommunications tower;
- remove 23 trees (including 6 exempt trees);
- a three-storey building with a total floor area of 7,637m<sup>2</sup> for a self-storage facility;
- 153m<sup>2</sup> of ancillary office space at the 1<sup>st</sup> floor;
- 80m<sup>2</sup> of ancillary retail at ground floor;
- eleven (11) car spaces;
- modified vehicular access to Cook Street; and
- landscaping scheme on all boundaries.

Hours of operation are proposed at 7.00am to 10.00pm, seven (day) a week.

No specific signage is proposed as part of this application.

A separate application to subdivide the land into two (2) allotments has been lodged with Council (DA2019/0148). This will separate the proposed storage premise from the existing hardware store.

After initial assessment, Council forwarded correspondence to the applicant (26 June 2019 and 4 July 2019) advising non-support of the application based on the following issues:

- non-compliance with Building Height (estimated at 10.3m on north-west corner);
- non-compliance with Front Setback (estimated at 4m from front boundary);
- unclear shadow diagrams;
- insufficient side setback from side (north) boundary;
- excessive signage; and

The application has been amended a number of times since lodgement, with the current design being lodged with Council on 7 August 2019.

### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration'   | Comments  |
|---|---|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument   | See discussion on "Environmental Planning Instruments" in this report.  |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument                                      | None applicable.  |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan  | Warringah Development Control Plan 2011 applies to this proposal.   |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement   | None applicable.  |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p>Division 8A of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>Clause 50(1A) of the EP&amp;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.</p> <p>Clauses 54 and 109 of the EP&amp;A Regulation 2000 permits Council to request additional information. However, no formal request for additional information was made.</p> <p>Clause 92 of the EP&amp;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.</p> <p>Clauses 93 and/or 94 of the EP&amp;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.</p> <p>Clause 98 of the EP&amp;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.</p> <p>Clause 98 of the EP&amp;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.</p> <p>Clause 143A of the EP&amp;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.</p> |
| Section 4.15 (1) (b) – the likely impacts of  | (i) <b>Environmental Impact</b>   |

| Section 4.15 Matters for Consideration'   | Comments  |
|---|---|
| the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>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.</p> <p><b>(ii) Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development  | The site is considered suitable for the proposed development.   |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs  | See discussion on “Notification & Submissions Received” in this report.   |
| Section 4.15 (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

As the land is located in Bushfire Prone land, a Bush Fire Risk Assessment Report has been provided with the application, prepared by Australian Bushfire Consulting Services. As part of this assessment, a Certificate to satisfy Section 4.14 (Consultation and development consent—certain bush fire prone land) has also been provided. This documentation demonstrates that the application is consistent with the relevant legislative requirements for bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 8 submission/s from:

| Name:                      | Address:                              |
|----------------------------|---------------------------------------|
| Mr Edward Emirzian         | 7 Currie Road FORESTVILLE NSW 2087    |
| Mr Tai Samuel Lyall Irwin  | 5 Kamber Road TERREY HILLS NSW 2084   |
| Mrs Jennifer Shui Oi Seeto | 100 Cook Street FORESTVILLE NSW 2087  |
| Mr Lawrence Git Yen Seeto  | 14 Cook Street FORESTVILLE NSW 2087   |
| Mrs Kate Seeto             | 19 A Cook Street FORESTVILLE NSW 2087 |

| Name:                  | Address:                            |
|------------------------|-------------------------------------|
| Ms Mette Irwin         | 5 Kamber Road TERREY HILLS NSW 2084 |
| Mr Zhi Jian Zhu        | 66 Delmar Parade DEE WHY NSW 2099   |
| Mr Jared Kwok Hang Yan | 17 Cook Street FORESTVILLE NSW 2087 |

A total of six (6) submissions were received in regard to the proposed development during the notification period. These issues are summarised and addressed below:

- *The proposal will result in an adverse impact on the privacy of the adjoining residence at No.7 Currie Road.*

Comment: The facade of the north elevation has no openings and given that the proposed land use is for a storage premises, the building will generally have a low level of intensity, in respect to the number of employees, visitors, vehicular movements and the types of activity contained within. Hence, there is unlikely to be any adverse impact on the acoustic or visual privacy of this adjoining dwelling and this is not a valid reason to refuse the application.

- *The removal of the trees on the site will result in a loss of amenity to the adjoining residence at No.7 Currie Road.*

Comment: Whilst the mature trees adjoining the furthest northern boundary of the site will be removed as part of the proposal, a significant landscaped area of 3m is proposed adjoining this boundary, which will be planted with adequate trees species that will achieve a mature height of 8m. The replacement trees will provide a significant amenity that is adequate under the circumstances.

- *The north elevation of the development should be left plain and not have a corporate colour scheme. This will have an adverse impact on the private open space of the adjoining dwelling at No.7 Currie Road.*

Comment: As stated previously, there will be a significant landscaping scheme on the northern boundary to mitigate the visual impact of the northern elevation when viewed from this property. However it is acknowledged that the portion of the northern elevation adjoining the Currie Road residential dwellings has a overly "corporate" look, through the use of the yellow panel and corporate . Hence, a condition of consent is recommended that the colour scheme on this portion of the building be amended to reflect a palette of colours more consistent with the adjoining landscaping scheme.

- *The proposed building will cause adverse overshadowing to the adjoining properties at No.15A and No.17 Cook Street.*

Comment: The shadow diagrams provided with the application clearly demonstrate that the level of overshadowing cast by the proposed development will not have an adverse impact on the private open space of the adjoining properties of Nos.15A and 17 Cook Street. The solar access requirements of WDCP 2011 will be achieved.

- *The proposal will have an adverse impact on the visual privacy of the adjoining dwelling at No.17 Cook Street.*

Comment: The proposed building will be setback at a distance of approximately 39m from the adjoining property at No.17 Cook Street. This distance is more than adequate to ensure that there will be no adverse impact on the visual privacy of this dwelling.

- *The proposal should comply with the Height of Buildings development standard of Warringah Local Environmental Plan 2011.*

Comment: A detailed consideration of the non-compliance of the proposal with the Height of Buildings development standard is provided elsewhere in this report. In summary, the proposed non-compliance has demonstrated consistency with the objectives of the control and the zone objectives. Hence, there are sufficient planning grounds to warrant the variation to the Height of Buildings development standard of WLEP 2011.

- *The proposed development should comply with the two-storey height limit specified in WDCP 2011.*

Comment: A detailed assessment of the variation to the Number of Storeys development control is provided elsewhere in this report. In summary, the development has demonstrated consistency with the objectives of this development control and refusal of the application for this reason is not warranted.

- *The proposed development is not consistent with the character of the adjoining area.*

Comment: The primary challenge of the site is to balance the industrial zoning of the land with the adjoining residential zones to the north, east and south of the site. The design of the proposal has achieved this balance through the use of adequate landscaped setbacks on the west and south boundaries and a varied and interesting contemporary design that reduces the visual impact of the building. Hence, the development has provided an adequate response to the existing character of the area.

- *The demolition of the timber storage area is likely to result in more timber being stored on the eastern portion of the site which will result in an increased fire hazard.*

Comment: This is not an outcome of the proposed development that can be reliably predicted. The land is bushfire prone and reports from a qualified expert (provided with the application) have been provided to demonstrate that no unreasonable risk will be generated by the proposed development in this regard.

- *The proposed development will create adverse stormwater affects on adjoining properties.*

Comment: Council's Development Engineer has advised that the proposal will provide sufficient measures for the management of stormwater.

- *The proposed hours of operation will have an adverse impact on adjoining residential properties.*

Comment: The original application proposed 24 hour operation, 7 days a week. After advice



from Council's Environmental Health officer, a condition of consent is recommended to ensure that the following hours of operation are proposed: 7am to 10pm Monday to Saturday and 8am to 8pm Sundays and Public Holidays. These hours of operation are considered reasonable in the context of the existing industrial area and are unlikely to have an adverse impact on the amenity of adjoining residences.

- *The shadow diagrams provided with the application are inaccurate.*

Comment: The amended shadow diagrams provided with the application have been assessed as being a correct and true representation of the shadow cast by the proposed development.

- *The signage proposed with the application is visually dominant given its size and location and should not be approved.*

Comment: The original application proposed a number of specific business identification signs, which were considered excessive. The amended plans now only show these in generic locations on the building. A condition of consent is recommended to ensure that no signage is approved as part of this consent. Hence this issue is not relevant in the assessment of this application.

- *The nil setback proposed on part of the northern boundary adjoining No.5 & 7 Cook Street is inappropriate and will result in adverse visual impact and loss of solar access and ventilation.*

Comment: Part of the northern and eastern boundary abuts the industrial building at No.5 & 7 Cook Street. The application has been amended since lodgement to setback the north-western corner of the building back a further 3m. This has the effect of reducing the visual impact. The impact on ventilation is difficult to quantify - given that the adjoining property is within an industrial zone, this is not considered a relevant amenity matter for the occupants of any adjoining building. Whilst there will be some overshadowing of this property in morning periods, from the noon period there will be no additional overshadowing. In summary, the likely impacts on this property are not adverse to the extent that would warrant refusal of the application.

- *The building may not achieve minimum floor to ceiling heights or standards for floor slabs, which and will result in the building being pushed higher than it is proposed.*

Comment: In the event that the application is approved, the building can only be constructed to those levels shown on the approved plans. To increase the height of the building would require further consent. And it cannot be assumed that any request to increase the height of the building to meet other technical standards would be supported, for that reason alone.

- *The proposal will generate security risks.*

Comment: The proposal has been designed in a manner that provides a reasonable level of safety and security for occupants and employees. Any ongoing security issue once the building is completed is an operational matter that is beyond the reach of this assessment. This remains the responsibility of the buildings owners / managers and or the police.

- *Adequate parking for the existing hardware store needs to be provided.*

Comment: Documentation provided by traffic experts have been provided with the application, which outlines the parking provided for the proposal land use and the existing hardware store. This has been favourably reviewed by Council's Traffic Engineer. Hence, sufficient parking is provided to service the proposed land use and the existing land use on the subject land.

- *Clarification is required on whether the jacaranda tree on the south-west corner of the site will be maintained.*

Comment: The jacaranda tree is proposed to be removed for the revised driveway. Council's Landscape Officer has supported the proposal and the removal of this tree.

- *Clarification is required on whether the telecommunications tower on the site will be retained.*

Comment: The application proposes to demolish the telecommunications tower on the site and not re-locate it to any other part of the land.

- *Clarification is required on whether the building or signage will be illuminated.*

Comment: No illumination is proposed. Hence this is not a relevant matter for assessment.

## REFERRALS

| Internal Referral Body                             | Comments   |
|--|--|
| Building Assessment - Fire and Disability upgrades | <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</i></p>   |
| Environmental Health (Industrial)                  | <p>New information to hand 9.4.2019 to EH</p> <p>Applicant is agreeable to hours to 10pm in line with acoustic measures in the assessment. The on-line submissions correctly identify the lack of any buffer zones between the industrial site and affected residents.</p> <p>One has to acknowledge the historic nature of the industrial site and foreseeable residential development, and buying/ owning a residential property nearby would expect some impact. Likewise residential receivers should be entitled to reasonable enjoyment (especially sleeping).</p> |

| Internal Referral Body         | Comments  |
|--------------------------------|---|
|                                | <p>Accordingly it is appropriate that compromises be made.</p> <p>The applicant has agreed to amend proposed operating hours to 10pm from 24/7. This is in line with the current acoustic assessment, however this is a theoretical forecast only and not actual noise as a result of unforeseen issues eg reflection from hard surfaces, talking/yelling, motor vehicle type made lead to "offensive noise".</p> <p>The professional assessment is confident of compliance.</p> <p>In the "The Noise Policy for Industry NSW EPA, 2017" night time assessment comment from 10pm.</p> <p>The current operation it appears is :</p> <p>Mon-Fri 6.30am-5.30pm, Saturday 7.30am-4pm, Sun 9.00am-3pm and public holidays 9am-2pm</p> <p>The proposed increase is considerable; however if compliance can be obtained this should not be an issue.</p> <p>Traditionally Sundays are seen as "rest days" and operations to 10pm are considered a greater disturbance risk to residents.</p> <p>On this basis Environmental Health recommend (among other conditions) :<br/>Operating Hours being:<br/>7am to 10pm Monday to Saturday and 8am to 8pm Sundays and Public Holidays.</p> <p><b>Final Recommendation</b></p> <p>APPROVAL subject to conditions</p> |
| Landscape Officer              | <p>The Arborists Report and Landscape Plan submitted with the application are noted. The Landscape Plan provides for replacement planting of trees to be removed to accommodate the proposed works. The trees to be removed are not considered significant in the context of the site.</p> <p>No objections to approval subject to conditions as recommended.</p>   |
| NECC (Development Engineering) | <p>Council's Development Engineer have commented on the proposal twice, with the first comments being:</p> <p><i>"Service Conflicts:</i></p> <p><i>The application does not address conflicts between the proposed development and the existing telecommunications tower and facility. There are existing easements across the site for access and services. Concurrence is required from all parties benefiting the easement. Please consider in Planning assessment.</i></p> <p><i>Stormwater:</i></p> <p><i>Insufficient information has been provided with regard to the proposed extension of Council stormwater infrastructure. In accordance with Council's Building Over and Adjacent to Constructed Council Drainage Systems and Easements Technical Specification, full hydrological and hydraulic details shall be provided and the design requirements are detailed in Section 4, including HGL analysis.</i></p>   |



| Internal Referral Body                      | Comments   |
|---|--|
|   | <p><i>The proposed application cannot be supported by Development Engineering due to lack information to address:</i></p> <ul style="list-style-type: none"> <li><i>Conflicts between the development and existing easements for access and service</i></li> <li><i>Council's stormwater pipeline extension for the development in accordance with clause C6 Building Over or Adjacent to Constructed Council Drainage Easement.</i></li> </ul> <p>The second comments advised:</p> <p><i>"Development engineering comments 12/9/19</i></p> <p><i>The proposed drainage concept plan details site stormwater discharge via a newly constructed drainage line in Cook street to a RMS Pit (Cnr Cook and Warringah Road ). proposal is not supported as it will result in stormwater discharge from the site being introduced into another catchment resulting in increased downstream flooding.</i></p> <p><i>The site stormwater discharge is to be via a new pit and pipe system within Cook street connect into the exiting gully pit at the corner of Cook and View Street . The stormwater will then be drained to the correct catchment. This requirement will be conditioned and require a separate section 138 Roads Act approval to Council for the work.</i></p> <p><i>No objections to the storage facility proposal subject to conditions."</i></p> |
| Strategic and Place Planning (Urban Design) | <p><b>CURRENT COMMENTS PROVIDED 30/7/2019</b></p> <p>Council's Urban Designer has provided commentary (see Doc No.2019/529509) on a revised design that is setback 3m from the northern boundary with an uninterrupted landscaped buffer. No objection is raised to this design.</p> <p><b>COMMENTS PROVIDED 4/07/2019</b></p> <p>Upon review of the setbacks to both the north and the east boundaries please find follow comments.</p> <ol style="list-style-type: none"> <li>1. Eastern Boundary adjacent to the neighbouring church/education facility has been reviewed and assessed as satisfactory.</li> <li>2. Northern boundary adjacent to an R2 residential zone presents more of an issue to the neighbouring properties given the scale, bulk and height of the proposed storage warehouse. A minimum 4.5 metre setback will be required to provide some relief to this elevation with a landscaped planting buffer a minimum of 3 metres and the 1.2 metres allowed for the egress path required. Refer Condition prior to issue of Construction Certificate.</li> </ol> <p><b>PREVIOUS COMMENTS</b></p> <p>The proposal in its current form cannot be supported for the following reasons:</p> <p><b>1. WLEP 2011</b></p>   |

| Internal Referral Body | Comments  |
|------------------------|---|
|                        | <p>1. <i>The objectives of the WLEP 2011 building height development standard are set out below:</i></p> <ul style="list-style-type: none"> <li><i>a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,</i></li> <li><i>b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,</i></li> <li><i>c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,</i></li> <li><i>d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.</i></li> </ul> <p><b>Height of Building</b></p> <p>The proposal exceeds the 9m building height by up less than a metre. In the context of the locality and IN1 Light Industrial area the height breach can be supported. However, of interest is the pitch annotated on the roof at 1.5 degrees. The applicant needs to demonstrate that an increased roof pitch as determined by selection of roof sheeting material can be achieved without further breaches of the height control.</p> <p><b>2. WDCP 2011</b></p> <p><b>Rear Setback</b></p> <p>It is noted that the rear boundary abuts an education facility. Views from the education facility will have direct line of sight from their external play area.</p> <p>The proposed setback to the rear of the site at 2 metres which includes an egress path approximately 1200 mm wide within a 2000mm setback (measured off the drawings) is insufficient to allow for any meaningful growth of trees or landscaping buffer (800mm) to soften the monolithic nature (assuming precast in the materiality) of the façade facing the adjacent education facility with large tree canopy.</p> <p>The setback at this boundary should allow for the path (1200mm if required) plus an additional 3 metres for substantial planting bringing the overall dimension to 4.2m at a minimum, in order to soften and mediate the immediacy of the development and extensive façade to the education facility and the surrounding suburb.</p> <p>The nature of the facility is such that it is a large volume of building bulk with no break in built form in this area, no real articulation or modulation of the façade facing the facility a monotonous materiality to this elevation.</p> <p>Whilst the other elevations address the articulation through a robust and colourful presentation in the materials the lack of considered address to the school facility in the predominant blank wall presents no consideration for the occupants of this facility. Treatments that incorporate a dialogue with the education facility by way of specific and meaningful interaction/ façade treatment or visual interest will be required.</p> <p>For these reasons the application in its current form cannot be supported.</p> <p>END COMMENTS</p> |
| Traffic Engineer       | <p>The proposal is for a Self Storage Facility.</p> <p><b>Traffic:</b></p> <p>The site is anticipated to produce sum 30 vehicles in the peak hour (two-way). That equates to 1 vehicle every 2 minutes moving to/from the site. This is deemed negligible on the local road network.</p>  |

| Internal Referral Body | Comments  |
|------------------------|---|
|                        | <p>network.</p> <p><b>Parking:</b><br/>Numbers are deemed adequate based on assessment of similar sites.</p> <p><b>Car Park:</b><br/>The layout is generally in compliance with AS2890.1:2004.</p> <p><b>Pedestrian:</b><br/>The low speed car park environment is deemed adequate for pedestrians.</p> <p><b>Servicing:</b><br/>The site is designed to cater for large trucks. All waste services will be undertaken by a contract provider. The applicant will be required to ensure the contractor can adequately service the site.</p> |

| External Referral Body | Comments   |
|------------------------|--|
| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. |

#### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\***

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

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

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

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

##### **SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the proposed commercial land use.

##### **SEPP 64 - Advertising and Signage**

The amended plans make generic references to signage, however no specific detail has been provided. Hence, no signage is proposed as part of this application and no further assessment is required.

However, a condition of consent is recommended to ensure that no permission is granted for any signage on the approved building, without further consent.

### **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

| Standard             | Requirement | Proposed   | % Variation | Complies |
|----------------------|-------------|------------|-------------|----------|
| Height of Buildings: | 9m          | 6.7 - 9.8m | 9           | No       |

#### Compliance Assessment

| Clause                                  | Compliance with Requirements              |
|---|---|
| 2.7 Demolition requires consent         | Yes                                       |
| 4.3 Height of buildings                 | No<br>(see detail under Clause 4.6 below) |
| 4.6 Exceptions to development standards | Yes                                       |
| 5.3 Development near zone boundaries    | Yes                                       |

| Clause                          | Compliance with Requirements |
|---------------------------------|------------------------------|
| 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:                         | 9m                  |
| Proposed:                            | 9.8m                |
| Percentage variation to requirement: | 9%                  |

##### 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:

- the building heights proposed are compatible with the heights established by development along both Warringah Road and Cook Street;
- the building and design are entirely appropriate for this large site as it reinforces the building as a strong, robust and defining element within the street block;
- most observers would not find the proposed development by virtue of its height offensive, jarring or unsympathetic in a streetscape and urban context;
- the non-compliant height components will not give rise to any visual, view, privacy or solar access impacts with appropriate spatial separation maintained to adjoining properties; and
- the non-compliance will not be visually prominent when viewed from any street or public area and will certainly not compromise the amenity any public space.

The arguments put forward to justify the variation are considered valid. They have considered the context of the site in Cook Street within its light industrial zone and its proximity to residential properties and zones and how this has informed the end design of the proposal. The potential impacts of the non-compliance have been comprehensively considered.

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 IN2 Light 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 height and scale of surrounding development in the light industrial area is varied and is generally single storey and lower in scale than the proposed development. However, an examination of the approved plans at No.8 Cook Street (the Forestville Fire Station) demonstrates that this building has a height of 9.7m. In contrast with the proposed development, which varies between 6.7 and 9.8m, this is not dissimilar in height and scale. The non-compliance relates to the southern portion of the building, with the northern portion of the building compliant and its lowest point on the north elevation at least 2m below the maximum height control. On balance, the proposed development is considered to be compatible with height and scale of surrounding and nearby development.

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

Comment: Whilst the height of the proposed building is most pronounced on its north-western corner, the visual impact of the building when viewed on the western boundary frontage of Cook Street and the southern boundary has been mitigated by: generous setbacks (up to 22m from the southern boundary and 9m on the frontage with Cook Street), building articulation, variation in materials and colours and varied landscape schemes. This assists to minimise the visual impact of the proposed building.

The proposed non-compliance will not result in the loss of any views that are enjoyed by surrounding properties. No other amenity impacts, particularly in relation to privacy of overshadowing are likely.

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

Comment: The site is not visible from any area of public open space, coastal environment or shoreline or native vegetation. Hence this objective is not relevant to the proposed development.

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

Comment: As stated previously, the site is not visible from any area of public open space. No community facility is within view of the proposed development. When viewed from the Cook Street road reserve, the proposed development will present as a contemporary building with a high degree of visual interest with generous setbacks and an attractive landscaping theme that will make a positive contribution to the streetscape. The proposed development will therefore achieve this objective.



## Zone objectives

The underlying objectives of the IN2 Light Industrial zone are:

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

Comment: The proposed storage premises are permissible in the zone with consent. Hence, this objective is achieved.

- *To encourage employment opportunities and to support the viability of centres.*

Comment: The new development will provide an employment opportunity and a new land use within the Forestville light industrial area that supports the viability of the existing centre and achieves this objective.

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

Comment: The proposed building provides a sufficient distance from the residential properties to the south on Cook Street to minimise visual and amenity impact. A lower building height and generous landscaped scheme on the northern boundary will mitigate impacts to residential properties on Currie Road. The existing operation and amenity of adjoining industrial properties will not be adversely effected by the proposal. The development will therefore achieve this objective.

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

Comment: This objective is not applicable to the proposed development.

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

Comment: The proposed storage premises will be consistent with this objective.

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

Comment: Sufficient landscaped open space is provided in the design of the proposal to achieve this objective.

## Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the IN2 Light 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, 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, for which Council has an exemption for **dwelling houses** that can be determined by the Development Determination Panel.

### Warringah Development Control Plan

#### Built Form Controls

| Built Form Control         | Requirement      | Proposed  | % Variation* | Complies   |
|----------------------------|------------------|---|--------------|------------|
| B2 Number of storeys       | 2                | 3   | 33           | No         |
| B5 Side Boundary Setbacks  | Nil (north)      | Nil (adjoining No.7 Cook Street)<br>3 - 3.5m (adjoining Currie Road properties) | N/A<br>N/A   | N/A<br>N/A |
|                            | Nil (south)      | 19.6m   | N/A          | N/A        |
| B7 Front Boundary Setbacks | 6.5m             | 6.5 - 11.5m   | N/A          | Yes        |
| B9 Rear Boundary Setbacks  | Merit assessment | 2m (east) boundary  | N/A          | Yes        |

**\*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                         |
| B2 Number of Storeys                           | No                           | Yes                         |
| B5 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                          | N/A                          | Yes                         |
| C4 Stormwater                                  | Yes                          | Yes                         |
| C5 Erosion and Sedimentation                   | Yes                          | Yes                         |
| C7 Excavation and Landfill                     | Yes                          | Yes                         |
| C8 Demolition and Construction                 | Yes                          | Yes                         |
| C9 Waste Management                            | Yes                          | Yes                         |
| D3 Noise                                       | Yes                          | Yes                         |
| D6 Access to Sunlight                          | Yes                          | Yes                         |
| D7 Views                                       | Yes                          | Yes                         |
| D8 Privacy                                     | Yes                          | Yes                         |
| D9 Building Bulk                               | Yes                          | Yes                         |
|  |                              |                             |

| Clause  | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| D10 Building Colours and Materials              | Yes                          | Yes                         |
| D11 Roofs                                       | Yes                          | Yes                         |
| D12 Glare and Reflection                        | 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                         |
| D23 Signs                                       | N/A                          | N/A                         |
| E1 Preservation of Trees or Bushland Vegetation | Yes                          | Yes                         |
| E10 Landslip Risk                               | Yes                          | Yes                         |

#### Detailed Assessment

#### **B2 Number of Storeys**

##### Description of non-compliance

The proposed building is three storey in construction, which exceeds the maximum height of two storeys specified in WDCP 2011.

##### Merit consideration:

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

- *To ensure development does not visually dominate its surrounds.*

Comment: The building has been designed in a manner that creates a positive relationship with the adjacent industrial land uses and adjoining residential zones. Specific measures employed in the design of the proposed building to mitigate its visual impact include: the use of contrasting materials to differentiate the levels of the building; a varied colour scheme on the prominent elevations that create distinctions in the vertical mass of the building; articulation measures such as varied setbacks, breaks in the building footprint, louvres, varied awnings and cantilevers; and generous landscaped setbacks on the west and south boundary. These measures all combine to ensure that the development does not visually dominate its surrounds and in turn achieves 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 public frontage of the site is on the western boundary, fronting Cook Road. The proposed building minimise its visual impact from this street by employing all the measures previously described. And of particular relevance to this objective, the setback of the building from the front boundary is setback as far as 9.5m from this boundary. This has the benefit of moving the building mass further back from the frontage, reducing its visual impact. The proposed building therefore achieves this objective.

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

Comment: There are no significant landmark views enjoyed by surrounding properties to the subject site. Hence, the variation to the number of storeys control will result in no adverse impact in regard to view sharing and this objective is not comprised as a result of the proposed development.

- *To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.*

Comment: The proposed building has been designed in a manner that will not cause any adverse impact to adjoining properties with respect to: visual and acoustic privacy; overshadowing; view loss; or visual impact. Hence, this objective has been achieved.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment: Whilst the design provides no "pitch" in the roof (being flat), in the context of the surrounding industrial zone, an expectation for development to provide a pitched roof is diminished. The predominant form of roofs on the surrounding industrial buildings are flat. Visual impact when viewed from adjoining residential properties has been managed more effectively through varied facade design and physical separation. In this context, an expectation for the development to provide a pitched roof is not reasonable or applicable to the proposed development.

- *To complement the height of buildings control in the LEP with a number of storeys control.*

Comment: Notwithstanding this being an objective of the development control plan (DCP) it does not enjoy the status of an LEP, which is a statutory environmental planning instrument. Compliance with the DCP is not a relevant matter for consideration in the assessment of whether the development will achieve the Height of Buildings development standard. Hence, this objective is not relevant under the circumstances.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, 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.

### **B5 Side Boundary Setbacks**

The provisions of WDCP 2011 specify no numerical requirement for side setbacks, which are to be assessed on their merits and tested against the objectives of the control.

On the northern side boundary adjoining the industrial property at No.7 Cook Street, the building has a nil setback. Adjoining the residential zone / properties on Currie Road, a 3-3.5m setback is proposed. On the southern side boundary, a setback of 19.6m is proposed from the adjoining residential and properties on Cook Street.

These setbacks provide adequate spatial separation to achieve the objectives of the control.

### **B10 Merit assessment of rear boundary setbacks**

A 2 metre rear setback is provided on the eastern rear boundary, adjoining No.9 Currie Road (Forestville Catholic Church). A merit assessment of the proposed building against the objectives of the rear setback is provided below:

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

Comment: The setback on this boundary consists of a 1m wide access path abutting the building and a 1m wide strip of landscaping which will adjoin the boundary between the subject site and the church property. The strip of landscaping is to be planted with vegetation that can achieve a height of at least 4m when mature, as a condition of development consent. In this regard, the proposed development can achieve this objective.

*To create a sense of openness in rear yards.*

Comment: This objective is not strictly applicable to the proposed development, as the subject land is located in a light industrial zone and abuts land that whilst in a residential zone, is not used for residential purposes. Nonetheless, the proposed building adjoins an area of open space on the adjoining property that is at least 25m in width, ancillary to the church building. The proposed building will be setback a further distance than the existing timber warehouse sheds, which are currently 1m from this boundary. In effect, the sense of openness will be improved by the proposed development and this objective is achieved.

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

Comment: There will be negligible privacy or other amenity impacts from the proposed development on the adjoining land use on the rear setback, given that there are no openings on the east elevation of the proposed storage premises and that the existing adjacent land uses is non-residential.

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

Comment: The site is irregular in shape and no consistent pattern of buildings is evident. Hence, the proposed setback is adequate in this context.

*To provide opportunities to maintain privacy between dwellings.*

Comment: As stated previously, given the non-residential nature of the proposed land use and the existing land use adjoining the rear boundary, there will be negligible privacy impacts of the proposed development.

In conclusion, the proposed setback on the eastern boundary has demonstrated sufficient merits to achieve the relevant objectives of the control.

### **C3 Parking Facilities**

The WDCP 2011 provides no minimum parking rate for "storage premises".

A total of eleven (11) car spaces are provided for the use of the proposed storage premises.

A traffic and parking report, prepared by Terrafic Traffic and Parking Consultants, was provided with the application. This report references a study undertaken by the Self-Storage Association of Australia, prepared by Aurecon Australia, to provide guidance on the minimum number of parking spaces needed



for self-storage facilities. Based on the parking rates determined in this study, the floor space in the proposed premises (7,894m<sup>2</sup>) would require the provision of 11 car spaces.

Council's Traffic Engineer has reviewed the proposal and the documentation provided and is satisfied that there is sufficient parking to meet the objectives of the control.

#### **D6 Access to Sunlight**

The shadow diagrams provided with the application demonstrate that the proposed development will comply with the solar access requirements of WDCP 2011. No adverse impact on the private open space of the adjoining residences on Cook Street is therefore likely.

#### **D23 Signs**

The amended plans make generic references to signage, however no specific detail has been provided. Hence, no signage is proposed as part of this application and no further assessment is required.

However, a condition of consent is recommended to ensure that no permission is granted for any signage on the approved building, without further consent.

### **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 \$82,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$8,200,000.

### **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

In summary, a detailed assessment has been required for the following specific issues:

- Height of Buildings development standard in WLEP 2011;
- Number of Storeys control in WDCP 2011;
- Visual impact from Warringah Road, Cook Street and Currie Road; and
- Amenity impact to adjoining residences / residential zones to the north, east and south of the site.

With the exception of the Height of Buildings standard and Number of Storeys control, the proposed storage premises is compliant with WLEP 2011 and WDCP 2011.

Since lodgement the applicant has amended the plans to create a better visual relationship with Cook Street and mitigate the visual impact of the proposal. This has included:

- complying with the Front Setback control of WDCP 2011 by setting the building further back (up to 9m) from Cook Street;
- providing more landscaping on the north and south boundaries; and
- reducing the height of the building on the prominent south-west corner of the site.

In conclusion, the application has complied with the relevant policies and the approval is recommended. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

Accordingly Council as the consent authority grant Development Consent to DA2019/0108 for Demolition and Construction of Self Storage Units on land at Lot 100 DP 615225, 11 - 13 Cook Street, FORESTVILLE, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. Management plan -Noise

The applicant and/or operator is to produce a Noise Management Plan addressing the following:

- a. Measures to minimise noise to nearby residential properties by general operations, equipment and patrons including opening and closing hours.
- b. Provide details on the Business Website or Reception Area or Notice Board of the contact person who is responsible for addressing noise complaints.
- c. Keep a log of any complaints received and what actions were taken to address the complaint. (log being made available to Council on verbal request)

d. An outline of the methods to manage any noise complaints received.

e. Compliance with The Noise Policy for Industry NSW EPA, 2017.

Reason: To ensure that the activity maintains the amenity of nearby residential properties.

**2. 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

| <b>Architectural Plans - Endorsed with Council's stamp</b> |                |                    |
|--|----------------|--------------------|
| <b>Drawing No.</b>   | <b>Dated</b>   | <b>Prepared By</b> |
| DA001 Revision E   | 23 August 2019 | SB Architects      |
| DA002 Revision E   | 23 August 2019 | SB Architects      |
| DA003 Revision E   | 23 August 2019 | SB Architects      |
| DA004 Revision E   | 23 August 2019 | SB Architects      |
| DA051 Revision D   | 27 August 2019 | SB Architects      |
| DA052 Revision D   | 27 August 2019 | SB Architects      |
| DA053 Revision D   | 27 August 2019 | SB Architects      |
| DA200 Revision J   | 27 August 2019 | SB Architects      |
| DA201 Revision K   | 27 August 2019 | SB Architects      |
| DA202 Revision F   | 23 August 2019 | SB Architects      |
| DA203 Revision G   | 23 August 2019 | SB Architects      |
| DA301 Revision F   | 23 August 2019 | SB Architects      |
| DA305 Revision F   | 23 August 2019 | SB Architects      |

| <b>Engineering Plans</b> |                |                    |
|--------------------------|----------------|--------------------|
| <b>Drawing No.</b>       | <b>Dated</b>   | <b>Prepared By</b> |
| DA011 Revision E         | 16 August 2019 | Van Der Meer       |
| DA012 Revision E         | 16 August 2019 | Van Der Meer       |
| DA013 Revision A         | 16 August 2019 | Van Der Meer       |
| DA014 Revision D         | 16 August 2019 | Van Der Meer       |
| DA015 Revision A         | 16 August 2019 | Van Der Meer       |
| DA016 Revision B         | 16 August 2019 | Van Der Meer       |
| DA017 Revision A         | 16 August 2019 | Van Der Meer       |
| DA018 Revision A         | 16 August 2019 | Van Der Meer       |

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |              |                     |
|---|--------------|---------------------|
| <b>Report Title / No.</b>   | <b>Dated</b> | <b>Prepared By</b>  |
| Bush Fire Assessment Report 18-317  | 20 December  | Australian Bushfire |



|   |                 |                       |
|---|-----------------|-----------------------|
|   | 2018            | Consulting Services   |
| BCA Capability Report J180584           | 7 February 2019 | Vic Lilli & Partners  |
| Arboricultural Impact Assessment Report | 31 January 2019 | Jacksons Nature Works |
| Stormwater Management Report SY182-126  | 16 August 2019  | Van der Meer          |

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:

| <b>Landscape Plans</b> |                |                       |
|------------------------|----------------|-----------------------|
| <b>Drawing No.</b>     | <b>Dated</b>   | <b>Prepared By</b>    |
| L-01 Issue E           | 24 August 2019 | Site Design + Studios |

| <b>Waste Management Plan</b>  |                 |                         |
|---|-----------------|-------------------------|
| <b>Drawing No/Title.</b>  | <b>Dated</b>    | <b>Prepared By</b>      |
| Construction & Demolition Site Waste Minimisation and Management Plan | 16 January 2019 | Foresight Environmental |

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.

**3. No Approval for any Signage**

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2011 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

**4. 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

## 5. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

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

(k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 6. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$82,000.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$8,200,000.00.

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](http://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.

#### 7. **Security Bond**

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

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

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

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

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

#### 8. **Construction, Excavation and Associated Works Bond (Cook Street Drainage works)**

A Bond of \$ 220,000 as security against any damage or failure to complete the construction of Stormwater drainage works in Cook Street as part of this consent.

Reason: Protection of Council's Infrastructure

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

A Bond of \$30000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

Reason: Protection of Council's Infrastructure

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

#### 10. **Stormwater Disposal**

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850.

A certificate is to be provided to the Principal Certifying Authority with the Construction Certificate application by a qualified experienced practicing Civil Engineer, with Corporate



membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field that the existing approved system can accommodate the additional flows or provide drainage plans demonstrating compliance with Council's requirements.

Details demonstrating compliance are to be submitted to the Principal 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.

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

Certification of Drainage plans detailing the provision of On-site Stormwater Detention and the Storm Water quality controls in accordance with Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850, and the stormwater management plan by Van Der Mer, dated February 2019. Details demonstrating compliance are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate. All external drainage works with Council's road reserve require a separate approval by council.

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

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

An Application for Stormwater Drainage Works to be approved within Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of the retaining walls through the nature strip and driveway crossing which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and/ or Council's Minor Works Policy.

The plans are to detail :

- 1) Construction of a new reinforced concrete stormwater drainage line and inlet pits in Cook Street from the existing site south to connect into the council pit at the corner of Cook and View Street. Note the minimum size pipe required is 375mm.
- 2) The proposed On Site Stormwater Detention system is to be connected to this new line.
- 3) The construction of stormwater gully pits at spacings in accordance with AUS-SPEC #1. The cost of all construction works including any approvals are to be borne by the applicant.
- 4) Submission of all hydraulic calculations to support the design including Hydraulic Grade Line analysis.

The plan shall be prepared by a qualified structural engineer. The design must include the following information: The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. The Council approved drainage works plans are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To provide public and private safety.

**13. Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority

prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

14. **Construction Management Program**

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

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

15. **Amendments to the Landscape Plan**

a) Landscape Plans are to be amended as follows:

*Cupaniopsis anacardioides* indicated on the Landscape Plan is to be replaced with a tree of similar size not listed on Council's exempt tree list in WDCP E1 Preservation of trees or bushland vegetation.

b) Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the provision of suitable landscape amenity and character.

16. **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 and private properties 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.

Reason: Protection of Council's and Private Party's Infrastructure during construction.

17. **Compliance with Standards**

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

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures\*\*
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings\*\*
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting\*\*
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) \*\*
- (e) AS 4970 - 2009 'Protection of trees on development sites\*\*
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking\*\*
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities\*\*
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities\*\*
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking\*\*
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities\*\*
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set\*\*

(l) AS 1428.1 – 2009\* Design for access and mobility - General requirements for access – New building work\*\*

(m) AS 1428.2 – 1992\*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities\*\*

\*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [www.hreoc.gov.au/disability rights /buildings/good.htm](http://www.hreoc.gov.au/disability%20rights%20/buildings/good.htm). <[www.hreoc.gov.au/disability%20rights%20/buildings/good.htm](http://www.hreoc.gov.au/disability%20rights%20/buildings/good.htm)>

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

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. (DACPLC02)

**18. 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.

**19. 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](http://www.sydneywater.com.au) for:

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o 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.

**20. Building colours on North Elevation**

The building colours on the north elevation of the approved building adjoining the residences on Currie Road are to be amended to reflect a colour that is consistent with the adjoining landscaping scheme. Colours in acceptable range include: grey, green and light brown.

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 that development adjoining residential dwellings limits its visual impact



(DACPLCPCC1)

## 21. Demolition Traffic Management Plan

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

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to

undertake remedial treatments such as patching at no cost to Council.

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

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

**Reason:** This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.  
(DACTRCPC1)

## 22. **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 Certifying Authority prior to issue of any Construction Certificate.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

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.

(DACTRCPC2)

#### CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

23. **Public Liability Insurance - Works on Public Land**

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

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

24. **Tree protection**

(a) Existing trees which must be retained

- i) All trees not indicated for removal in the Arboricultural Impact Assessment report dated 31 January 2019 prepared by Jacksons Nature Works, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining private land

(b) Tree protection

- i) No tree roots greater than 30mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.
- ii) All structures are to bridge tree roots greater than 30mm diameter unless directed otherwise by the Project Arborist on site.
- iii) All tree protection to be in accordance with the Arboricultural Impact Assessment report dated 31 January 2019 prepared by Jacksons Nature Works and AS4970-2009 Protection of trees and 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.

**25. Project Arborist**

- i) A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.
- ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the Arboricultural Impact Assessment report dated 31 January 2019 prepared by Jacksons Nature Works and AS4970-2009 Protection of trees on development sites.
- iii) The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on and adjoining the site.

**26. Tree removal within the road reserve**

- i) This consent includes approval to remove the following trees located within the road reserve:

| Species                         | Location  | Tree Number |
|---------------------------------|---|-------------|
| 1 x <i>Lophostemon conferta</i> | Cook Street road reserve forward of the property as identified in the Arboricultural Impact Assessment report dated 31 January 2019 prepared by Jacksons Nature Works | T4          |
|                                 |   |             |

- ii) Removal of approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor.

- iii) Details of currently approved tree contractors can be obtained from Northern Beaches Council Public Trees Section prior to removal.

Reason: Public liability

**CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**27. Road Reserve**

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

Reason: Public Safety.

**28. Progress Certification (Road & Subdivision)**

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

- (a) Silt and sediment control facilities
- (b) Laying of stormwater pipes and construction of pits in Cook street.
- (c) Kerb and gutter construction
- (d) Pavement
- (e) Landscaping and vegetation
- (f) Clean-up of site, and of adjoining Council roadway and drainage system. (\*\*To be tested by a recognized N.A.T.A. approved laboratory). Details demonstrating compliance are to be



submitted to the Principal Certifying Authority.

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

**29. Civil Works Supervision**

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

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

**30. Notification of Inspections**

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

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of the stormwater pipeline in Cook street
- (c) Prior to pouring of stormwater gully pits in cook street.
- (d) Prior to pouring of kerb and gutter

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

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

**31. Vehicle Crossings**

The provision of 2 new vehicle crossing 10 and 6 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ Normal and specifications. 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.

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

Reason: To facilitate suitable vehicular access to private property.

**32. Maintenance of Road Reserve**

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

Reason: Public Safety.

**33. Temporary Sediment**

Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.

Reason: To reduce erosion and prevent sediment runoff into public assets

**34. Maintenance of Sediment**

Sedimentation and erosion controls are to be effectively maintained at all times during the

course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective

35. **Cleaning of Vehicles Leaving Site**

Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.

Reason: To reduce sediment being taken offsite

36. **Kerb and Gutter Construction**

The existing kerb and gutter is to be reconstructed along the entire frontage of the site in accordance with Northern Beaches Council Drawing No. A4 2276/A.

Reason: To ensure the adequate stormwater management.

37. **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.

38. **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.

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

39. **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 Principal 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 Principal 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.

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

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA)

must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

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

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

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

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

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

42. **Creation of Positive Covenant and Restriction as a User**

A restriction on the use of land and a positive covenant shall be created on the title of the land in respect of the installation and maintenance of on-site stormwater/water quality control disposal structures. The detailed information for a restriction on the use of land and a positive covenant is shown in Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850 . The terms of the positive covenant and a Restriction on the use of land are to be prepared to Council's standard requirements, at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

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

43. **Certification of Water Management**

Certification is to be provided to the accredited certifier by a qualified experienced practising Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E.), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, that the drainage/stormwater management system has been installed to the manufacturer's specification (where applicable) and completed in accordance with the engineering plans and specifications required under this consent.

Reason: To ensure Stormwater Management has been built in accordance with the plans and specifications required under this consent

**44. Prior to occupation certificate - Noise Matters**

Prior to occupation an assessment shall be carried out by a suitably qualified person demonstrating that all acoustic recommendations have been carried out and are functioning as designed, as per the report " NG Child & Associates CA/19/85-6001 Acoustic Assessment: Proposed Self-Storage Facility 9-13 Cook Street Forestville NSW (Version 4; February 1st, 2019)"

Reason: To ensure that noise reduction measures have been implemented (DACHPFPOC6)

**45. External lighting**

Prior to occupation a suitably qualified person shall provide an assessment report confirming that external lighting and glare is not causing a potential nuisance to adjoining residential occupiers.

All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and must comply with where relevant, Australia Standard AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance and design requirements and Australian Standard AS 4282:1997 Control of the obtrusive effects of outdoor lighting. All lights used to illuminate the exterior of buildings onsite must be positioned so as to prevent the emission of direct light onto adjoining roadways, adjoining land, dwellings and waterways.

Reason: To protect the amenity of adjoining properties.

**46. Required Planting**

Trees shall be planted in accordance with the following schedule:

| Minimum No. of Trees Required. | Species   | Location                           | Minimum Pot Size                   |
|--------------------------------|---|------------------------------------|------------------------------------|
| All trees                      | As indicated on Landscape Plan Dwg No. L-01 Issue E dated 24/082/19 prepared by Site Design Studios | As indicated on the Landscape Plan | As indicated on the Landscape Plan |

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

Reason: To maintain environmental amenity.

**47. 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)

48. **Fire Safety Matters**

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

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

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

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

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

49. **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.

50. **Car Spaces**

A minimum of eleven (11) car spaces are to be provided on the site for the use of the storage premises.

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

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 that adequate parking facilities to service the development are provided on site. (DACPLG01)

51. **Hours of Operation**

The hours of operation are to be restricted to:

- o Monday to Saturday – 7.00am to 10.00pm
- o Sunday and Public Holidays – 8.00am to 8.00pm

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.

52. **Commercial Waste Collection (DACPLG18)**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.(DACPLG18)

53. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed. (DACPLG25)

54. **Use of Office and Retail floor space**

The office and retail floor space is to be only used for purposes that are ancillary to the approved storage premises.

Reason: To ensure that the development complies with the land use policies of Council (DACPLGOG1)

**CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA  
SUBDIVISION OR SUBDIVISION CERTIFICATE**

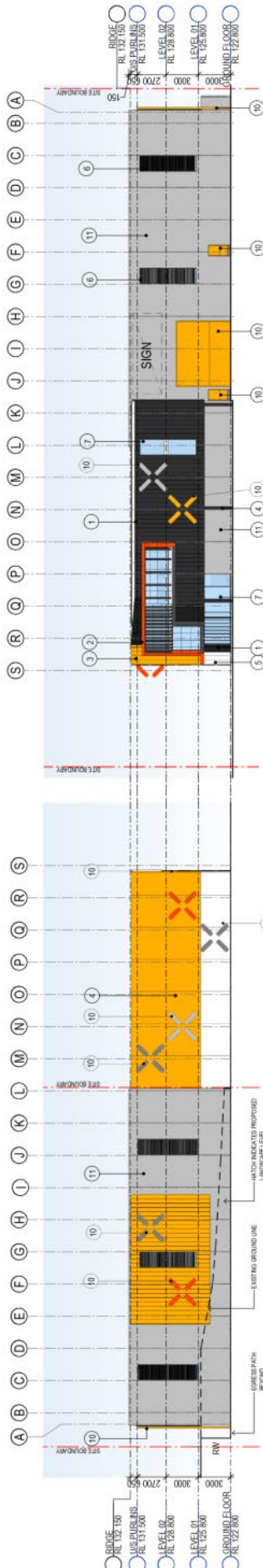
55. **Restoration of Damaged Public Infrastructure**

Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.

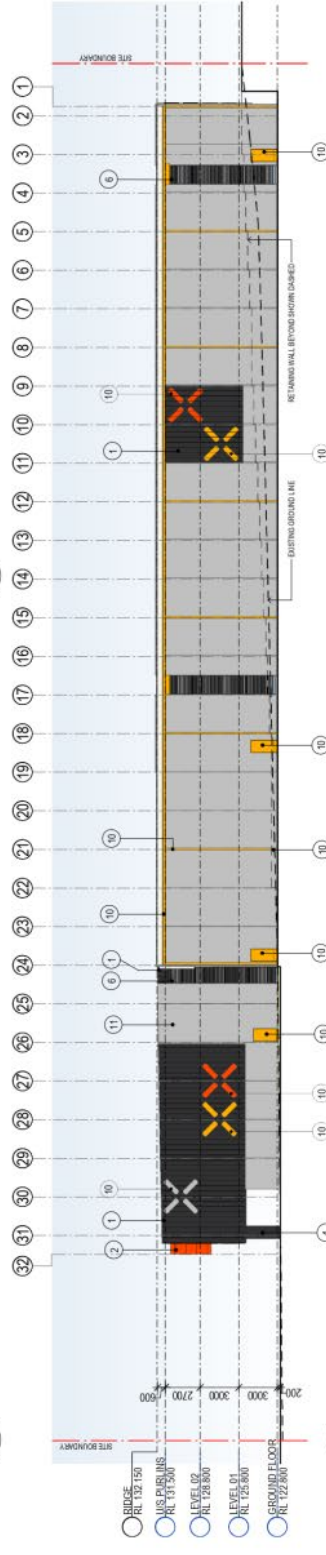
Reason: To ensure public infrastructure is returned to the state it was in prior to development.



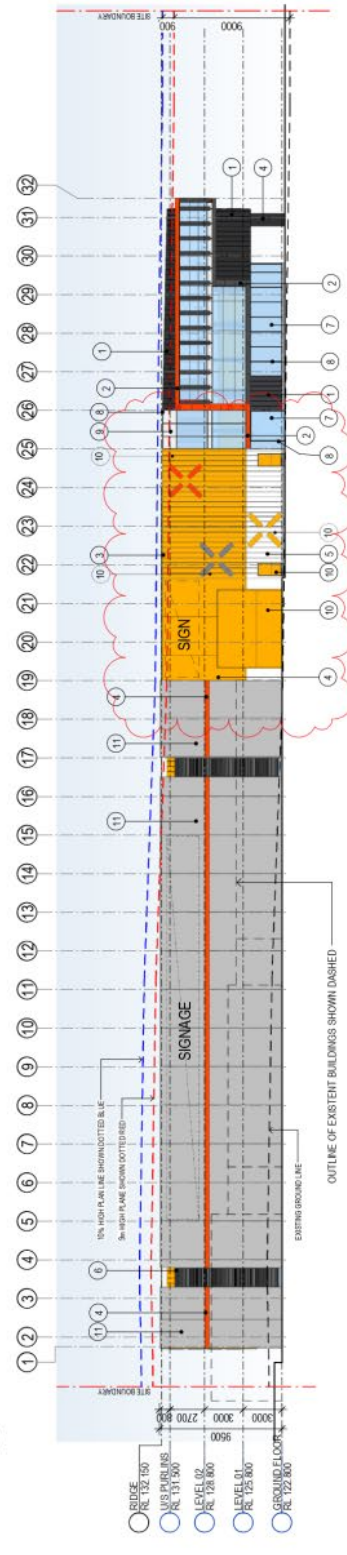




**1 NORTH ELEVATION 1:250**



**2 EAST ELEVATION 1:250**



**3 WEST ELEVATION 1:250**

| FINISHES SCHEDULE  |        |
|--|--------|
| Material   | Colour |
| 1. Profile Metal Wall Cladding - Type 1 - Colorbond Monument             |        |
| 2. Awning Aluminum Composite panel - Orange                              |        |
| 3. Profile Metal Wall Cladding - Type 2 - Colorbond Yellow               |        |
| 4. Precast Concrete Panels - Paint Finish - Yellow/White Monument/Orange |        |
| 5. Profile Metal Wall Cladding - Type 3 - Colorbond White                |        |
| 6. Aluminum section - Louvre clad system - monument                      |        |
| 7. Glazing Performance double glazing TBC Section J - Blue Tinted Glass  |        |
| 8. Aluminum Framed Glazing system - Powdercoat Monument                  |        |
| 9. Spandrel/Modesty Glazing (Fib) - Double Insulated                     |        |
| 10. Paint Finish - Powdercoat Yellow/Orange/Light Gray/Dark Gray         |        |
| 11. Concrete Precast Panels w/ exposed joints - off form                 |        |
| 12. Vertical Aluminum Screen Blakes - Powdercoat Monument                |        |
| 13. Profile Metal Roof Sheet - Colorbond Shale Gray                      |        |



**DA APPLICATION**

| BUILDING ELEVATIONS  |                     |
|--|---------------------|
| TITLE  | BUILDING ELEVATIONS |
| DATE   | 23.08.19            |
| SCALE  | As indicated @ A2   |
| PROJECT NO.  | 18241               |
| DWG NO.  | DA301               |
| REVISION   | F                   |
| <p>THIS DESIGN, DRAWING, SPECIFICATION AND THE ARCHITECTURAL AND ENGINEERING INFORMATION CONTAINED HEREIN ARE THE PROPERTY OF SBA ARCHITECTS AND ENGINEERS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. NO PART OF THIS DOCUMENT IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF SBA ARCHITECTS AND ENGINEERS.</p> <p>DATE: 23.08.19<br/>DRAWN BY: [Name]<br/>CHECKED BY: [Name]<br/>APPROVED BY: [Name]</p> |                     |
| <p><b>STORAGE FACILITY</b></p> <p>9-13 COOK STREET FORESTVILLE NSW 2087</p>  |                     |
| <p><b>SBA ARCHITECTS</b></p> <p>Company: [Name]   [Address]   [Phone]   [Email]</p>  |                     |
| <p><b>TRUMEN</b></p> <p>Company: [Name]   [Address]   [Phone]   [Email]</p>  |                     |

- (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 Director-General has been obtained.*

Clause 4.6(5) states that in deciding whether to grant concurrence, the Director-General must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

#### **Clause 4.6 Request for Variation**

##### **Zone and Zone Objectives**

The developments permissibility and consistency with the zone objectives have been previously identified it being noted that storage premises/ self-storage units are permissible with consent in IN2 light industrial zone.

##### **Building Height Objectives**

Having regard to the objectives of the height standard as previously identified strict compliance has been found to be both unreasonable and unnecessary for the following reasons:

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

Comment: The building heights proposed are compatible with the heights established by development along both Warringah Road and Cook Street and those anticipate by the 9 metre height standard.

The building and design are entirely appropriate for this large site as it reinforces the building as a strong, robust and defining element within the street block. In this regard, we have formed the considered opinion that the height, bulk and scale of the development are entirely consistent with the height and scale of surrounding and nearby development and that anticipated by the standard.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the proposed development by virtue of its height offensive, jarring or unsympathetic in a streetscape and urban context. In this regard, it can be reasonably concluded that the development is compatible with surrounding and nearby development and accordingly this objective is satisfied.

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

Comment: Having undertaken a detailed site and context analysis and identified available view lines over the site we have formed the considered opinion that the height of the development, and in particular the non-compliant height components, will not give rise to any visual, view, privacy or solar access impacts with appropriate spatial separation maintained to adjoining properties. The accompanying shadow diagrams clearly indicate that no overshadowing will occur to any adjoining residential zoned land. This objective is satisfied.

- (c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*

Comment: The non-compliant building height will not be readily discernible as viewed to or from Warringah's coastal or bush environments. This objective is satisfied.

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

Comment: The non-compliant building height elements will not be visually prominent as viewed from the street or any public area and will certainly not compromise the amenity of these public places.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the proposed development, in particular the non-compliant portions of the building, offensive, jarring or unsympathetic in a streetscape context.



We have also formed the considered opinion that the proposal will maintain appropriate amenity in terms of solar access and privacy and will not give rise to any adverse public or private view affectation. In this regard, the development satisfies the objectives of the height of buildings standard and accordingly strict compliance is unreasonable and unnecessary under the circumstances.

In our opinion, there are sufficient environmental planning grounds to justify the variation sought including the introduction of a land use which requires particular ceiling heights/ internal clearances and level floor plates and the compliant nature of the building height, and provision of landscaped setbacks, where it adjoins the sensitive zone boundary interfaces along the northern and eastern boundaries of the site.

In accordance with Clause 4.6(5) the contravention of the development standard does not raise any matter of significance for State or Regional environmental planning with the public benefit maintained by Council's adoption of an application specific merit based assessment as it relates to building height within the 9 metre height precinct in which the site is located.

### **Conclusions**

Having regard to the clause 4.6 variation provisions we have formed the considered opinion:

- a) that the site specific and contextually responsive development is consistent with the zone objectives, and
- b) that the site specific and contextually responsive development is consistent with the objectives of the building height standard, and
- c) that there are sufficient environmental planning grounds to justify contravening the development standard, and
- d) that having regard to (a), (b) and (c) above that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case, and
- e) that given the design quality of the development, and the developments ability to comply with the zone and building height standard objectives that approval would not be antipathetic to the public interest, and
- f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

As such we have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a height of buildings variation in this instance.