

COUNCIL ASSESSMENT REPORT

SYDNEY NORTH PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSNH-548 – DA2024/1362
PROPOSAL	Demolition works and construction of mixed-use hospitality venue with supporting car parking, servicing and landscaping works
ADDRESS	Lot 180 DP 752017, 40 Myoora Road TERREY HILLS NSW 2084
APPLICANT	The Trustee for Gardoxi Unit Trust
DA LODGEMENT DATE	18 October 2024
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declare the proposal regionally significant, being development that has an estimated development cost of more than \$30 million (\$33,046,200).
ESTIMATED DEVELOPMENT COST	\$33,046,200 (including GST)
CLAUSE 4.6 REQUESTS	Nil
KEY ENVIRONMENTAL PLANNING INSTRUMENTS	<ul style="list-style-type: none"> • <i>Warringah Local Environmental Plan 2011</i> • <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>
TOTAL & UNIQUE SUBMISSIONS – KEY ISSUES IN SUBMISSIONS	<p>36 submissions – 20 in support and 16 in objection, raising concern with:</p> <ul style="list-style-type: none"> • The proposed hours of operation and number of patrons, and the resulting potential noise impacts during operation. • Environmental impacts (light spill, smoke generation, impact on biodiversity, weed infestation, stormwater management, contaminated land, and bushfire risk). • Inconsistency with character and locality. • Traffic and parking impacts during construction and operation. • Loss of property value for surrounding properties.
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Architectural Plans prepared by Humprey & Edwards, dated 7 April 2025 and 21 May 2025 • Landscape Plans prepared by Dangar Barin Smith, dated 13 May 2025 • Civil Engineering Plans prepared by Richmond + Ross dated 21 December 2023, 4 April 2025 and 21 May 2025 • Aboriginal Objects Due Diligence Assessment prepared by Urbis dated 3 April 2025 • Access Report PAA_24008 prepared by Purple Apple Access dated 15 August 2024 • Access Report Appendix prepared by Purple Apple Access dated 31 March 2025

- Air Quality Statement prepared by Todoroski Air Sciences dated 5 September 2024
- Arborist Impact Assessment Ref: 3550 prepared by Anderson Environment & Planning (AEP) dated 11 April 2025
- Building Code of Australia 2022 Assessment Report prepared by Philip Chun Building Compliance dated 13 September 2024
- Building Code of Australia 2022 Assessment Report Addendum prepared by Philip Chun Building Compliance dated 4 April 2025
- Bushfire Assessment prepared by Black Ash Bushfire Consultants dated 5 September 2024
- Bushfire Assessment Addendum prepared by Black Ash Bushfire Consultants dated 8 April 2025
- Bushfire Assessment Addendum prepared by Black Ash Bushfire Consultants dated 19 May 2025
- Construction & Demolition Waste Management Plan prepared by Elephants Foot Consulting dated 2 September 2024
- Construction / Traffic Management Report prepared by SafeWay Traffic Management Solutions dated 4 October 2024
- Due Diligence Environmental Site Assessment 21385RP01 prepared by Reditus Consulting dated 21 January 2022
- Ecological Assessment Report 3550 prepared by Anderson Environment & Planning (AEP) dated 12 September 2024
- Embodied Emissions Materials Form prepared by Northcroft (Australia) dated 24 October 2024
- Fire Engineering DA Support Letter JN23-00149 prepared by Red Fire Engineers dated 7 April 2025
- Geotechnical Investigation Report JS/S1694 prepared by Fortify Geotech dated 18 September 2024
- NCC 2022 Section J Deemed-to-Satisfy (DTS) Assessment 2501590 prepared by Efficient Living dated 28 March 2025
- Noise Assessment MAC242173-01RP1V2 prepared by Muller Acoustic Consulting (MAC) dated 21 August 2024
- Noise Assessment MAC242173-02RP1V2 prepared by Muller Acoustic Consulting (MAC) dated 8 April 2025
- Noise Assessment Addendum MAC242173-02LR1 prepared by Muller Acoustic Consulting (MAC) dated 3 April 2025
- Operational Waste Management Plan 5668 prepared by Elephants Foot Consulting dated 9 September 2024
- Plan of Management prepared by The Farm by Boathouse dated 30 April 2025
- Stormwater Management Plan 230300 prepared by Richmond + Ross dated May 2025
- Stormwater Management Plan Addendum prepared by Richmond + Ross dated 4 April 2025
- Traffic Impact Assessment 24.014r01v05 prepared by Traffix dated April 2025
- Traffic Impact Assessment Addendum 24.014r03v03 prepared by Traffix dated 8 April 2025
- Traffic Impact Assessment Addendum 24.014r04v04 prepared by Traffix dated 16 April 2025
- Water Services Letter prepared by Rose Atkins Rimmer dated 20 September 2024

SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	Nil
RECOMMENDATION	Deferred commencement approval
DRAFT CONDITIONS TO APPLICANT	Yes, on 19 June 2025
SCHEDULED MEETING DATE	9 July 2025
PLAN VERSION	Plans prepared by Humprey & Edwards, dated 7 April 2025 and 21 May 2025
REPORT PREPARED BY	Claire Ryan, Principal Planner
DATE OF REPORT	25 June 2025

EXECUTIVE SUMMARY

This development application seeks consent for demolition of the existing structures on the subject site, and construction of a food and drink premises, car parking, and landscaping works including substantial tree planting.

The application is referred to the Sydney North Planning Panel (SNPP) with respect to Section 2.19(1) and Clause 2 of Schedule 6 of the *State Environmental Planning Policy (Planning Systems) 2021*, which declares the development to be regionally significant development as the development has an estimated development cost of more than \$30 million (\$33,046,200).

The application was notified in accordance with the Northern Beaches Community Participation Plan from 28 October to 18 November 2024. As a result of the public notification, Council received 36 submissions, which comprised of 20 letters of support and 16 objections.

The development application has been amended in response to concerns identified by Council in the preliminary assessment and those raised within submissions. The amended application was also notified from 18 April to 2 May 2025. As a result of the second public exhibition Council received 5 additional submissions, however the total number of overall submissions did not increase as the submissions came from people who had already objected to the development.

Concerns raised in the objections predominantly relate to:

- Proposed hours of operation and number of patrons, and the resulting potential noise impacts during operation.
- Environmental impacts (light spill, smoke generation, impact on biodiversity, weed infestation, stormwater management, contaminated land, and bushfire risk).
- Inconsistency with character and locality.
- Traffic and parking impacts during construction and operation.
- Loss of property value for surrounding properties.

Within this assessment report, detailed consideration is given to the above matters. In short, the proposed development is designed and sited so as not to result in unreasonable amenity or environmental impacts through its construction or operation. The proposed development is consistent with the objectives of the RU4 Primary Production Small Lots zone in the Warringah Local Environmental Plan 2011 (WLEP 2011), and the works are of low impact. The proposed operation of the food and drink premises is not anticipated to result in any unreasonable traffic impacts during construction and operation, by way of its design and proposed function.

The development is otherwise largely compliant with the controls of the WLEP 2011 and Warringah DCP.

This report concludes with a recommendation that the SNPP grant **deferred commencement approval** (requiring the provision of a Section 73 Certificate under the *Sydney Water Act 1994* to secure access to the sewer) to the development application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for demolition works and construction of a restaurant, as follows:

- Demolition of all existing structures on the site,
- Construction of:
 - At-grade parking for 87 cars to the north of the site, and 24 cars to the west of the site,
 - A basement containing parking for 98 cars, 3 motorcycles, and 10 bicycles, and a pump room,
 - Ground floor outdoor dining and terrace areas, kids play area, restaurant with private dining room, amenities, fireplace, a loading zone, and storage,
 - Mechanical plant and solar panels on the roof,
- New driveway and pedestrian walkway connecting to Myoora Road, and
- Landscaping works including substantial tree and vegetation planting.

Note: No signage is proposed as part of this application.

The restaurant is proposed to support 594 patrons and 40 staff. The proposed hours of operation for the restaurant are 7:00am to 12:00am midnight, seven days a week.

The above description is in accordance with the amended plans and documents received on 11 April 2025 (with additional supporting documentation provided in May 2025). Although the amended proposal significantly reduced the floorspace, maximum patron numbers and parking spaces, the amended application was re-exhibited for public comment.

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 – 2.5 Additional permitted uses for particular land
 Warringah Local Environmental Plan 2011 – 2.7 Demolition requires consent
 Warringah Local Environmental Plan 2011 – Zone RU4 Primary Production Small Lots
 Warringah Local Environmental Plan 2011 – 5.20 Standards that cannot be used to refuse consent – playing and performing music
 Warringah Local Environmental Plan 2011 – 6.2 Earthworks
 Warringah Local Environmental Plan 2011 – 6.4 Development on sloping land
 Warringah Development Control Plan – B1 Wall Heights
 Warringah Development Control Plan – B4 Site Coverage
 Warringah Development Control Plan – B5 Side Boundary Setbacks
 Warringah Development Control Plan – B7 Front Boundary Setbacks
 Warringah Development Control Plan – B14 Main Roads Setback
 Warringah Development Control Plan – C2 Traffic, Access and Safety
 Warringah Development Control Plan – C3 Parking Facilities
 Warringah Development Control Plan – C4 Stormwater
 Warringah Development Control Plan – C7 Excavation and Landfill
 Warringah Development Control Plan – C8 Demolition and Construction
 Warringah Development Control Plan – C9 Waste Management
 Warringah Development Control Plan – D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan – D3 Noise
 Warringah Development Control Plan – D6 Access to Sunlight
 Warringah Development Control Plan – D7 Views
 Warringah Development Control Plan – D8 Privacy
 Warringah Development Control Plan – D9 Building Bulk
 Warringah Development Control Plan – D10 Building Colours and Materials
 Warringah Development Control Plan – D11 Roofs
 Warringah Development Control Plan – D12 Glare and Reflection
 Warringah Development Control Plan – D18 Accessibility and Adaptability
 Warringah Development Control Plan – D20 Safety and Security
 Warringah Development Control Plan – D21 Provision and Location of Utility Services
 Warringah Development Control Plan – D22 Conservation of Energy and Water
 Warringah Development Control Plan – E1 Preservation of Trees or Bushland Vegetation
 Warringah Development Control Plan – E2 Prescribed Vegetation
 Warringah Development Control Plan – E6 Retaining unique environmental features
 Warringah Development Control Plan – E8 Waterways and Riparian Lands
 Warringah Development Control Plan – E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot 180 DP 752017, 40 Myoora Road TERREY HILLS NSW 2084
Detailed Site Description:	<p>The subject site consists of one allotment located on the south-eastern side of Myoora Road, Terrey Hills.</p> <p>The site is regular in shape with frontages of 60.35 metres along both Myoora Road and Mona Vale Road, with a maximum depth of 264.41 metres. The site has a surveyed area of 1.596 hectares (15,960m²).</p> <p>The site is located within the RU4 Primary Production Small Lots zone under the <i>Warringah Local Environmental Plan 2011</i> and accommodates a single-storey detached dwelling house with vehicular access via Mona Vale Road, and two single-storey sheds.</p>

	<p>The site slopes approximately 15 metres from south-east (Mona Vale Road) to north-west (Myoora Road). The subject site contains some planting.</p> <p>A swale connected to an upstream catchment is located in the north-western corner of the site. The south-eastern corner of the site is classified as bushfire prone land (vegetation buffer).</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a mix of rural industries, emergency services facilities, commercial premises and residential dwellings.</p>
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Map:



SITE HISTORY

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

- Pre-lodgement meeting PLM2021/0059 was held on 14 April 2021 to discuss amendment of the Warringah Local Environmental Plan 2011 to allow additional permitted uses on the subject site (retail premises, business premises, a service station and a vehicle repair station), and an increased maximum building height of building 8.5 metres to 15 metres.

APPLICATION HISTORY

- 18 October 2024: The application was lodged and referred to internal and external bodies.
- 28 October 2024: The application was publicly notified and advertised on Council's website

- 12 November 2024: Comments from Transport for NSW were received, unsupportive of the proposed development, due to:
 - Resultant increased traffic delays and impacts at the intersection of Aumuna Road and Mona Vale Road
 - Inaccurate trip distribution details
 - Concern that the shuttle bus service does not provide sufficient offset of traffic and parking issues
 - Concern that shorter patron visits to the site had not been sufficiently accounted for in traffic generation rates
 - Concern that the traffic modelling was not calibrated correctly
- 28 November 2024: The application was reviewed by the Design and Sustainability Advisory Panel (DSAP), who were supportive subject to resolution of parking and landscaped area concerns.
- 17 January 2025: A request for information letter was sent to the Applicant, raising concern with:
 - Overdevelopment given the scale of the development in the RU4 Rural zone
 - Impacts on the character and amenity of the area, including with respect to live outdoor music, patron capacity, trading hours, servicing needs, light spill, and smoke nuisance
 - Traffic, road safety, and parking issues, including emergency access in case of bushfire
 - Cumulative impacts considering other developments in the area
 - Ecological and environmental issues
- 5 February 2025: The first Sydney North Planning Panel (SNPP) briefing meeting was held, which provided the SNPP with the history of the application to date and resulted in an agreement for Council to meet with the Applicant to discuss the issues raised in the request for information letter.
- 6 March 2025: Council met with the Applicant to discuss the matters raised in the request for information letter.
- 19 March 2025: The Applicant and Council met with representatives from Transport for NSW to discuss their concerns.
- 27 March 2025: The Applicant confirmed their intention to lodge amended plans and documents by close of business 9 April 2025.
- 9 April 2025: The Applicant lodged an amended application to the Portal. Amendments included:
 - Reduction to one consolidated building containing one restaurant
 - Reduction in gross floor area from 2,698m² to 1,399m²
 - Reduction in site coverage to compliance
 - Reduction in maximum patron numbers from 794 to 594
 - Reduction in car spaces from 297 spaces to 198 (later increased to 211)
 - Deletion of shuttle bus service
 - Confirmation that development consent for a function centre is not sought (being a prohibited land use in the RU4 zone)
- 11 April 2025: The amended application was re-referred and re-notified.

- 16 April 2025: The second SNPP briefing meeting was held to update the SNPP on progress of the application.
- 5 May 2025: Updated Transport for NSW comments on the amended application were received and were not supportive of the amended development, due to:
 - Concern about the data used for traffic modelling
 - Concern that the traffic modelling was not calibrated correctly
 - Concern that the proposed development does not include sufficient traffic congestion mitigation measures
- 8 May 2025: Council offered a final opportunity to the applicant to amend the application to address the remaining Transport for NSW and Traffic Engineer concerns, with information due by 16 May 2025.
- 9 May 2025: An extension to 21 May 2025 for the provision of additional information was granted.
- 16 May 2025: The Applicant informally provided additional information to Transport for NSW and Council, and confirmed their intention to formally lodge the information by 21 May 2025.
- 21 May 2025: The final additional information was formally lodged by the Applicant.
- 21 May 2025: The final additional information was referred to Transport for NSW and internal referral bodies.
- 12 June 2025: Final comments from Transport for NSW were received, and were supportive of the proposed development, subject to recommended conditions of consent.
- 18-24 June 2025: Assessment of the development application was finalised by Council.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)</p>	<p>Part 4, <u>Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the intensity of the use, landscaped area and site coverage, and traffic and parking. Information was received on 11 April and 21 May 2025.</p>
	<p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on "Notification & Submissions Received" in this report.</p>

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.
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EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is partially classified as bush fire prone land, as shown below:



Above: The subject site outlined in blue. The south-eastern corner of the site is classified as 'Vegetation Buffer' being the area marked yellow on the Northern Beaches Bush Fire Prone Land Map.

Section 4.14 of the *Environmental Planning and Assessment Act 1979* requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A bush fire report was submitted with the application (prepared by Black Ash Bushfire Consulting, dated 5 September 2024), and addendum reports (also prepared by Black Ash Consulting, dated 8 April 2025 and 19 May 2025) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the bush fire report and addendum reports have been included as recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application was exhibited from 28/10/2024 to 18/11/2024 and 18/04/2025 to 02/05/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the first public notification period, Council received 36 submissions from:

Name:	Address:
Miss Daniela Duricova	52 Laitoki Road TERREY HILLS NSW 2084
Ms Pamela Annette Acott	5 Currong Circuit TERREY HILLS NSW 2084

Mrs Julie Sharon Tayles Mr Malcolm Jay Macgregor Jay Macgregor Flynn MacGregor	2 Larool Road TERREY HILLS NSW 2084
Scott Irwin	38 Myoora Road TERREY HILLS NSW 2084
Nancy Reardon-Fonseca	1 Joalah Road DUFFYS FOREST NSW 2084
Mr Fletcher Wall	35 Timaru Road TERREY HILLS NSW 2084
Mrs Yan Li	388 Thuddungra Road DUFFYS FOREST NSW 2084
Mr David Anthony Ryan	26 Laitoki Road TERREY HILLS NSW 2084
Mrs Sally Ann Barker	19 Cooyong Road TERREY HILLS NSW 2084
Mrs Joanne Penn	28 Myoora Road TERREY HILLS NSW 2084
Mrs Andrea Trude	104/120 Bourke Street WOOLLOOMOOLOO NSW 2011
Miss Caitlan Radford Brandwood	67 Edward Street NARRAWEENA NSW 2099
Kristen Margaret Severino George Severino Miss Jessica Maclure Amy Severino	C/- Sophie Scott 3 Gleness Place GLENORIE NSW 2157
Mrs Shelley Anne Carey Lachlan Carey Olivia Chapman Jackson Carey	6 Larool Road TERREY HILLS NSW 2084
Mrs Amanda Jane Coleman	62 Timaru Road TERREY HILLS NSW 2084
Mrs Fiona Hort	2 Angorra Road TERREY HILLS NSW 2084
Mr Shayne Robert Hutton	6 Guwara Road DUFFYS FOREST NSW 2084
Mrs Joanne Elizabeth Lloyd	327 McCarrs Creek Road TERREY HILLS NSW 2084
Christiane Maria Franziska Jobst-Baumann	18 Allworth Drive DAVIDSON NSW 2085
Ms Susan Phillips	18 Terrigal Road TERREY HILLS NSW 2084
Nerses Nalbandian Ms Lesley Dawn Nalbandian	47 / 0 Tooronga Road TERREY HILLS NSW 2084
Mr David Charles Hamlyn Harris Mrs Jennifer Leigh Harris Duffys Forest Residents Association	6 Kinka Road DUFFYS FOREST NSW 2084
Withheld	TERREY HILLS NSW 2084
Mr Alexander Armour Leanne Maskell Malcolm Armour	35 Myoora Road TERREY HILLS NSW 2084
Kelley Marie Attias	5 Tiarri Avenue TERREY HILLS NSW 2084
Robert Marie Pelletier Ms Anne Therese Lanyon	46 Myoora Road TERRY HILLS NSW 2084
Ms Rita Totino Sentech	11 Bindook Crescent TERREY HILLS NSW 2084
Mr Michael Peter Andrews	7 Yanada Road DUFFYS FOREST NSW 2084
Ms Sally Louise White	207 Tooronga Road TERREY HILLS NSW 2084

Mr Henry James Sevil Duddy	16 Alto Avenue SEAFORTH NSW 2092
Withheld	TERREY HILLS NSW 2084
Mr Darren Raymond Mills	256 Kulgoa Crescent TERREY HILLS NSW 2084
Gabriella Mills	256 Kulgoa Crescent TERREY HILLS NSW 2084
Stuart Lachlan Gordon	28 Booralie Road TERREY HILLS NSW 2084
Terry Hills Swim School	31 Myoora Road TERREY HILLS NSW 2084
Terrey Hills Progress Association Paul Davenport	22 Myoora Road TERREY HILLS NSW 2084

20 of the submissions support the proposed development and 16 object to the proposed development.

Note: With respect to counting individual submissions, Council's Community Participation Plan provides that:

- *All submissions received from the same person will be considered as a single submission.*
- *All submissions received by or on behalf of the same dwelling will be considered as a single submission.*

Following amendment of the proposed development, the development application was publicly notified in accordance with Council's Community Participation Plan for a second time. As a result of the second public notification, Council received 5 submissions, all of whom objected during the original public notification period. That is, there were no new objecting parties as a result of the second public notification.

The following issues were raised in the submissions received as a result of the first and second notification periods:

Operation Concerns - Hours, Patrons, Noise

Submissions raised concern about the proposed hours of operation and number of patrons, and the resulting potential noise impacts during operation.

Comment:

The proposed development is compliant with all relevant requirements of D3 Noise of the Warringah Development Control Plan 2011 (WDCP 2011), as demonstrated by the submitted noise assessment report, plan of management, and the review of the development by Council's Environmental Health Officer. The noise impact assessment finds that the proposed food and drink premises use is anticipated to operate below noise levels which would exceed the EPA thresholds and without the need for any noise mitigation measures. Conditions of consent are included in the recommendation of this report with respect to restriction of patron numbers and hours of operation, so as to reasonably maintain the amenity of the locality during operation, in accordance with the noise assessment and plan of management. These matters do not warrant refusal of the application.

Environmental Impacts

Submissions raised concern about environmental impacts, including with respect to light spill, smoke generation from solid fuel heaters, impact on biodiversity, weed infestation, stormwater management, contaminated land, and bushfire risk.

Comment:

The development application has been reviewed by Council's Environmental Health Officer, Development Engineer, Environment Officer (Biodiversity), and Environment Officer (Catchments), as well as NSW Rural Fire Service, with respect to their relevant areas of expertise. Each of these experts is supportive of the proposed development, subject to conditions of consent, which are included in the

recommendation of this report. As such, the proposed development is not anticipated to result in any unreasonable environmental impact with respect to the listed concerns, or any other environmental concerns.

With respect to light spill, the proposed building and surrounding external facilities are proposed to be illuminated to the extent that suitable site visibility and safety are provided. It is not considered appropriate to limit the level of illumination within the building and around the site to a specific level, in consideration of the principles of Crime Prevention Through Environmental Design (CPTED). However, conditions of consent are included in the recommendation of this report requiring that lighting shall only be illuminated during the hours of operation, and to ensure that excessive light spill or nuisance is not caused to any nearby premises.

These matters do not warrant refusal of the application.

Character / Locality

Submissions raised concern that the proposed development is not consistent with the character of the locality, as it is not low impact. Concern was raised that other restaurants exist in the locality and a new restaurant is unnecessary.

Comment:

The proposed development is established as consistent with the objectives of the RU4 Primary Production Small Lots zone in which the site is located, as demonstrated in the relevant section of this report. The proposed development is of a low and acceptable impact for the reasons detailed throughout this report.

Existence of other similar premises in the vicinity does not prevent an application for (and granting of consent for) additional premises.

These matters do not warrant refusal of the application.

Traffic and Parking

Submissions raised concern about the impact on the locality during demolition and construction with respect to construction vehicle traffic and parking. Concern was also raised that the proposed development is not supported by adequate parking spaces, and about the potential for increased traffic congestion and inadequate emergency vehicle access during operation, especially in consideration of surrounding existing and approved developments in the area. A number of submissions made suggestions for traffic and road improvements.

Comment:

Conditions of consent have been included in the recommendation of this report requiring preparation, approval (by Council), and implementation of detailed demolition and construction traffic management plans, which would provide the necessary management measures for demolition and construction vehicle movements and parking so as not to cause unreasonable disruption to the functioning of local streets.

Appendix 1 Car Parking Requirements of the WDCP 2011 provides that restaurants are to provide 15 car parking spaces per 100m² of gross floor area, or 1 car parking space per 3 seats. The proposed development includes 1,399m² of gross floor area (requiring 210 spaces) and 594 patrons (requiring 198 spaces). As such, the development is required to provide a minimum of 210 car parking spaces. The proposed development, as amended, includes 211 car parking spaces, being compliant with Appendix 1 of the WDCP 2011.

Council's Traffic Engineer and Transport for NSW have reviewed the development application with

respect to traffic impacts, vehicular access, and parking. Council's Traffic Engineer and Transport for NSW are supportive of the proposed development, subject to conditions of consent, which are included in the recommendation of this report.

The alternative suggestions for road improvement works are noted, though do not form part of this assessment.

These matters do not warrant refusal of the application.

Property Value

Submissions raised concern that the development will result in loss of property value for surrounding properties

Comment:

The impact of development on the value of surrounding properties is not a planning matter for consideration under the *Environmental Planning and Assessment Act 1979*. This matter does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Contaminated Lands)	<p><i>Supported, subject to recommended conditions</i></p> <p><u>Updated Comments (14 April 2025):</u></p> <p>The applicant has provided a suite of amendments to the proposal, none of which alter Environmental Health's previous assessment of contaminated land matters and their proposed management for the development. The proposal is supported with no change to conditions previously recommended.</p> <p><u>Original Comments (24 October 2024):</u></p> <p>A Due Diligence Environmental Site Assessment supplied with the proposal documentation has concluded that the site is currently not suited to the development for reasons of contamination, mainly asbestos containing material (soil). In order to remediate the land and make it suitable for development, a remedial action plan has also been provided. The remedial action plan, if actioned as required, is intended to cause the site to be made suitable for the development.</p> <p>Environmental Health supports the proposal and recommends a number of conditions of consent.</p>
Environmental Health (Industrial)	<p><i>Supported, subject to recommended conditions</i></p> <p><u>Updated Comments (16 April 2025):</u></p> <p>In response to a request for further information, the applicant has made a number of amendments to the proposal</p>

Internal Referral Body	Comments
	<p>Of particular relevance to this referral response in respect of potential noise issues it is acknowledged that:</p> <ol style="list-style-type: none"> 1. There is a proposed reduction in patronage numbers 2. The previously proposed outdoor stage has been removed from the proposal 3. The plan of management contains measurable noise limits 4. The acoustic report supplied with the proposal maintains that noise trigger levels will not be exceeded without the implementation of additional noise mitigation measures. <p>Accordingly, Environmental Health supports the proposal and recommends a number of conditions of consent.</p> <p><u>Original Comments (24 October 2024):</u></p> <p>Consideration of this proposal has been given taking into account relevant documentation including a report by an acoustic consultant as well as a plan of management.</p> <p>Whilst the acoustic report provides data in relation to unattended monitoring, conceptual modelling and projections to determine required compliance with associated noise criteria, there appears to be limited recommendations as to physical design and construction elements of the proposed development and how these elements may assist in mitigating potential noise amenity impacts associated with the development on the community.</p> <p>The report puts forward, within section 8.2 of the report, an number of "considerations" the operator must incorporate into the ongoing operation of the establishment as part of their mitigation strategies.</p> <p>In this regard, Environmental Health considers it more appropriate to rely on more physical noise mitigation measures, with defined parameters or measurements, rather than what appears to be a reliance upon behavioural or operational strategies that may be open to interpretation.</p> <p>Examples of this include:</p> <p>"Consider lowering the volume of any amplified speakers or PA system in use at your venue, particularly during later trading periods"; and</p> <p>"Consider re-directing the angle of speakers to minimise noise leakage from your venue and reverberation impacts";</p> <p>Additionally, Environmental Health has concerns in relation to the proposal for outdoor live entertainment where the acoustic report states "There is an outdoor stage adjacent to restaurant 2 that will</p>

Internal Referral Body	Comments
	<p>accommodate amplified music performance between 12pm to 10pm."</p> <p>Given the land use zones of surrounding land is predominantly rural, it is considered highly likely that that outdoor amplified music performance will result in unreasonable amenity impacts to the area.</p> <p>Accordingly, the proposal is not supported.</p>
Environmental Health (Solid Fuel/Oil Heater)	<p><i>Supported, subject to recommended conditions</i></p> <p><u>Updated Comments (14 April 2025):</u></p> <p>In response to a request for further information, the applicant has provided amended plans. Whilst the inclusion of solid fuel heaters was originally supported, the inclusion of fire pits was not, with appropriate conditions recommended.</p> <p>The applicants response to Councils request for further information states (in part): <i>"...The architectural plans for the amended proposal illustrates flues to all outdoor fireplaces. Fire pits have been removed from the proposal...."</i></p> <p>Accordingly, Environmental Health supports the proposal with the original previously recommended conditions, with the exception of the previously recommended condition pertaining to the exclusion of fire pits.</p> <p><u>Original Comments (24 October 2024):</u></p> <p>In respect of the inclusion of solid fuel heating appliances, a number of indoor and outdoor heating appliance are proposed to be installed.</p> <p>An Air Quality Statement has been included with the proposal documentation which supports the proposal and provides a number of control measures to be implemented to manage smoke emissions.</p> <p>Given the size of the site and the proximity of direct receivers, the proposal is acceptable with a number of condition recommended.</p> <p>It must be noted however, that the Statement of Environmental Effects also refers to "firepits".</p> <p>The construction and use of open firepits without any type of flue system to control smoke emissions is not supported and will be appropriately conditioned.</p>
Environmental Health (Food Premises, Skin Pen.)	<p><i>Supported, subject to recommended conditions</i></p> <p><u>Updated Comments (14 April 2025):</u></p> <p>The applicant has provided amended information in relation to various elements of the proposal.</p>

Internal Referral Body	Comments
	<p>Specifically relating to the proposed food premises within the development, the following amendments are proposed:</p> <p>Basement Level</p> <ul style="list-style-type: none"> ▪ Removal of basement private dining room under restaurant 1 and storage. <p>Ground Floor</p> <ul style="list-style-type: none"> ▪ Removal of restaurant 1 and private dining room. ▪ Consolidation of restaurant 2 and 3 into single building. ▪ Reduction in area of restaurant 3. ▪ Reduction in area of outdoor dining adjacent to restaurant 3. ▪ Reduction of seats from 794 to 594. <p>Environmental Health raises no objection to these amendments and recommends no further conditions in addition to those already recommended.</p> <p><u>Original Comments (24 October 2024):</u></p> <p>The proposal includes the provision of three restaurants within the premises as well as ancillary outdoor seating area. It is noted that the premises will also be utilising wood fired cooking methods. In accordance with the Air Quality Statement provided with the proposal documentation that wood-fired cooking will include a kitchen ventilation extraction system with ventilation hoods positioned above the wood-fired cooking points will have fume hoods over the cooking areas, treated appropriately and ducted through flues to minimise the potential for ground level impacts.</p> <p>Environmental Health supports the proposal and recommends a number of consent conditions.</p>
Environmental Health (Unsewered Lands)	<p><i>Supported, subject to recommended conditions</i></p> <p><u>Updated Comments (14 April 2025):</u></p> <p>In reference to the previous referral response recommending refusal, the applicant has provided the following response:</p> <p><i>"The Sydney Water Feasibility letter at Appendix J confirms:</i></p> <ul style="list-style-type: none"> ▪ <i>The proposed development lies in the Terrey Hills Minor Service Extension (MSE).</i> ▪ <i>The MSE pressure system has sufficient capacity to service this proposed development.</i> <p><i>It is noted this will be reassessed during the S73 application, however demonstrates at this time sufficient capacity is available."</i></p> <p>Environmental Health supports the proposal and recommends a deferred commencement condition requiring further approval to connect to the Sydney Water sewer network prior to development consent being permitted to operate.</p>

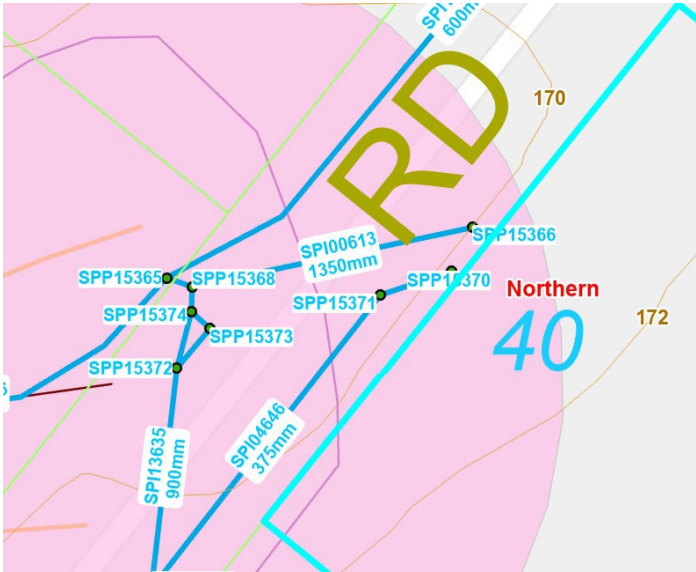
Internal Referral Body	Comments
	<p><u>Original Comments (14 October 2024):</u></p> <p>In relation to the proposal as it relates to unsewered lands, the proposal documentation includes a letter from a licensed Water Servicing Coordinator which states "<i>Although Sydney Water's records indicate that there is no approval to connect, it is our opinion that this sewer is available for connection and has the capacity to service the proposed development.</i>"</p> <p>In regards to the proposal, there is no capacity within the site to install a private waste water system to service the development. Without a strict guarantee such as a Section 73 Compliance Certificate that the development is able to connect to the Sydney Water infrastructure, the proposal is not supported.</p>
Landscape Officer	<p><i>Supported, subject to recommended conditions</i></p> <p><u>Updated Comments (26 May 2025):</u></p> <p>The amended reports and plans are noted.</p> <p>The landscape proposal has been slightly amended to satisfy the bushfire protection requirements and no concerns are raised with the changes.</p> <p>It is noted the pedestrian pathway/ramp to Myoora Rd, between the property boundary and kerb, clashes with tree 8. Any new pedestrian pathway shall be realigned to allow the retention of tree 8, and the alignment must be supported by the Arborist. Amended plans will be conditioned.</p> <p><u>Additional Information Comment (16 April 2025):</u></p> <p>The amended reports and plans are noted.</p> <p>The Arboricultural Impact Assessment (AIA) identified 42 trees within or surrounding the property. Trees 1, 2, 3, 4, 5, 6, 7, 15, 24, 32, 47, and Stand 1 are within the property boundaries and recommended for removal. Tree Stand 1 includes 18 trees and all are exempt by species and as such may be managed or removed at the discretion of the applicant without consent. The remaining trees can be supported for removal as the landscape proposal shows extensive medium to large replacement tree planting. Tree 33 is now assessed as to be retained and works in its tree protection zone are to be supervised by a Project Arborist, as recommended in the AIA. The tree protection recommendations outlined in the AIA are supported.</p> <p>The northern pedestrian pathway to Myoora Rd, between the property boundary and kerb, clashes with tree 8. Any new pedestrian pathway shall be realigned to allow the retention of tree 8, and the alignment must be supported by the Arborist. Amended plans will be</p>

Internal Referral Body	Comments
	<p>conditioned.</p> <p>The landscape proposal is generally supported and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent. Cupaniopsis anacardioides and Pennisetum 'Nafray' shall be substituted with suitable alternatives. All on slab landscape planters shall meet Council's minimum soil depth requirements.</p> <p><u>Original Comment (20 November 2024):</u></p> <p>The Arboricultural Impact Assessment identified tree 33 as having a major encroachment and requiring removal. It is noted tree 33 has poor health and structure, low landscape significance and retention value, and a short life expectancy. Tree 33 is located in the neighbouring property and therefore cannot be removed. Due to its condition, identified by the Arborist, if owners consent from the neighbouring property owner for the removal of tree 33 is obtained removal could be supported. It is noted that the adjoining property owner does not have any obligation to consent and may choose to not provide an agreement.</p> <p>Landscape referral can continue their assessment upon receipt of further information regarding tree 33.</p> <p>General comments:</p> <ul style="list-style-type: none"> • Landscape referral notes the development does not achieve the 70% landscaped area under the WDCP requirement, and this matter shall be assessed and determined under merit consideration by the Assessing Planning Officer. Furthermore and as identified in PLM2024/0035, the calculations include areas that do not satisfy the definition of landscaped area under the WLEP and include areas less than 2m in width. It is also noted that the overflow carpark takes up a considerable portion of the available compliant landscaped area and the frequency of its use as a carpark rather than a landscaped area due to the shortfall of parking (DCP parking requirements) provided on site is questioned, • Extensive medium to large tree replacement planting is proposed and as such the removal of the 11 prescribed trees within the property boundaries can be supported. Tree stand 1 is exempt by species and can be managed or removed at the discretion of the applicant without consent, • An area of permeable paving is shown on landscape drawing LP02-D0224 within the front 10m setback to Myoora Rd and this shall be removed and replaced with mass planting.
NECC (Bushland and Biodiversity)	<i>Supported, subject to recommended conditions</i>

Internal Referral Body	Comments
	<p><u>Updated Comments (23 April 2025):</u></p> <p>Amended documentation submitted with the application has been reviewed. It is noted that the amended Arboricultural Impact Assessment states that Tree 33 (<i>Eucalyptus grandis</i>) is now able to be retained, which is supported. Council's Biodiversity Referrals team remain in support of the application.</p> <p><u>Original Comments (13 November 2024):</u></p> <p>Council's Biodiversity Referrals team have assessed the Development Application for compliance against the following applicable provisions:</p> <ul style="list-style-type: none"> • Warringah DCP cl. E2 Prescribed Vegetation • Warringah DCP cl. E6 Retaining Unique Environmental Features <p>An Ecological Assessment Report (Anderson Environment & Planning, September 2024) is submitted with the application. The report identified that the subject site has been subject to historical vegetation clearing and is currently comprised of exotic vegetation with small stands of planted native vegetation. No threatened species or ecological communities were located within the subject site as a result of survey undertaken by the ecologist. Recommendations provided by the Ecologist will be conditioned should the application be approved.</p> <p>The Arboricultural Impact Assessment (Anderson Environment & Planning, September 2024) recommends the removal of 9x planted <i>Eucalyptus grandis</i>, 1x <i>Ceratopetalum gummiferum</i>, 2x <i>Casuarina glauca</i> due to their location within the development footprint. No objection to the removal of these planted trees subject to their replacement. The Landscape Plan (Dangar Barin Smith, September 2024) contains a high proportion of native species for planting including ample native canopy replacements and revegetation at all other strata levels.</p> <p>No objections in relation to biodiversity, subject to recommended conditions.</p>
NECC (Development Engineering)	<p><i>Supported, subject to recommended conditions</i></p> <p><u>Updated Comments (27 May 2025):</u></p> <p>Council's Development Engineer raises no objection to this proposal subject to conditions.</p> <p>The amended stormwater design is acceptable on a merit basis.</p> <p><u>Original Comments (3 December 2025):</u></p>

Internal Referral Body	Comments
	<p>This proposal is for demolition of the existing structures and construction of mixed use hospitality venue with supporting car parking, servicing and landscaping works.</p> <p>Council's Development Engineer requests additional information regarding the stormwater design and the site access.</p> <p><i>Stormwater</i></p> <p>The site currently drains via surface overland flow towards Myoora Road. There are two Council's kerb inlet pits located in front of the site along Myoora Road.</p> <p>Stormwater from the subject site drains to an OSD tank which connects to a boundary pit, then connects to Council's kerb inlet pit in front of the subject site. The total impervious area is approximately 7,290m² accounting for 46% of the total site area. The proposed roof areas is approximately 2423sqm.</p> <p>A surcharge pit is proposed within the driveway to spread the surcharge flows which a 300mm diameter outlet pipeline cannot accomodate. A 525mm outlet pipeline from the OSD tank is proposed with a 450mm orifice provided.</p> <p>Council's Water Catchment team does not support the current proposed water quality control measures.</p> <p>Council's Development Engineer requests additional information regarding the stormwater design as detailed below.</p> <ul style="list-style-type: none"> • According to Council's records, a Council's stormwater intel pit connects to a 1350mm Council's channel chamber travelling across the road. Please discharge stormwater runoff from the subject site to this kerb inlet pit which will resolve the surcharge issue from the boundary pit. An indicative location of Council's drainage infrastructures is attached at the end of this referral letter. • The 1350mm Council's channel chamber shown in Council's system is indicative only. A licensed plumber should investigate and locate this Council's channel chamber to double check its size, and to make sure it crosses Myoora Road and eventually goes to the creek. • A copy of DRAINS model shall be submitted to Council for assessment. • The OSD system shall be sized for 1% AEP storm events with no surcharge in the 1% AEP storm events. • Details of the overflow route from the OSD tank shall be provided and in particular, where the overflow from the OSD tank flows to shall be shown on the stormwater plans.

Internal Referral Body	Comments
	<ul style="list-style-type: none"> It doesn't seem like all stormwater runoff to the OSD tank will go into the high early discharge chamber. How much area to the OSD tank will go into the high early discharge chamber shall be clarified on the stormwater plans and shall be taken into consideration in the DRAINS Model. A section plan shall be submitted perpendicular to Section A through the filter weir and the 450mm orifice. A section plan shall be submitted parallel to Section A through the high early discharge weir. <p><i>Site Access and Parking</i></p> <p>The proposed vehicular access is from Myoora Road. An overflow carpark is proposed at the south-eastern part of the site. The driveway gradients seem generally satisfactory for the proposed car parking subject to conditions. TfNSW does not support the current proposal due to the impacts on the intersection of Aumuna Road and Mona Vale Road. Council's Development Engineer requests additional information regarding the site access as detailed below.</p> <ul style="list-style-type: none"> The proposed pedestrian access within Council's Road Reserve shall be shown on the plans. <p><i>Flooding</i></p> <p>The site is adjacent to the top of the catchment, so a flood report is not necessary.</p> <p><i>Geotechnical Investigation</i></p> <p>As NSW publicly available groundwater monitoring wells in proximity to the site report groundwater levels in the area at depths greater than 45m below surface levels, it is unlikely that groundwater will be intersected during excavation works.</p> <p><i>Responses to Submissions</i></p> <p>Council's Traffic Team will comment on the impacts of the proposed development on the surrounding neighbourhood.</p> <p><i>Council's Indicative Drainage Infrastructures Location</i></p>

Internal Referral Body	Comments
	
NECC (Riparian Lands and Creeks)	<p><i>Supported, subject to recommended conditions</i></p> <p><u>Updated Comments (26 May 2025):</u></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • SEPP (Resilience and Hazards) 2021; • Relevant LEP and DCP clauses; and • Northern Beaches Water Management for Development Policy. <p>A watercourse runs along the property boundary at Myoora Road. The watercourse is part of the headwaters for Kierans Creek, and is a Strahler System 1st order watercourse. The proposal in its current form includes a vegetated setback from the watercourse that is approximately 10 metres from the property boundary and so at is consistent with the guidelines.</p> <p>No structural supports for footpath or road crossings are to be placed in the watercourse channel. The design of the footpath crossing the watercourse must allow for light penetration where possible.</p> <p><u>Original Comments (19 December 2024):</u></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • SEPP (Resilience and Hazards) 2021; • Relevant LEP and DCP clauses; and • Northern Beaches Water Management for Development Policy. <p>No major objections but additional information is required.</p> <p>A watercourse runs along the property boundary at Myoora Road but</p>

Internal Referral Body	Comments
	<p>is not shown in the survey. The watercourse is part of the headwaters for Kierans Creek, and is a Strahler System 1st order watercourse. For 1st order watercourses, a 10 metre wide vegetated riparian zone is recommended, of which select activities can occur up to 5 metres from the top of bank with appropriate offsetting. The proposal in its current form includes a vegetated setback from the watercourse that is approximately 10 metres from the property boundary and so at this stage appears consistent with the guidelines.</p> <p>The proposal must clearly show the position of the watercourse relative to the proposed development, and how the proposal responds to the presence of the watercourse.</p> <p>No structures should be constructed over the creek or within the vegetated riparian zone except for footpaths and road access. The rectangular area of permeable paving in the riparian corridor is likely not acceptable and so requires explanation or removal.</p> <p>No structural supports for footpath or road crossings are to be placed in the watercourse channel. The design of the footpath crossing the watercourse must allow for light penetration where possible.</p>
NECC (Water Management)	<p><i>Supported, subject to recommended conditions</i></p> <p><u>Updated Comments (26 May 2025):</u></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WMD Policy), and; • Relevant LEP and DCP clauses; <p>The proposal must meet the objectives of the Warringah DCP 2011, section C4 Stormwater Objectives, and the requirements of the WMD Policy (Section 4.0 and Section 4.1)</p> <p>Water sensitive urban design (WSUD), water reuse and infiltration into the soil, and the resulting quality of stormwater leaving the site are interconnected concepts that guide a merit-based assessment under the section.</p> <p>At a minimum the proposal must meet Table 5 – General Stormwater Quality Requirements with the Stormwater Water quality targets for pollution reduction in the post-development mean annual loads:</p> <ul style="list-style-type: none"> • Total Suspended Solids (TSS) 85% • Total Phosphorus (TP) 65% • Total Nitrogen (TP) 45% <p>The water treatment chain of the proposal comprises of permeable pavement, pit inserts and StormFilter Cartridges.</p> <p>The treatment chain is satisfactory, subject to conditions.</p> <p><u>Original Comments (26 November 2024):</u></p>

Internal Referral Body	Comments
	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WMD Policy), and; • Relevant LEP and DCP clauses; <p>The proposal must meet the objectives of the Warringah DCP 2011, section C4 Stormwater Objectives, and the requirements of the WMD Policy.</p> <p>Section 4.0 of the WMD Policy applies. Water sensitive urban design (WSUD), water reuse and infiltration into the soil, and the resulting quality of stormwater leaving the site are interconnected concepts that guide a merit-based assessment under the section. The water treatment chain of the proposal comprises of Ocean Guard pit inserts and StormFilter Cartridges. As such, it does not meet the outcomes Council seeks under Section 4.0 of the WMD Policy.</p> <p>Section 4.1 of the WMD Policy applies. The proposal must meet Table 5 – General Stormwater Quality Requirements. A MUSIC file was not provided. A MUSIC schematic was provided in the Stormwater Management Plan. Council does not support the use of proprietary devices for pollutant removal if they do not achieve natural water cycle processes such as infiltration, evaporation or transpiration; or have the potential to remove dissolved pollutants. The treatment chain does not meet the WMD Policy standards of design (section 4.1.2).</p>
Traffic Engineer	<p><i>Supported, subject to recommended conditions</i></p> <p><u>Updated Comments (18 June 2025):</u></p> <p>The additional information provided by the applicant has been reviewed including amended plans, response to TfNSW concerns, additional traffic reporting and the applicant's response to Council's Request for Further Information. The final TfNSW referral response has also been reviewed and noted.</p> <p>The applicant has reduced the scale of the development and it now and now seeks approval for a reduced GFA of 1399m² and a reduced seating capacity of 594 patrons and 40 staff with offstreet parking for 211 cars, 3 motorcycles and 10 bicycles. A loading bay catering for a Medium Rigid Vehicle is also proposed.</p> <p>The quantum of parking is satisfactory in terms of Warringah DCP requirements as it meets the greater of 15 spaces per 100m² of floor area or 1 space per 3 seats. In terms of GFA the development requires 210 and the 211 spaces provided is therefore acceptable.</p> <p>The applicant's assessment of traffic generation as outlined in the additional report provided by Traffix dated 16 April has been accepted</p>

Internal Referral Body	Comments
	<p>by TfNSW and is also acceptable to Council. It is noted that TfNSW has opposed the introduction of a right turn ban at the Aumuna Road/Mona Vale Road intersection. As this intersection is under TfNSW management this decision is noted and accepted by Council's traffic team.</p> <p>The applicant still proposes two pram ramps on the Myoora Road frontage of the site to provide accessible access to the site. As there are some 211 parking spaces on site including 7 appropriately located accessible parking spaces there is no need for pram ramps to facilitate accessible access to the site from the kerb frontage. In addition, any vehicle stopping to load or unload passengers from the Myoora Road frontage of the site would be parked within 3m of unbroken centrelines and therefore illegally parked. The pram ramps are to be deleted from the plans. This will be conditioned.</p> <p>The applicant has retained the Loading Bay for MRV's and has not made any provision for deliveries by larger vehicles and asserts that an 8.8m MRV is more than adequate to accommodate all servicing requirements of the development. It will be conditioned that all deliveries and servicing are to be completed by vehicles less than 8.8m MRV's as there is no capacity on site to accommodate parking or turning by larger trucks and no ability to accommodate kerbside deliveries by larger vehicles.</p> <p>The development is supportable subject to conditions</p> <p><u>Original Comments (7 January 2025):</u></p> <p>The development application is for a restaurant and beer garden with a GFA of 2698m², parking for 297 vehicles (comprised of 223 car spaces in a carpark plus overflow parking on grass for 74 vehicles), 1 x loading bay, 1 x minibus drop off/pick bay, patronage for 794 persons and operating 10am to 12 midnight Mon-Sun</p> <p><u>Parking</u></p> <p>The Warringah DCP parking requirements for a restaurant are the greater of 15 spaces per 100m² GFA (405 spaces) OR 1 space per 3 seats (265 spaces). The premises therefore requires a minimum of 405 parking spaces for compliance with the DCP. While the DCP advises that there is potential to allow a reduced parking supply if there is suitable available parking in the vicinity, on Myoora Road, as parking is in high demand near the proposed premises, a reduction in the parking requirements on the basis of spare capacity elsewhere is not appropriate. The developer's traffic consultant advises that a parking assessment has also been undertaken noting TfNSW guidelines. The latest TfNSW guidelines are the 2024 Guide to Transport Impact Assessment which became active from 4 November 2024. These guidelines also suggest that parking rates for restaurants should be determined from the greater of 15 spaces per 100m² of GFA or 1 space per 3 seats. The TfNSW and Warringah</p>

Internal Referral Body	Comments
	<p>DCP parking requirements are identical and should be met. While the use of a shuttle bus and a green travel plan are welcomed and may assist in resulting in small reductions in trips to/from the facility, given the relatively isolated location of the development and the scattered nature of residential development in the surrounding area it is considered likely that patrons will remain heavily car dependent for travel to and from the facility. The proposed parking provision of 297 spaces is well below DCP requirements and unacceptable.</p> <p>It is also noted that the referral from Council's Landscape Officer has raised concerns about the reliance on a part of the landscaped area on the site for overflow carparking with its ongoing use as carparking limiting is landscaping benefit. Given that it is proposed to mark the overflow carpark with paving "dots" which would presumably need to be affixed into a hardpaved surface, the impact of the above coupled with the wear and tear created by parking activity would limit the potential for any meaningful landscaping.</p> <p>It is noted that the drop off/pick up bay on the "at grade" parking level is capable of accommodating the developer's mini bus. This drop off/pick up bay is also likely to be well used by clients dropping off elderly/less mobile passengers and to ensure this activity is able to occur a dedicated parking bay of appropriate dimensions should be identified to accommodate the mini-bus when not in use. This bay should be identified on the plans with access to/from that bay demonstrated by turning movement plots for the mini-bus</p> <p>The developer proposes to provided 5 accessible parking spaces all located in the basement carpark. The Building Code of Australia requires accessible parking at a rate of 1 space per 50 spaces or part thereof and it is therefore required that at least 9 accessible parking spaces designed in compliance with AS2890.6 be provided. Some of these spaces should be located in the at grade carpark near the entrance to the restaurant with suitably graded access to the premises. The 5 spaces proposed is insufficient.</p> <p>Although the Warringah DCP does not specifically require motorcycle parking, it is noted and supported that 5 motorcycle parking spaces have been provided to cater for this alternate transport mode.</p> <p><u>Bicycle Parking</u></p> <p>The Warringah DCP requires high-medium security bicycle parking (in a secure room/enclosure) at a rate of 1 space per 200m² GFA for business and retail premises with a further 1 space per 600m² of low security spaces (bike racks/rail). This equates to a requirement for 14 secure spaces and 5 lower security spaces. The developer has proposed only 10 low security spaces which is considered inadequate to support a development of this size.</p> <p>The developer's traffic consultant has incorrectly advised that Mona Vale Road does not provide cycle lanes. On the contrary, Mona Vale</p>

Internal Referral Body	Comments
	<p>Road has cycle lanes in both directions and is well used by cyclists. Terrey Hills, as an area is also conducive to cycling being quite flat and there is potential for cycling to and from the development site. Bicycle parking consistent with DCP requirements should be provided.</p> <p><u>Traffic Generation</u></p> <p>It is noted that TfNSW has raised concerns about the traffic generated by the development impacting on the operation of the Aumuna Road/Mona Vale Road intersection in particular the increase in delays for vehicles exiting Aumuna Road via a right turn. TfNSW has also raised concerns about the absence of any measures to mitigate such impacts. TfNSW has also raised a number of concerns about the SIDRA modelling undertaken to support the project. Until such time as the above issues have been addressed to TfNSW satisfaction, Council's traffic engineers are unsupportive of the development application.</p> <p>As noted by TfNSW, traffic data collected by the traffic consultants has not been provided for review. This data, collected at the intersections of Aumuna Road/Mona Vale Road & Aumuna Road/Myoora Road on Friday 5 April and Saturday 6 April between 4pm and 6pm and 10am to 2pm should be provided and supplemented by additional data collected at the other key intersection in the vicinity i.e Myoora Road/Mona Vale Road/Forest Way. Council agrees with TfNSW that the majority of traffic movements to/from the development will or should be using Aumuna Road/Mona Vale Road however given that the developer is suggesting that 25% of traffic will use Myoora Rd south of Aumuna Road at the very least traffic data should be provided to provide background information for that intersection.</p> <p><u>Servicing</u></p> <p>The developer's traffic consultant has advised that the largest vehicle servicing the site will be a Medium Rigid Vehicle and the loading bay and turning area has been designed to accommodate that size vehicle. It is however anticipated that deliveries of beer and other produce for the 3 restaurants on the site and also for waste collection are likely to exceed the 8.8m length of a MRV and the loading bay and turning area should therefore be designed to accommodate HRVs up to 12.5m in length. Revised turning bay dimensions and swept path plots for vehicles of this size should be provided.</p> <p><u>Access</u></p> <p>It is noted and supported that the development will be accessed solely from Myoora Road. As outlined above, the developer should provide adequate access for the largest anticipated vehicle likely to service the site. It is considered that this is more likely to be a HVR rather than the MRV that has been anticipated by the developer's traffic consultant. The vehicle crossing and driveway should be designed to cater for a left turn in and out of the driveway by a HRV</p>

Internal Referral Body	Comments
	<p>without encroachment on the opposing travel lane on Myoora Road. This may require widening of the driveway to accommodate this.</p> <p>To cater for pedestrian access to/from the development the existing footpath which currently terminates at the western Myoora Road boundary of the site shall be extended across the full frontage of the property to allow for eventual extension of the path to the bus stop east of the site. This should be indicated on the DA plans</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><i>Supported, subject to recommended conditions</i></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>
Rural Fire Service - Local Branch - EP&A Act, s4.14	<p><i>Supported, subject to recommended conditions</i></p> <p>The proposal was referred to NSW Rural Fire Service, who provided a response stating that the proposal is acceptable subject to recommendations with respect to landscape requirements within the portion of the site classified as bushfire prone land. These recommendations are included in full in a recommended condition of consent.</p>
Aboriginal Heritage Office	<p><i>Supported, subject to recommended conditions</i></p> <p>An Aboriginal Objects Due Diligence Assessment was completed by Urbis in April 2025. The Aboriginal Heritage Office agrees with the conclusions and recommendations outlined in the report. In accordance with the due diligence process described in the Due Diligence Code, no further archaeological investigation is required for the subject area, subject to the following archaeological chance finds and human remains procedures being implemented and followed.</p> <p>Should any archaeological deposits be uncovered during any site works, the following steps must be followed:</p> <ol style="list-style-type: none"> 1. All works within the vicinity of the find must immediately stop and the location cordoned off with signage installed to stop any accidental impact to the finds. The find must not be moved 'out of the way' without assessment. 2. The site supervisor or another nominated site representative must contact Metropolitan Local Aboriginal Land Council, Heritage NSW (Enviroline 131 555) and a suitably qualified archaeologist. 3. The nominated archaeologist must examine the find, provide a preliminary assessment of significance, record the item and decide on appropriate management measures. Such management may require further consultation with Heritage

External Referral Body	Comments
	<p>NSW, preparation of a research design and archaeological investigation/salvage methodology and registration of the find with the Aboriginal Heritage Information Management System (AHIMS).</p> <ol style="list-style-type: none"> 4. Depending on the significance of the find, reassessment of the archaeological potential of the subject area may be required and further archaeological investigation undertaken. 5. Reporting may need to be prepared regarding the find and approved management strategies. 6. Works in the vicinity of the find can only recommence upon receipt of approval from Heritage NSW. <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>
NSW Police - Licensing (Clubs, Hotels, Pubs)	<p><i>Supported, subject to recommended conditions</i></p> <p>The proposal was referred to NSW Police who provided a response stating that the proposal is acceptable subject to recommendations with respect to:</p> <ul style="list-style-type: none"> • Surveillance and CCTV, • Provision of lighting, • Patron capacity, • Vehicular and pedestrian access control measures, • Crime prevention measures, and • Application and enforcement of the plan of management. <p>These recommendations are included as a recommended condition of consent.</p>
Roads and Maritime Service - SEPP (Transport and Infrastructure) 2021, s2.122 - Traffic generating development	<p><i>Supported, subject to recommended conditions</i></p> <p>Transport for NSW has reviewed the development application and is supportive of the proposed development with respect to its classification as 'traffic-generating development', subject to conditions of consent. In summary, the following requirements apply:</p> <ul style="list-style-type: none"> • All construction and ongoing access (both pedestrian and vehicular) is to be via Myoora Road. • The option for 'no right turn' signage at the intersections of Mona Vale Road with Aumuna Road and Kamber Road is not supported. • The premises is not to be used for functions.

External Referral Body	Comments
	The above requirements are included in full by way of a recommended condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

Housing and Productivity Contribution

Part 2 Development for which contribution is require and determination of contribution, Division 2 Housing and productivity contribution amounts, Clause 7 Base component.

This Clause details the base component amounts that apply to the calculation of the housing and productivity contribution, as set out in the following table:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	\$12,000	new dwelling lot
	Residential strata subdivision	\$10,000	new strata dwelling lot
	Non-strata multi-dwelling development	\$10,000	new non-strata dwelling
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA

Comment:

The subject site is sited within the Greater Sydney region. The proposed development is for a new restaurant (being a form of commercial development) with a gross floor area of 1,399m². There is no existing commercial gross floor area on the subject site. As such, the contribution is 1,399 x \$30, totalling \$41,970. A condition of consent is included in the recommendation of this report accordingly.

SEPP (Sustainable Buildings) 2022

(1) In deciding whether to grant development consent to large commercial development, the consent authority must consider whether the development minimises the use of on-site fossil fuels, as part of the goal of achieving net zero emissions in New South Wales by 2050.

3.1 Application of Chapter

- (1) This Chapter applies to development, other than development for the purposes of residential accommodation, that involves—
- (a) *the erection of a new building \$5 million, or*
 - (b) *alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10 million or more.*

Comment:

Chapter 3 is applicable as proposed development involves the erection of a new building and has an estimated development cost of more than \$5 million (\$33,046,200).

- (2) This Chapter does not apply to the following development—
- (a) *development that is permitted with or without consent or that is exempt or complying development under—*
 - (i) *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, or*
 - (ii) *State Environmental Planning Policy (Resources and Energy) 2021, Chapter 2, or*
 - (iii) *State Environmental Planning Policy (Transport and Infrastructure) 2021, Chapter 5,*
 - (b) *development on land wholly in any of the following zones—*
 - (i) *Zones RU1, RU2 or RU3,*
 - (ii) *Zone E5,*
 - (iii) *Zone IN3,*
 - (iv) *Zones C1, C2 or C3,*
 - (v) *Zones W1, W2, W3 or W4,*
 - (c) *development for the purposes of residential care facilities.*

Comment:

Chapter 3 is applicable, as the proposed development is not exempt under any environmental planning instrument, is within the RU4 Primary Production Small Lots zone, and does not include a residential care facility.

3.2 Development consent for non-residential development

- (1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—
- (a) *the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,*
 - (b) *a reduction in peak demand for electricity, including through the use of energy efficient technology,*
 - (c) *a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,*
 - (d) *the generation and storage of renewable energy,*
 - (e) *the metering and monitoring of energy consumption,*
 - (f) *the minimisation of the consumption of potable water.*

Comment:

The proposed development is supported by a report addressing Section J Energy Efficiency of the National Construction Code 2022, prepared by a suitably qualified professional. The report demonstrates the development is designed in accordance with the above matters at (a) to (f) inclusive.

- (2) *Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.*

Comment:

The development application is accompanied by the required form detailing the embodied emissions attributable to the development have been quantified. The embodied emissions form and supporting documentation demonstrate (verbatim, from the submitted Statement of Environmental Effects) the development will achieve the following targets:

- *the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials*
- *a reduction in peak demand for electricity, including through the use of energy efficient technology*
- *a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design*
- *the generation and storage of renewable energy*
- *the metering and monitoring of energy consumption*
- *the minimisation of the consumption of potable water*

3.3 Other considerations for large commercial development

- (1) *In deciding whether to grant development consent to large commercial development, the consent authority must consider whether the development minimises the use of on-site fossil fuels, as part of the goal of achieving net zero emissions in New South Wales by 2050.*

Comment:

The application is not a 'large commercial development' as defined by the SEPP.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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, who provided a response stating that the proposal is acceptable

subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations are included as a condition of consent.

Transport for NSW

2.119 Development with frontage to classified road

The subject site has a frontage to Mona Vale Road, being a classified road. Section 2.119 of Chapter 2 provides that:

- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment:

Transport for NSW has reviewed the development application and is supportive of the proposed development with respect to the matters above at Section 2.119, subject to conditions of consent. In summary, the following requirements apply:

- All construction and ongoing access (both pedestrian and vehicular) is to be via Myoora Road.
- The option for 'no right turn' signage at the intersections of Mona Vale Road with Aumuna Road and Kamber Road is not supported.
- The premises is not to be used for functions.

The above requirements are included in full by way of recommended conditions of consent.

The proposed development provides safe vehicular access to the subject site via Myoora Road, being the secondary street frontage of the site. This suitably removes vehicular access from the classified road (Mona Vale Road).

As detailed by the accompanying traffic documentation and supportive commentary from Transport for NSW and Council's Traffic Engineer, the proposed development demonstrates safe and efficient ongoing operation of Mona Vale Road, given the vehicular access via Myoora Road, the low impact of emissions from the site, and the low impact of traffic generated by the development.

The proposed development is for a restaurant, which is a place for congregation and social activity, so is inherently not sensitive to traffic noise or vehicle emissions. The proposed development is also well located and designed to ameliorate traffic noise and vehicle emissions, being most closely sited towards the Myoora Road frontage, with a substantial landscape buffer between the restaurant and

Mona Vale Road.

2.122 Traffic-generating development

Section 2.122 and Schedule 3 provide that development for the purpose of a food and drink premises with car parking for 200 or more motor vehicles is classified as 'traffic-generating development'. The proposed development (being a restaurant, which is a type of food and drink premises), includes 211 car parking spaces, and is therefore traffic-generating development.

Section 2.119 of Chapter 2 also provides that:

(4) Before determining a development application for development to which this section applies, the consent authority must—

(a) give written notice of the application to TfNSW within 7 days after the application is made, and

(b) take into consideration—

(i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and

(ii) the accessibility of the site concerned, including—

(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and

(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the development.

Comment:

Written notice of the development application was provided to Transport for NSW on the day the application was accepted by Council (18 October 2024).

Commentary received from Transport for NSW demonstrated support for the proposed development with respect to Section 2.122, subject to conditions of consent, as detailed above in relation to Section 2.119. Consideration of the commentary from Transport for NSW has been given throughout this report and the recommendation incorporates the requirements of Transport for NSW.

The proposed development includes appropriate and efficient vehicular accessibility, via Myoora Road, being the secondary street frontage of the site. This suitably removes vehicular access from the classified road (Mona Vale Road). Movement of freight is not relevant to this application.

As detailed by the accompanying traffic documentation and supportive commentary from Transport for NSW and Council's Traffic Engineer, the proposed development demonstrates appropriate road safety, low road congestion, and no unreasonable parking implications.

(5) The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.

Comment:

Transport for NSW will be notified of the determination of this application as required.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the consent authority to consider whether land is contaminated.

Comment:

In accordance with the requirements of Chapter 4, the Applicant carried out a Due Diligence Environmental Site Assessment (ESA), prepared by Reditus Consulting, dated 21 January 2022. The ESA found that the site had historically used for agricultural purposes including operation of market gardens, and surrounding land uses include light industrial, rural, low density residential and open space, and that there is a potential for contaminants to exist on the site. As such, sub-section 4.6 (1)(b) and (1)(c) of this chapter must be considered.

Sub-section 4.6(1)(b) stipulates that *"if the land is contaminated, it [Council] is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out"*. Sub-section 4.6 (1)(c) stipulates that *"if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose"*.

Given the potential of contamination on the site, the ESA recommended preparation of a Remedial Action Plan (RAP), which the Applicant has prepared and submitted with this development application, prepared by Reditus Consulting, dated 1 March 2022. The RAP confirms the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the recommendation of this report. This means the site will be remediated before the land is used for the restaurant purpose.

Warringah Local Environmental Plan 2011

Is the development permissible?	No
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:	Max. 8.5m	Max. 8.3m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
5.20 Standards that cannot be used to refuse consent – playing and performing music	Yes

Clause	Compliance with Requirements
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

2.5 Additional permitted uses for particular land

This clause provides that development on particular land that is described or referred to in Schedule 1 of the WLEP 2011 may be carried out with development consent, or, if the Schedule so provides, without development consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development. This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

The development application seeks consent for use as a restaurant (being a type of food and drink premises), which is ordinarily prohibited within the RU4 Primary Production Small Lots zone under the *Warringah Local Environmental Plan 2011* (WLEP 2011).

Clause 18 of Schedule 1 of the WLEP 2011 provides additional permitted uses for land shown as "Area 18" on the Additional Permitted Uses Map, which includes the subject site. Clause 18 provides that development for the purpose of a restaurant is permitted in Area 18 with consent.

As such, the proposed development is permissible with consent. No other conditions apply per Clause 18.

Concern was raised during assessment of this application that the premises may be used as a function centre, being a prohibited land use within the RU4 Primary Production Small Lots zone under the WLEP 2011. The application was amended to clarify that it shall not be used for functions, which is enforced by way of recommended conditions of consent specifying the approved land use ('restaurant') and prohibition of the use of the site for functions.

2.7 Demolition requires consent

This clause provides that demolition of a building or work may be carried out only with development consent, unless otherwise identified as exempt development (that is, not requiring consent) in an applicable environmental planning instrument, such as the *Warringah Local Environmental Plan 2011* or the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

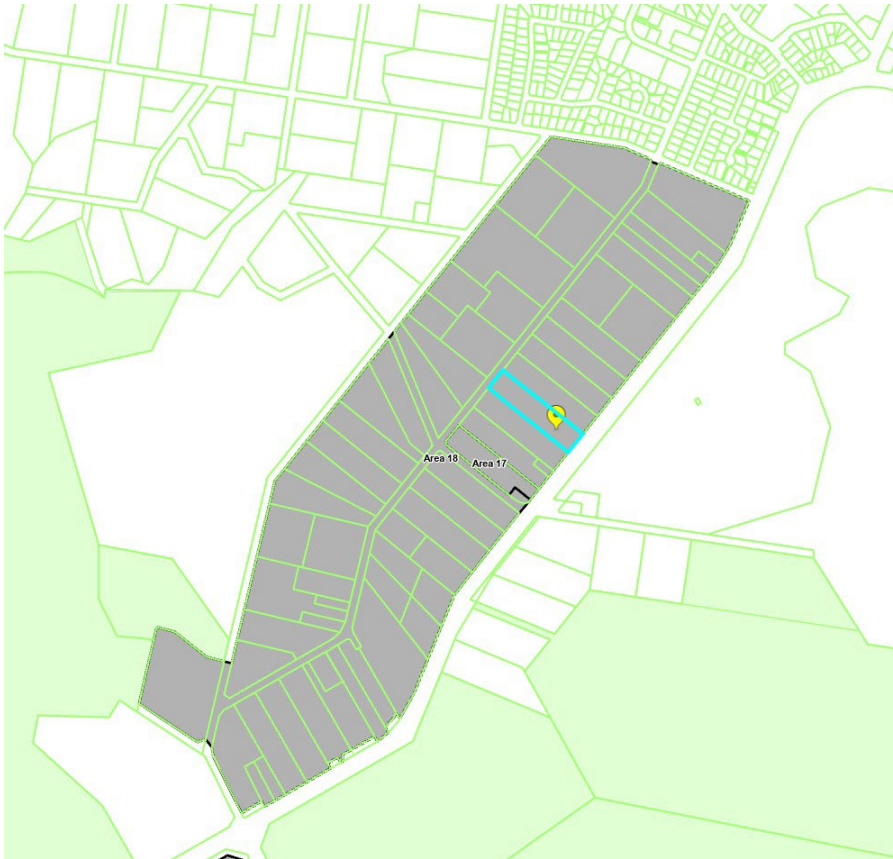
The demolition proposed for this development is not classified as exempt development. Accordingly, consent for the demolition of existing structures on the subject site is sought under this development application and shall not lawfully be carried out unless such consent is granted.

Zone RU4 Primary Production Small Lots

The site is located within Area 18 on the Additional Permitted Uses Map of Schedule 1 of WLEP 2011. This allows for a range of uses not typical of the RU4 zone, given the area's context with Mona Vale Rd and historical zoning.

18 Use of certain land in the vicinity of Mona Vale and Myoora Roads, Terrey Hills

- (1) *This clause applies to land in the vicinity of Mona Vale and Myoora Roads, Terrey Hills, shown as “Area 18” on the Additional Permitted Uses Map.*
- (2) *Development for the purposes of educational establishments, garden centres, hospitals, hotel or motel accommodation, places of public worship, recreation areas, recreation facilities (indoor), recreation facilities (outdoor), registered clubs and restaurants or cafes is permitted with consent.*



Area 18 above contains many large land uses that are made permissible via the additional permitted uses and historical land uses, which established a unique character. These include schools, hospitals, motels, hotels, events centre, retail, garden centres, bus depot, place of public worship as well as many large typical uses such as landscape material supplies, recreation areas and rural supplies.

Given the proposed land use is provided permissibility as an additional permitted use, the proposed development is considered with respect to this area's context with the objectives of the RU4 Primary Production Small Lots zone as follows:

To enable sustainable primary industry and other compatible land uses.

Comment:

The proposed development is for a restaurant, to serve the needs of residents of and visitors to the locality. The proposed development is an ostensibly compatible land use for the area, being listed as an additional permitted use for the subject site, per Schedule 1 Clause 18 of the WLEP 2011.

To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.

Comment:

The proposed development will provide additional employment opportunities on site by way of introduction of the restaurant, which is expected to require a 40-person staff.

To minimise conflict between land uses within this zone and land uses within adjoining zones.

Comment:

The proposed development does not result in any unreasonable conflict between the proposed land use of the site and adjoining or surrounding land uses (by way of the additional large scale existing landses with the RU4 Area 18), with the proposal presenting a suitable design, business modelling, and recommended conditions of consent.

To minimise the impact of development on long distance views of the area and on views to and from adjacent national parks and bushland.

Comment:

The impact of the development on long distance views is maintained and enhanced, due to the overall improved design and landscaping outcomes.

To maintain and enhance the natural landscape including landform and vegetation.

Comment:

The landscape, landform, and vegetation on the site have been altered from previous rural uses, with only peripheral vegetation on the site. Whilst the proposal involves the construction of several large buildings with basement carparking this will also involve maintaining many established trees, whilst enhancing the landscaping on site.

To ensure low intensity of land use other than land uses that are primary industry enterprises.

Comment:

The proposed development provides for a restaurant that is of an intensity commensurate with surrounding land uses permissible within the zone, by way of its suitable design, business modelling, and recommended conditions of consent relating to operation (such as limits to patron numbers, and stipulated hours of operation).

To maintain the rural and scenic character of the land.

Comment:

The unique rural and scenic character of the land is maintained due to the overall architectural design and enhanced landscaping outcomes.

5.20 Standards that cannot be used to refuse consent – playing and performing music

This clause provides that consent to development in relation to licensed premises must not be refused on certain grounds, including with respect to noise, music, and performance. The submitted documentation, including the Plan of Management, indicate live music is anticipated on site from 12:00pm midday to 10:00pm. Given the proposed development is established to be acceptable with respect to noise impacts, the development application is not recommended for refusal in this regard.

6.2 Earthworks

The objectives of Clause 6.2 Earthworks require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- (b) to allow earthworks of a minor nature without requiring separate development consent.*

In this regard, before granting development consent for earthworks, Council must consider the

following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality

Comment:

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment:

The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment:

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment:

The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the recommendation of this report.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment:

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment:

The Applicant has submitted a geotechnical assessment report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The development has been sufficiently assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment:

The Applicant has submitted a geotechnical assessment report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is of acceptably low risk from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Development Engineer is supportive of the proposed development, subject to conditions, which are included in the recommendation of this report. Therefore, the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment:

The Applicant has submitted a geotechnical assessment report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. Further, the development does not rely on unreasonable earthworks, with excavation predominantly being for the purpose of the single-level basement car park. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Development Engineer is supportive of the proposed development, subject to conditions, which are included in the recommendation of this report. Therefore, the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed			% Variation*	Complies
B1 Wall Height	Max. 7.2m	Max. 5.4m			-	Yes
B4 Site Coverage	Max. 20% (3,192m ²)	16.09% (2,568.3m ²)			-	Yes
B5 Side Boundary Setbacks	Min. 7.5m	NE:	Basement:	Car park: Min. 1.5m	80%	No
			Ground:	Parking spaces: Min. 2.5m	66.67%	No
				Dining Terrace / Outdoor dining: Min. 4.4m	41.33%	No
		SW:	Min. 9.5m		-	Yes
B7 Front Boundary Setbacks (Myoora Road)	Min. 10m	Min. 10.5m			-	Yes
B14 Main Roads Setback (Mona Vale Road)	Min. 30m	Stone wall: 500mm			98.33%	No
		Building: Min. 103.8m			-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	Min. 70% (11,172m ²)	51.58% (8,231.8m ²)			26.32%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B4 Site Coverage	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
B14 Main Roads Setback	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
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
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

This control provides that walls are not to exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space). The maximum wall height for the proposed development is 5.4 metres, being compliant with this control.

B4 Site Coverage

This control provides that development shall not exceed a maximum site coverage of 20%, equating to 3,192m² of the site. The site coverage for the proposed development is 16.09%, equating to 2,568.3m², being compliant with this control.

B5 Side Boundary Setbacks

This control provides that development is to maintain a minimum setback from side boundaries of 7.5 metres, and that side boundary setback areas are to be landscaped and free of any above or below ground structures, car parking or site facilities other than driveways and fences. The proposed development includes encroachments to the north-eastern side setback area as follows:

- Basement car park 1.5 metres from boundary,
- Ground at-grade parking spaces 2.5 metres from the boundary, and
- Outdoor dining and dining terrace 4.4 metres from the boundary.

The proposed development is compliant with the south-western side boundary setback, with all built form a minimum of 9.5 metres from the boundary.

With regard to the consideration for variation to the north-eastern side boundary setback, the proposed development is considered against the underlying objectives of the control as follows:

To provide opportunities for deep soil landscape areas.

Comment:

The proposed development provides suitable landscaped area on site, as detailed in the section of this report relating to Clause D1 Landscaped Open Space and Bushland Setting of the WDCP 2011.

Approximately 75% of the landscaped area provided is deep soil. The proposed development includes deep soil areas along both side boundaries and both street frontages (Myoora Road and Mona Vale Road).

To ensure that development does not become visually dominant.

Comment:

The proposed development is designed and sited so as to provide for a substantial redevelopment and upgrade of the site, without resulting in unreasonable built form. The proposed development introduces cohesive and intentional landscaped area to each of the site's frontages, and along both side boundaries. This means that from any vantage point around the site, an improved visual outcome is provided by way of acceptable setbacks and improved landscaping.

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

Comment:

The proposed development includes a consolidated (yet architecturally modulated) restaurant building on the site. The building is centrally located so as to avoid and minimise impact on surrounding land, including with respect to bulk and scale. The portion of the adjoining property adjacent to where the proposed north-eastern side boundary setback encroachments are located contains a driveway and vegetation. As such, the non-compliant portion of the proposed development does not align with any nearby buildings, so does not cumulatively result in unreasonable built form. The proposed development is well-landscaped in logical locations so as to reduce the visual impact of the proposed buildings from surrounding land.

To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity

and solar access is maintained.

Comment:

The proposed development is for a low-lying restaurant premises, with landscaped separation to adjoining properties, intending to increase amenity. The submitted shadow diagrams demonstrate that the built form does not result in unreasonable overshadowing of the subject site or adjoining sites. The proposed development is designed and sited so as to ensure a reasonable level of privacy, amenity and solar access is maintained.

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

Comment:

Despite the non-compliance with the side setback control, the proposed development is designed and sited so as not to disrupt any significant views to or from public or private places.

B7 Front Boundary Setbacks

This control requires a minimum front boundary setback of 10 metres to the Myoora Road frontage of the site. The Mona Vale Road frontage is subject to the 30-metre setback stipulated in Clause B14 Main Roads Setback of the WDCP 2011. The proposed development includes a front setback of 10.5 metres to Myoora Road, being compliant with this control.

B14 Main Roads Setback

This control provides that a minimum 30-metre setback is to be provided to the Mona Vale Road (main road) frontage of the site. The proposed development includes a stone wall 500 millimetres from the Mona Vale Road boundary, being a non-compliance with this control. The remainder of the development is well compliant with this control, being set 103.8 metres from the Mona Vale Road boundary.

With regard to the consideration for variation to the Mona Vale Road (main road) setback, the proposed development is considered against the underlying objectives of the control as follows:

To provide a densely landscaped buffer between the development and the main road/s.

Comment:

With the exception of the stone wall, the proposed development provides a 103.8-metre deep landscape buffer to the Mona Vale Road (main road) frontage, equating to approximately 4,000m² of landscaped area. The proposed setback area to Mona Vale Road is demonstrably densely landscaped with a variety of planting types, including canopy trees, shrubs and grasses. The landscaped buffer will be sufficient in reducing the visual impact of the proposed stone wall from view for users of Mona Vale Road. The proposed development presents a significant improvement on the existing Mona Vale Road frontage, which (whilst subject to some planting) does not include such cohesive, intentional landscaping.

To enhance the aesthetic quality of main roads.

Comment:

As above, the proposed development provides a significant improvement in the landscape treatment to the Mona Vale Road frontage with a densely landscaped buffer. This presents an enhancement to the aesthetic quality of the main road.

C2 Traffic, Access and Safety

This control provides the requirements for vehicular and pedestrian access, particularly with respect to design and location. The proposed development is compliant with these requirements, with all

vehicular and pedestrian access via the Myoora Road frontage. The development application has been reviewed by Council's Traffic Engineer, who is supportive of the proposed development subject to conditions of consent, which have been included in the recommendation of this report.

C3 Parking Facilities

This control provides the requirements and design principles for parking facilities. The proposed development is compliant with these requirements by way of provision of a compliant number of parking spaces and loading/delivery facilities in suitable locations for the proposed restaurant use. The development application has been reviewed by Council's Traffic Engineer, who is supportive of the proposed development subject to conditions of consent, which have been included in the recommendation of this report.

C4 Stormwater

This clause requires that stormwater runoff must not cause downstream flooding and must have minimal environmental impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake and waterway or the like, and that stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

Comment:

The development application is supported by stormwater management plans prepared by a suitably qualified engineer. Council's Development Engineer has reviewed the development application and supporting stormwater management plans and is supportive of the proposed development with respect to the above matters, subject to recommended conditions of consent. As such, the proposed development suitably manages stormwater runoff and is demonstrably designed (and will be installed and maintained) in accordance with Council's Water Management for Development Policy.

C7 Excavation and Landfill

This control provides the requirements for excavation and landfill, with respect to landfill quality, amenity impacts, geological stability, and water quality. The proposed development includes earthworks for the purpose of the single-level basement car park, the at-grade parking area, and portions of the restaurant building. The development application is accompanied by demolition, construction, and operational waste management plans addressing the quality of landfill, and demonstrating suitable waste reduction, recycling, reuse, and disposal methods. The development application is also accompanied by a geotechnical assessment prepared by a suitably qualified professional, demonstrating the proposed works are of acceptably low risk with respect to land stability. The methods and recommendations of the waste management plans and geotechnical assessment report are to be adhered to for the development, as required by the conditions of consent included in the recommendation of this report.

C8 Demolition and Construction

This control requires that all development that includes demolition and/or construction must comply with the appropriate sections of Council's Waste Management Guidelines and must be accompanied by a waste management plan. The development application is accompanied by demolition, construction, and operational waste management plans appropriately addressing the relevant requirements of the Waste Management Guidelines.

C9 Waste Management

This control requires that all development that includes demolition and/or construction must comply with the appropriate sections of Council's Waste Management Guidelines and must be accompanied by a waste management plan. The development application is accompanied by demolition, construction, and operational waste management plans appropriately addressing the relevant requirements of the Waste Management Guidelines.

D1 Landscaped Open Space and Bushland Setting

This control requires that a minimum of 70% of the site (equating to $11,172\text{m}^2$) is to be landscaped open space. The proposed development includes 51.58% of the site ($8,321.8\text{m}^2$) as landscaped open space. With regard to the consideration for variation to the landscaped open space, the development is considered against the underlying objectives of the control as follows:

To enable planting to maintain and enhance the streetscape.

Comment:

The proposed development, whilst non-compliant with the numerical requirement of this control, is configured to provide a wholly better landscaped outcome, as well as improved presentation to (and visual amenity for) adjoining and surrounding properties. The proposed development introduces cohesive and intentional landscaped area to each of the site's frontages and side boundaries. The proposed development provides a 103.8-metre deep landscape buffer to the Mona Vale Road (main road) frontage, equating to approximately $4,000\text{m}^2$ of landscaped area. To Myoora Road, the site provides a 10-metre deep landscape buffer, in place of the existing overgrown vegetation. That is, the proposed development provides an improvement to, and an enhancement of the site's two streetscapes by way of generous planting.

To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.

Comment:

The submitted landscape plans demonstrate a suitable variety of planting, including additional indigenous species to support habitat for wildlife. A swale connected to an upstream catchment is located in the north-western corner of the site, which is proposed to be suitably vegetated. There are no other topographical features of importance noted on site. The proposed landscaping outcome is noted to enhance vegetation for the site.

To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.

Comment:

The proposed development demonstrates various landscaped areas of ample dimensions to support a variety of planting types and sizes. The submitted landscape plans provide confirmation in this regard, demonstrating many and various vegetation types across the site. The landscaped areas are logically located so as to visually reduce the height, bulk and scale of the development.

To enhance privacy between buildings.

Comment:

The proposed development is for a low-lying restaurant premises, with landscaped separation to adjoining properties, intending to increase amenity. As such, the proposed development enhances privacy between buildings.

To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.

Comment:

Not applicable. The proposed development is for the purpose of a commercial premises.

To provide space for service functions, including clothes drying.

Comment:

Not applicable. The proposed development is for the purpose of a commercial premises.

To facilitate water management, including on-site detention and infiltration of stormwater.

Comment:

The proposed development provides greater planting and improved landscaped open space than the existing scenario and compliant site coverage, which each assist with water infiltration on the site. The proposed development is supported by stormwater plans that demonstrate acceptable water management measures. The proposed development is supported by Council's Water Management Officer and Development Engineer, including with respect to stormwater management, subject to conditions of consent that have been included in the recommendation of this report.

D3 Noise

This control provides the requirements for development with respect to noise. The proposed development is compliant with all relevant requirements of this control, as demonstrated by the accompanying noise assessment report, plan of management, and the review of the development by Council's Environmental Health Officer. The noise impact assessment finds that the proposed restaurant use is anticipated to operate below noise trigger levels, without the need for any noise mitigation measures. Conditions of consent are included in the recommendation of this report with respect to restriction of patron numbers and hours of operation, so as to reasonably maintain the amenity of the locality during operation, in accordance with the noise assessment and plan of management.

D6 Access to Sunlight

This control provides the requirements for development with respect to solar access. As demonstrated by the submitted shadow diagrams, the proposed development does not result in non-compliant or unreasonable overshadowing to the subject site, adjoining sites, or public land.

D7 Views

This control provides the requirements for development with respect to reasonable sharing of views. Whilst the proposed built form on the site is larger than that of the existing scenario, the development is designed and sited so as not to unreasonably impact upon view to or from public or private places. It is noted that no submissions raised concern that the proposed development results in loss of view or unreasonable view sharing impacts.

D8 Privacy

This control provides the requirements for development with respect to reasonable retention of visual and acoustic privacy. The proposed development is for a low-lying restaurant premises, with landscaped separation to adjoining properties, intending to increase visual privacy amenity. It is noted that no submissions raised concern that the proposed development results in loss of visual privacy. The proposed development is compliant with regard to noise impacts, as demonstrated in the section of this report relating to D3 Noise of the WDCP 2011.

D9 Building Bulk

This control provides the requirements for development with respect to building bulk. The proposed development is consistent with the requirements of this control by way of its design and siting. The proposed development includes non-compliance with the built form controls set out by Parts B5 Side

Boundary Setbacks, B7 Front Boundary Setbacks, and D1 Landscaped Open Space and Bushland Setting of the WDCP 2011, though these elements are acceptable on merit for the reasons detailed in the relevant sections of this report. As such, the development, despite its non-compliant elements, does not result in unreasonable building bulk.

D10 Building Colours and Materials

This control provides the requirements for building colours and materials. The proposed development is supported by a materials palette depicting the proposed colours and materials to be used for the restaurant building and surrounding ancillary site facilities. The materials palette demonstrates that the proposed structures will be sympathetic to the surrounding natural and built environment.

D11 Roofs

This control provides the requirements for the design of roof structures so as to minimise impacts on surrounding properties. The proposed development is compliant with the requirements of this control, and a condition of consent has been included in the recommendation of this report to ensure that the proposed roof structures do not result in unreasonable glare or reflection.

D12 Glare and Reflection

This control provides the requirements for development with respect to glare and reflection, so as to minimise impacts on surrounding properties. The proposed development is compliant with the requirements of this control, and a condition of consent has been included in the recommendation of this report to ensure that the proposed roof structures do not result in unreasonable glare or reflection.

D18 Accessibility and Adaptability

This control provides the requirements for development with respect to accessibility. The development application is accompanied by an access report and addendum, each prepared by a suitably qualified professional, addressing the applicable accessibility requirements for the proposed restaurant. The access report and addendum demonstrate that equitable and safe access is provided to the site and its buildings, in accordance with the relevant Australian Standards and the *Disability Discrimination Act 1992*.

D20 Safety and Security

This control provides the requirements for development with respect to safety and security, in consideration of Crime Prevention Through Environmental Design (CPTED). The proposed development is compliant with these requirements by way of suitable design, site illumination, and safety and security practices as detailed in the supporting plan of management. NSW Police have reviewed the application and provided a response stating that the proposed development is acceptable, subject to recommendations with respect to security, crime prevention, and operational management. These conditions are included in the recommendation of this report.

D21 Provision and Location of Utility Services

This control provides the requirements for provision of services as relevant to development, such as utilities (water, gas, telecommunications and electricity), and the satisfactory management of sewage and drainage. The subject site is currently supplied with access to the necessary services to support the proposed restaurant use, other than with respect to sewage, being critical infrastructure. In this regard, the submitted documentation and referral comments by Council's Environmental Health Officer confirm that sufficient capacity to connect the site to existing sewer infrastructure is available, with

anticipated connection to the sewer via Myoora Road, approximately 200 metres north of the intersection at Aumuna Road. Accordingly, the application is recommended for deferred commencement approval, subject to obtaining a Section 73 Certificate under the *Sydney Water Act 1994* for the sewer connection.

D22 Conservation of Energy and Water

This control provides the requirements for conservation of energy and water, with respect to building orientation and layout, landscaping, natural ventilation, and solar access. The development application is accompanied by a report addressing Section J Energy Efficiency of the National Construction Code 2022 (NCC), prepared by a suitably qualified professional. The report demonstrates the development is designed in accordance with the requirements of this control and the NCC.

E1 Preservation of Trees or Bushland Vegetation

This control provides the requirements for the reasonable preservation of trees, and the circumstances in which trees may be removed for development. The proposed development is consistent with these requirements, and does not rely on unreasonable tree or vegetation removal. The development application has been reviewed by Council's Landscape Officer, who is supportive of the proposed development subject to conditions of consent, which have been included in the recommendation of this report.

E2 Prescribed Vegetation

This control provides the requirements with respect to prescribed vegetation (that is, threatened or high conservation habitat, wildlife corridors, and native vegetation). The proposed development is consistent with these requirements, and does not rely on unreasonable tree or vegetation removal. The development application has been reviewed by Council's Landscape Officer, who is supportive of the proposed development subject to conditions of consent, which have been included in the recommendation of this report.

E6 Retaining unique environmental features

This control provides the requirements for the reasonable retention of unique environmental features. It is noted that a swale connected to an upstream catchment is located in the north-western corner of the site. The proposed development has been reviewed by Council's Environment Officer (Catchments), who is satisfied that the development is suitably designed with respect to the environmental feature. Council's Environment Officer (Catchments) is supportive subject to conditions of consent, which have been included in the recommendation of this report.

E8 Waterways and Riparian Lands

This control provides the requirements for development on land containing or in proximity to waterways and riparian land. It is noted that a swale connected to an upstream catchment is located in the north-western corner of the site. The development application has been reviewed by Council's Environment Officer (Catchments), who is supportive of the proposed development subject to conditions of consent, which have been included in the recommendation of this report.

E10 Landslip Risk

This control provides the requirements for development on land identified on the *Warringah Local Environmental Plan 2011* Landslip Risk Map as Area A, Area B, Area C, Area D or Area E. The subject site is classified as Area A, being of low gradient and low landslip risk. The development application is

supported by a geotechnical assessment report, prepared by a suitably qualified geotechnical expert. The report concludes that the proposed development is of acceptably low risk from a geotechnical perspective. The development application has been reviewed by Council's Development Engineer, who is supportive of the proposed development subject to conditions of consent, which have been included in the recommendation of this report.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$330,462 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$33,046,200.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- 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

PLANNING CONCLUSION

This development application seeks consent for demolition of the existing structures on the subject site, and construction of a food and drink premises, car parking, and landscaping works including substantial tree planting.

The application is referred to the Sydney North Planning Panel (SNPP) as it is classified as regionally significant development, given the development has an estimated development cost of more than \$30 million (\$33,046,200).

The application was notified in accordance with the Northern Beaches Community Participation Plan and received 36 submissions, comprised 20 submissions in support and 16 submissions objecting to the proposal. The development application was amended in response to concerns raised by Council and in the submissions. Accordingly, the application was notified for a second period and received 5 further submissions, all of whom objected in the original notification period.

Concerns raised in the objections predominantly related to:

- Proposed hours of operation and number of patrons, and the resulting potential noise impacts during operation.
- Environmental impacts (light spill, smoke generation, impact on biodiversity, weed infestation, stormwater management, contaminated land, and bushfire risk).
- Inconsistency with character and locality.
- Traffic and parking impacts during construction and operation.
- Loss of property value for surrounding properties.

The location in which the proposal is located is adjacent to a classified arterial road, Mona Vale Road and the area contains many uses not of typical or at a scale of the traditional RU4 zone. This is as a result of historical zonings which is reflected in the Additional Permitted Uses for this locality.

Within this assessment report, detailed consideration was given to the above matters. The proposed development is designed and sited so as not to result in unreasonable amenity or environmental impacts, is consistent with the objectives and additional permitted land uses of the RU4 Primary Production Small Lots zone, and is of an impact that is acceptable in the context of the locality.

Traffic and parking was the largest issue in the assessment, with the site having a frontage to a classified road (Mona Vale Rd) resulting in all vehicular access having to be located on Myoora R. The issues of the impact of this development were addressed through significant reductions in floor space, patrons and car parking in order that the proposal could be accommodated within the existing road network capabilities.

The proposed development is not anticipated to result in any unreasonable traffic impacts during construction and operation, by way of its design and limited capacity. It is noted that TfNSW support the development, recognising that it is of a category of 'traffic generating development'.

Overall, the development is a high-quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

The proposal is therefore recommended for **deferred commencement approval** (to obtain a Section 73 Certificate under the *Sydney Water Act 1994* for the sewer connection).

REASON FOR DETERMINATION

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

RECOMMENDATION**DEFERRED COMMENCEMENT APPROVAL**

A. THAT Sydney North Planning Panel as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Clause 76 of the Environmental Planning and Assessment Regulation 2021 to DA2024/1362 for Demolition works and construction of mixed use hospitality venue with supporting car parking, servicing and landscaping works on land at Lot 180 DP 752017, 40 Myoora Road, TERREY HILLS, subject to the conditions outlined in Attachment 1.

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

ATTACHMENT 1

Terms and Reasons for Conditions

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

DEFERRED COMMENCEMENT CONDITIONS

1. Sewer Infrastructure Connection

Prior to the operating of the consent, a Notice of Requirement under the Sydney Water Act 1994 must be obtained from Sydney Water .

Application must be made through an Authorised Water Servicing Coordinator with the Notice of Requirement being forwarded to Council.

Reason: To ensure essential infrastructure is provided to service the site and minimise risks to the natural environment from effluent disposal.

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

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

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

GENERAL CONDITIONS

2. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA1-0000	20	Title Sheet & Drawing List	Humphrey & Edwards	21 May 2025
DA1-0110	08	Materials Palette	Humphrey & Edwards	7 April 2025

DA1-0200	08	General Notes & Abbreviations - Sheet 01	Humphrey & Edwards	7 April 2025
DA1-0201	08	Keynotes	Humphrey & Edwards	7 April 2025
DA1-0410	14	Site Plan - Existing & Demolition	Humphrey & Edwards	7 April 2025
DA1-0500	18	Site Plan - Proposed	Humphrey & Edwards	21 May 2025
DA1-1010	19	General Arrangement Plan - Myoora Road Venue Entry & Basement	Humphrey & Edwards	21 May 2025
DA1-1013	17	General Arrangement Plan - Restaurant	Humphrey & Edwards	7 April 2025
DA1-1023	17	General Arrangement Plan - Roof	Humphrey & Edwards	7 April 2025
DA1-1024	08	General Arrangement Plan - Landscaped Open Space & Mona Vale Road	Humphrey & Edwards	7 April 2025
DA1-1100	06	Seating Plan - Restaurant	Humphrey & Edwards	7 April 2025
DA1-1200	08	General Notes - Food Premises	Humphrey & Edwards	7 April 2025
DA1-1201	08	Detail Plan - Restaurant	Humphrey & Edwards	7 April 2025
DA1-3100	15	Streetscape Elevations - Proposed	Humphrey & Edwards	21 May 2025
DA1-4100	17	Site Sections - Proposed - Sheet 01	Humphrey & Edwards	21 May 2025
DA1-4101	17	Site Sections - Proposed - Sheet 02	Humphrey & Edwards	21 May 2025
DA1-4102	16	Site Sections - Proposed - Sheet 03	Humphrey & Edwards	21 May 2025
DA1-4110	17	North West - Proposed Sections - Sheet 01	Humphrey & Edwards	21 May 2025
DA1-4111	17	North West - Proposed Sections - Sheet 02	Humphrey & Edwards	21 May 2025
DA1-4112	16	North West - Proposed Sections - Sheet 03	Humphrey & Edwards	21 May 2025
DA1-4120	17	South East - Proposed Sections - Sheet 01	Humphrey & Edwards	21 May 2025
DA1-4121	17	South East - Proposed Sections - Sheet 02	Humphrey & Edwards	21 May 2025
DA1-4122	16	South East - Proposed Sections - Sheet 03	Humphrey & Edwards	21 May 2025

DA1-4130	15	Building Sections - Sheet 01	Humphrey & Edwards	7 April 2025
DA1-9000	16	Area Plan & Schedule - Proposed	Humphrey & Edwards	21 May 2025
DA1-9010	16	Site Cover Plan & Schedule - Proposed	Humphrey & Edwards	21 May 2025
DA1-9020	10	Gross Floor Area & Schedule - Proposed	Humphrey & Edwards	21 May 2025
DA1-9030	09	Fire Compartmentation - Proposed	Humphrey & Edwards	21 May 2025
DA01-D0224	H	Cover Sheet	Dangar Barin Smith	13 May 2025
DA02-D0224	H	Site Plan	Dangar Barin Smith	13 May 2025
DA03-D0224	H	Myoora Rd Entry & Carpark Landscape Plan	Dangar Barin Smith	13 May 2025
DA04-D0224	H	Outdoor Dining & Kids Play Landscape Plan	Dangar Barin Smith	13 May 2025
DA05-D0224	H	Landscape Terrace Landscape Plan	Dangar Barin Smith	13 May 2025
DA06-D0224	H	Landscaped Open Space Area & Mona Vale Rd Landscape Plan	Dangar Barin Smith	13 May 2025
DA07-D0224	H	Typical Details	Dangar Barin Smith	13 May 2025
C000	D	Cover Page & Drawing List	Richmond + Ross	21 May 2025
C100	E	Overall Stormwater Plan	Richmond + Ross	21 May 2025
C101	E	Stormwater Plan Zone-A Sheet 1 of 3	Richmond + Ross	21 May 2025
C102	E	Stormwater Plan Zone-B Sheet 2 of 3	Richmond + Ross	21 May 2025
C103	E	Stormwater Plan Zone-C Sheet 3 of 3	Richmond + Ross	21 May 2025
C110	E	Stormwater Basement Plan	Richmond + Ross	21 May 2025
C130	C	Cut and Fill Plan	Richmond + Ross	21 May 2025
C150	C	Stormwater Schedules & Details Sheet 1 of 2	Richmond + Ross	4 April 2025
C151	B	Stormwater Schedules & Details Sheet 2 of 2	Richmond + Ross	21 December 2023
C200	D	Overall Erosion & Sediment Control Plan	Richmond + Ross	21 May 2025

C201	D	Erosion & Sediment Control Plan Zone-A Sheet 1 of 3	Richmond + Ross	21 May 2025
C202	D	Erosion & Sediment Control Plan Zone-B Sheet 2 of 3	Richmond + Ross	21 May 2025
C203	D	Erosion & Sediment Control Plan Zone-C Sheet 3 of 3	Richmond + Ross	21 May 2025
C250	A	Erosion & Sediment Control Details	Richmond + Ross	21 December 2023
C400	D	Proposed OSD Tank Details	Richmond + Ross	21 May 2025

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Aboriginal Objects Due Diligence Assessment	-	Urbis	3 April 2025
Access Report PAA_24008	1	Purple Apple Access	15 August 2024
Access Report Appendix	-	Purple Apple Access	31 March 2025
Air Quality Statement	-	Todoroski Air Sciences	5 September 2024
Arborist Impact Assessment Ref: 3550	03	Anderson Environment & Planning (AEP)	11 April 2025
Building Code of Australia 2022 Assessment Report	R02	Philip Chun Building Compliance	13 September 2024
Building Code of Australia 2022 Assessment Report Addendum	-	Philip Chun Building Compliance	4 April 2025
Bushfire Assessment	-	Black Ash Bushfire Consultants	5 September 2024
Bushfire Assessment Addendum	-	Black Ash Bushfire Consultants	8 April 2025
Bushfire Assessment Addendum	-	Black Ash Bushfire Consultants	19 May 2025
Construction & Demolition Waste Management Plan	B	Elephants Foot Consulting	2 September 2024
Construction / Traffic Management Report	4	SafeWay Traffic Management Solutions	4 October 2024

Due Diligence Environmental Site Assessment 21385RP01	1	Reditus Consulting	21 January 2022
Ecological Assessment Report 3550	-	Anderson Environment & Planning (AEP)	12 September 2024
Embodied Emissions Materials Form	1.20	Northcroft (Australia)	24 October 2024
Fire Engineering DA Support Letter JN23-00149	1	Red Fire Engineers	7 April 2025
Geotechnical Investigation Report JS/S1694	1	Fortify Geotech	18 September 2024
NCC 2022 Section J Deemed-to-Satisfy (DTS) Assessment 2501590	E	Efficient Living	28 March 2025
Noise Assessment MAC242173-01RP1V2	-	Muller Acoustic Consulting (MAC)	21 August 2024
Noise Assessment MAC242173-02RP1V2	-	Muller Acoustic Consulting (MAC)	8 April 2025
Noise Assessment Addendum MAC242173-02LR1	-	Muller Acoustic Consulting (MAC)	3 April 2025
Operational Waste Management Plan 5668	E	Elephants Foot Consulting	9 September 2024
Plan of Management	3.0	The Farm by Boathouse	30 April 2025
Stormwater Management Plan 230300	D	Richmond + Ross	May 2025
Stormwater Management Plan Addendum	-	Richmond + Ross	4 April 2025
Traffic Impact Assessment 24.014r01v05	v05	Traffix	April 2025
Traffic Impact Assessment Addendum 24.014r03v03	v03	Traffix	8 April 2025
Traffic Impact Assessment Addendum 24.014r04v04	v04	Traffix	16 April 2025
Water Services Letter	-	Rose Atkins Rimmer	20 September 2024

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

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

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

3. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	12 November 2024
NSW Rural Fire Service	RFS Referral Response	24 April 2025
NSW Police Force	NSW Police Referral Response	24 October 2024
Transport for NSW	TfNSW Referral Response	12 June 2025

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

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

4. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a restaurant, in accordance with the Dictionary of the Warringah Local Environmental Plan 2011 (or any replacement instrument), as follows:

Restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, but does not include the preparation and serving of food and drink to people that occurs as part of—

- (a) an artisan food and drink industry, or*
- (b) farm gate premises.*

The approved development is not to be used as a 'Function Centre' as defined in the Warringah Local Environmental Plan 2011 (or any replacement instrument).

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

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

5. **No Approval for Signage**

No approval is granted under this development consent for signage. A separate development application must be submitted to Council for approval prior to installation of signage.

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

6. **Acoustic Review**

Within 30 days from the operations commencing under the terms of this consent, an acoustic review of the findings and recommendations of the noise assessment reports and addendums listed in the condition titled 'Approved Plans and Supporting Documentation' and any additional requirements at OC acoustic review stage; shall be carried out on site (during a busy period of

trading). The report associated with the compliance testing shall be submitted to Council within 30 days of the review.

Should physical works that would require approval be necessary action to achieve acoustic compliance, a modification application to modify this consent accordingly shall be lodged within 30 days of the review for assessment and must be approved prior to any works being carried out.

Reason: To ensure acoustic compliance in an operational situation.

7. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

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

Reason: Legislative requirement.

8. 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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) 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.
- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:

- i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) 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.
- (m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in 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

9. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$330,462.00 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 (as amended).

The monetary contribution is based on a development cost of \$33,046,200.00.

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

Details demonstrating compliance, by way of written receipts issued by Council, are to be

submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

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

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

10. **Security Bond**

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

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

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

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

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

11. **Housing and productivity contribution - Development consents**

1. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition 2, is required to be made:

Contribution Type	Amount
Housing and Productivity Contribution	\$41,970.00
Strategic Biodiversity Component and/or Transport Project Component	\$0
Total:	\$41,970.00

2. The amount payable at the time of payment is the amount shown in condition 1 as the total housing and productivity contribution adjusted by multiplying it by:

highest PPI number

consent PPI number

where—

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made.

consent PPI number is the PPI number last used to adjust HPC rates when consent was granted.

June quarter 2023 and PPI have the meanings given in clause 22 (4) of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

3. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	Time by which HPC must be paid
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Manufactured home estate for which no construction certificate is required

4. The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).
5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
 - a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
 - b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.

6. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

12. **Construction, Excavation and Associated Works Security Bond(s)**

The applicant is to lodge a bond with Council for the following:

Drainage Works

As security against any damage to Council's drainage system or failure to complete the construction of stormwater drainage works required as part of this consent a bond of \$20,000.

Details confirming payment of the bond(s) are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

13. **Amended Plans**

Amended plans addressing realignment of the pedestrian pathway/ramp to Myoora Rd to allow the retention of tree 8 are required. The Arborist shall provide confirmation to the Certifier that the alignment is supported and tree 8 can be retained. Details demonstrating compliance are to be submitted to the satisfaction of the Certifier prior to the issue of the Construction Certificate.

Reason: Landscape amenity.

14. **On Slab Landscape Planters**

Details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided. Landscape treatment details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, and services connections.

The following soil depths are required to support planting: 300mm for groundcovers, grasses, and lawn; 600mm for shrubs; and 1m for small trees.

Design certification shall be submitted to the Certifier by a qualified Structural Engineer, that

the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and ensure waterproofing and drainage is installed.

15. Compliance with Ecologist's Recommendations – Pre-construction

All impact mitigation measures specified in the approved Ecological Assessment Report (Anderson Environment & Planning, 2024) are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

16. No Clearing of Vegetation

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

17. Installation of Nest Boxes

A minimum of 2 nest boxes suitable for native fauna species are to be installed in retained trees / throughout the trees within areas of retained native vegetation / on the site.

Nest boxes must be attached in accordance with industry best practice (e.g. expandable tree sensitive methods).

Written certification of compliance is to be prepared by the Project Ecologist and submitted to the Certifier prior to issue of the Construction Certificate.

Reason: To maintain wildlife habitat.

18. On-Site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Richmond + Ross Pty Ltd, drawing numbers 230300 - C000 & C400, Rev D, dated 21/05/2025; C100, C101, C102, C103 & C110, Rev E, dated 21/05/2025; C130, Rev C, dated 21/05/2025; C150, Rev C, dated 04/04/2025 and C151, Rev A, dated 21/12/2023. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. The stormwater outlet pipeline from the OSD tank shall be connected to the existing Council's kerb inlet pit rather than connecting to Council's underground channel if feasible.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

19. Access Driveway Design

The Applicant shall submit a design for the access driveway by a suitably qualified civil/traffic engineer in accordance with the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking.

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

Reason: Compliance with this consent.

20. Detailed Design of Creek Works

A certificate from a suitably qualified engineer who has membership of Engineers Australia and the National Engineering Register (NER), stating that the proposed works have been designed in accordance with the DPE Guidelines for watercourse crossings, no structural supports are placed in the watercourse channel bed and the design of the footpath crossing the watercourse allows for light penetration where possible.

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

Reason: To ensure creek works are completed in accordance with the consent approval.

21. Detailed Design of Stormwater Treatment Measures

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the stormwater plans and details of the civil engineering drawing set (C101 revE and C400 revD dated 21.05.2025 by Richmond+Ross) and Council's Water Management for Development Policy.

The certificate is to confirm that the Stormwater Water quality system is achieving a minimum pollution reduction in the post-development mean annual loads of:

- Total Suspended Solids (TSS) 85%
- Total Phosphorus (TP) 65%
- Total Nitrogen (TP) 45%

The proposed parking permeable pavement if forming part of the water quality system and cannot be substituted without Council approval.

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

Reason: Protection of the receiving environment.

22. Car Parking Standards

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

Details demonstrating compliance with this condition are to be submitted to the Certifier prior to

the issue of a construction certificate.

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

23. **Car Parking Finishes**

All driveways, car parking areas and pedestrian paths are to be permeable or be surfaced and sealed. Details of treatment to these areas are to be submitted to the Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

24. **Construction Traffic Management Plan**

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

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
 - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected

from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.

- A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any 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.
- Specify that, due to the proximity of the site to Terrey Hills Public School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted along Myoora Road, from north of the site in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.

Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.

The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.

- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

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

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

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

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

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

25. **Removal of Redundant Driveways**

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

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

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

26. **Pedestrian sight distance at property boundary**

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

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

Reason: To maintain pedestrian safety.

27. **Amendments to the Plan of Management**

The following amendments are to be made to the approved Plan of Management:

- Section 6 Ancillary Functions shall be amended to specify that the the approved development is not to be used as a ‘Function Centre’ as defined in the Warringah Local Environmental Plan 2011 (or replacement instrument).
- Section 7.3 Prevention of Sale and Supply of Alcohol to Minors shall be amended to remove reference to functions.

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

Reason: To require amendments to the Plan of Management endorsed by the consent authority following assessment of the development.

28. Boundary Identification Survey

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

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

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

29. Services and Fire Hydrant Enclosure

Prior to the issue of a Construction Certificate for works above ground level, Council's Executive Manager of Development Assessment is to be provided with plans to their satisfaction demonstrating that all Services (Gas meter, water meter & fire hydrant and sprinkler booster valves and the like) are enclosed in a manner that compliments the building, do not visually dominate the streetscape and are in accordance with the requirements of the BCA.

An updated landscape plan is also to be provided to reflect the changes resulting from the fire hydrant and sprinkler booster detailed design.

Reason: To ensure essential services are appropriately screened.

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

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

The application is to include Civil Engineering plans for the design of the new vehicular crossover, new footpath, new pedestrian access and the proposed stormwater connection to Council's Stormwater Assets which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer.

The design must include the following information:

- Driveway long-sections along both sides of the new vehicular crossover prepared by a qualified civil/traffic engineer.
- Details of 1.5m wide new footpath along the full frontage of Myoora Road including cross-sections and long-sections
- Details of the proposed pedestrian access within the Road Reserve.
- Details of the proposed stormwater connection to Council's Stormwater Assets including all relevant levels.

- All reinstatement works required within the Road Reserve.

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

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

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

31. Plans of Kitchen Design, construction and fit out

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

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

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

32. Mechanical ventilation Plans

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

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

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

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

33. Engagement of Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with Ecological Assessment Report (Anderson Environment & Planning, September 2024).

The Project Ecologist must have one of the following memberships / accreditation:

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- Biodiversity Assessment Method Accredited Assessor under the relevant legislation (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to the Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

34. NSW Rural Fire Service - Landscaping Assessment

Landscaping within the area mapped as Bush Fire Prone Land must comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

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

Reason: Bushfire safety.

35. Compliance with Standards

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

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

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

36. External Finishes to Roof

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted. Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

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

37. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works

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

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

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

- Guidelines for Building Over/Adjacent to Sydney Water Assets.

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

◦

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

38. State Road Public Utility Adjustment/Relocation Works

Any public utility adjustment/relocation works on the state road network (i.e. Mona Vale Road) will require detailed civil design plans for road opening/underboring to be submitted to TfNSW for review and acceptance prior to the issue of a Construction Certificate and the commencement of any works. The developer must also obtain any necessary approvals from the various public utility authorities and/or their agents. Please send all documentation to development.sydney@transport.nsw.gov.au. A plan checking fee will be payable, and a performance bond may be required before TfNSW approval is issued.

The developer is required to enter into a Works Authorisation Deed (WAD), or other suitable arrangement as agreed to by TfNSW, for the abovementioned works that are located on or have the potential to impact Mona Vale Road.

Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifier prior to the issue of the Construction Certificate.

Reason: Transport for NSW requirement.

39. No Consent for 'No Right Turn' Works

No consent is granted for the 'No Right Turn' on the Aumuna Road and Kamber Road approaches to Mona Vale Road detailed in the amended documentation (letter from TRAFFIX dated 16 April 2025, Ref: 24.014r04v04). All references to such works in approved documentation are to be deleted.

Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifier prior to the issue of the Construction Certificate.

Reason: Transport for NSW requirement.

40. Pram Ramps to Myoora Road

The two pram ramps connecting the development site to the kerb alignment on Myoora Road are to be deleted from the plans.

Details demonstrating compliance with this condition are to be incorporated in the plans submitted to Council's Development Engineers for Section 138 and/or 139 Roads Act approval with confirmation of approval of the above provided to the Certifier prior to the issue of a construction certificate.

Reason: The pram ramps are unnecessary and any vehicles stopping to load/unload passengers at the ramps would be illegally parked.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

41. **Project Arborist**

a) A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

b) The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular the tree protection measures and works under section 7 Recommendations, and Figure 7 Tree Protection Plan. The Project Arborist shall also be in attendance and supervise all works involved with the construction of any pedestrian pathway in the tree protection zone of tree 8.

c) All tree protection measures specified must:

- i) be in place before work commences on the site, and
- ii) be maintained in good condition during the construction period, and
- iii) remain in place for the duration of the construction works.

d) The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

42. **Tree Removal Within the Property**

This consent approves the removal of existing prescribed trees on the subject site as listed below:

i) trees 1, 2, 3, 4, 5, 6, 7 - *Eucalyptus grandis*, tree 15 - *Ceratopetalum gummiferum*, tree 24 - *Casuarina glauca*, tree 32 - *Eucalyptus grandis*, and tree 47 - *Casuarina glauca*.

Reason: To enable authorised development works.

43. **Work Zones and Permits**

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

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane

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

44. **Demolition Traffic Management Plan**

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

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Specify that, due to the proximity of the site adjacent to Terrey Hills Public School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic on Myoora Road north of the site are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

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

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

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

45. **Sediment and Erosion Controls**

For developments that include more than 2500sqm of disturbance:

A Soil and Water Management plan (SWMP), in accordance with section 2.3 of the Blue Book, must be prepared and certified by a suitably qualified professional.

For sites larger than 250sqm and less than 2500sqm of disturbance:

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person in accordance with the following considerations and documents:

- Sites that have slopes exceeding 20% (measured in any direction across the site), and/or where works are within the high-water mark or adjacent to a waterway or watercourses are considered environmentally sensitive areas. These sites require a site-specific ESCP which must be prepared and certified by a suitably qualified professional,
- The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate – Volume 1, 4th Edition (2004)' (the Blue Book), and
- The 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure).

The ESCP must include the following as a minimum:

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

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where works are within the high-water mark or adjacent to a waterway or watercourses) must also consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

For sites smaller than 250sqm or where the disturbance is less than 50sqm:

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- Diverting uncontaminated run-off around cleared or disturbed areas, and

Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and

- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- Identifying any environmentally sensitive areas on and immediately next to the site, and
- demonstrating how these will be protected (for example, by designation as no-go areas).

Details demonstrating compliance with the relevant requirements above are to be submitted to the Certifier, and the measures implemented, prior to the commencement of works.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

46. **Hazardous Materials Survey**

Prior to the commencement of any demolition works, a hazardous building materials survey is to be conducted by a suitably qualified and experienced person. The survey is to include a survey of hazardous building materials including but not limited to asbestos, lead, SMF and PCBs. Following the survey a Hazardous Building Materials Register is to be prepared for the premises providing recommendations for the safe management/removal of hazardous building material.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

DURING BUILDING WORK

47. **Site Contamination**

All stockpiles of potentially contaminated soil must be stored in a secure area on the site (no greater than 48 hours) so as not to cause pollution or public health risk until disposed of at a waste facility. All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination: Protection of the Environment Operations Act 1997; and Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).

Reason: To protect human health and the environment.

48. **Protection of Existing Street Trees**

a) All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS 4970-2009 Protection of trees on development sites. As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

b) All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

49. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS 4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) The Principal Certifier must ensure that:

- i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

50. **Compliance with Ecologist's Recommendations – During Construction**

All impact mitigation measures specified in the approved Ecological Assessment Report (Anderson Environment & Planning, 2024) are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

51. **Pre-clearance Survey - Certified by Project Ecologist**

Any habitat for native wildlife (including tree hollows) approved for removal is to be inspected for native wildlife by the Project Ecologist prior to its removal. If native wildlife is found within habitat to be removed, the animal is to be safely relocated by the Project Ecologist to a suitable location.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be prepared by the Project Ecologist and provided to the Principal Certifier prior to any Occupation Certificate.

Reason: To protect native wildlife.

52. **Wildlife Protection**

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

53. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

54. **Road Reserve**

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

Reason: Public safety.

55. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

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

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

Reason: To protect the receiving environment.

56. Substitution of Stormwater Treatment Measures

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must be submitted to the Principal Certifier for approval prior to installation.

The permeable paving cannot be substituted without Council approval.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

57. Implementation of Demolition Traffic Management Plan

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

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

58. Staff and Contractor Parking

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

Reason: To ensure minimum impact of construction activity on local parking amenity.

59. Implementation of Construction Traffic Management Plan

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

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

60. Ongoing Management

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

Reason: To ensure public safety.

61. Removing, Handling and Disposing of Asbestos

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

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

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

62. Geotechnical Requirements

All recommendations (if any) included in the Geotechnical Report referenced in the condition titled 'Approved Plans and Supporting Documentation' of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

63. Demolition Works - Asbestos

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

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

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

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

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

64. Survey Certificate

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

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

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

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

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

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

65. Maintenance of Sediment and Erosion Controls

Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

66. Waste Management During Development

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

67. Requirement to Notify about New Contamination Evidence

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

Reason: To protect human health and the environment.

68. Compliance with Remedial Action Plan

The requirements of the Remedial Action Plan by Reditus Consulting, report number 21385RP02, dated 1 March 2022 as required by this consent are to be fully implemented from commencement of any excavation, demolition or development works until the issue of an Occupation Certificate.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

69. Aboriginal Heritage

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning, Housing and Infrastructure.

Should any archaeological deposits be uncovered during any site works, the following steps must be followed:

1. All works within the vicinity of the find must immediately stop and the location cordoned off with signage installed to stop any accidental impact to the finds. The find must not be moved 'out of the way' without assessment.
2. The site supervisor or another nominated site representative must contact Metropolitan Local Aboriginal Land Council, Heritage NSW (Enviroline 131 555) and a suitably qualified archaeologist.
3. The nominated archaeologist must examine the find, provide a preliminary assessment of significance, record the item and decide on appropriate management measures. Such management may require further consultation with Heritage NSW, preparation of a research design and archaeological investigation/salvage methodology and registration of the find with the Aboriginal Heritage Information Management System (AHIMS).
4. Depending on the significance of the find, reassessment of the archaeological potential of the subject area may be required and further archaeological investigation undertaken.
5. Reporting may need to be prepared regarding the find and approved management strategies.
6. Works in the vicinity of the find can only recommence upon receipt of approval from Heritage NSW.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning, Housing and Infrastructure.

Reason: Aboriginal Heritage Protection.

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

'Chain of Custody' documentation shall be kept and submitted for the transport of the validated fill material from premises to a lawful waste facility.

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

Reason: For protection of environment.

71. Construction Access

All construction access to/from the property is to be gained from Myoora Road.

Reason: Transport for NSW requirement.

72. Road Occupancy Licence

A Road Occupancy Licence (ROL) shall be obtained from the Transport Management Centre for any works that may impact on traffic flows on Mona Vale Road during construction activities (e.g. works to remove the existing driveways on Mona Vale Road). A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

Reason: Transport for NSW requirement.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

73. Installation and certification of solid/fuel burning heater

All solid fuel heaters installed must be certified to comply with Australian Standards 4012 and 4013.

Provide to the Principal Certifier certification that all solid fuel heaters and associated flue equipment have been installed by an appropriately experienced and qualified person, in accordance with the relevant provisions of AS2918 – Domestic Solid Fuel Burning Appliances – Installation.

Reason: To ensure the installation is completed in a legislatively compliant manner.

74. Registration of food Business

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

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

75. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawings DA02, DA03, DA04, DA05, DA06 by Dangar Barin Smith dated 13/05/25 revision H), and inclusive of the following conditions:

- i) landscape works are to be contained within the legal property boundaries,
- ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
- iii) substitute all *Cupaniopsis anacardioides* with a suitable native tree alternative, and substitute all *Pennisetum 'Nafray'* with a suitable alternative,
- iv) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of AS2303 – Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
- v) mass planting shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- vi) where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that

the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

76. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

77. Compliance with Ecologist's Recommendations – Post Construction

All impact mitigation measures specified in the approved Ecological Assessment Report (Anderson Environment & Planning, 2024) are to be implemented at the appropriate stage of development.

Written and photographic evidence of compliance is to be prepared by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

78. Replacement of Canopy Trees

At least 12 locally native canopy trees are to be planted on the site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with the Native Planting Guide available on Council's website.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

79. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

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

The Applicant shall submit a certification by a suitably qualified Civil Engineer, who has

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

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

81. Certification for the Installation of Stormwater Treatment Measures

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

The certificate shall be submitted to the Principal Certifier prior to the release of an Occupation Certificate.

Reason: Protection of the receiving environment.

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

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

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

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

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

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

83. Stormwater Treatment Measures Operation and Maintenance Plan

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

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

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

2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
 - a) Activity description, and duration and frequency of visits

Additionally for vegetated devices:

 - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure

3. Maintenance schedule and procedure - ongoing
 - a) Activity description, and duration and frequency of visits
 - b) Routine maintenance requirements
 - c) Work Health and Safety requirements
 - d) Waste management and disposal
 - e) Traffic control (if required)
 - f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
 - g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

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

Reason: Protection of the receiving environment.

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

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

The drawings shall be submitted to the Principal Certifier prior to the release of the Occupation

Certificate.

Reason: Protection of the receiving environment.

85. Disabled Parking Spaces

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

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

Reason: To ensure compliance with Australian Standards.

86. Shared Zone Bollard

A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

87. Geotechnical Certification Prior to Occupation Certificate

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in the condition titled 'Approved Plans and Supporting Documentation' of this consent. Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a registered surveyor), and Civil Engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater detention within this development consent. The terms of the positive covenant and restriction 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 NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate

operational standard.

89. Certification of Access Driveway

The Applicant shall submit a certificate from a suitably qualified civil/traffic engineer certifying that the access driveway was constructed in accordance within this development consent and the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking.

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

Reason: Compliance with this consent.

90. Validation for Remediation

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

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

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

Reason: To ensure environmental amenity is maintained.

91. Installation of solid/fuel burning heaters

Installation work must be carried out by an appropriately experienced and qualified person and in accordance with the relevant provisions of AS2918 – Domestic Solid Fuel Burning Appliances – Installation

Reason: To ensure the installation is completed in a legislatively compliant manner.

92. Certification of solid fuel burning heaters

A certificate from an appropriately qualified person indicating the system is compliant with all relevant legislation, Building Code of Australia, Australian Standards, Specifications and manufacturer requirements is to be submitted to Council prior to the operation of the solid fuel heater.

Reason: To ensure the system operates in a legislatively compliant manner.

93. Mechanical Ventilation certification

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

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

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

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

94. **Waste Disposal Verification Statement**

On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

95. **Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

96. **Completed Works**

Prior to the issue of an Occupation Certificate, the following shall be complied with:

a) Physically close the two existing driveway crossovers on Mona Vale Road by removing the driveways, fencing them and revegetating. No changes are to be made to the existing dish drain on Mona Vale Road.

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

Reason: Transport for NSW requirement.

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

97. Acoustic Requirements - On-going

Compliance with the recommendations within the Acoustic Assessment by Mac Muller Acoustic Consulting dated April 2025, reference number MAC242173-02RP1V2 and any additional requirements at OC review stage.

Reason: To prevent a noise nuisance to any neighbouring residential receiver.

98. Landscape Maintenance

a) If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.

b) Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

c) 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(s) and any conditions of consent.

d) A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

e) The approved landscape planted areas, whether containing lawn, gardens or planters shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

99. Maintenance of Stormwater Treatment Measures - Major

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

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

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

Reason: Protection of the receiving environment.

100. Delivery/Service Vehicles

Delivery and servicing vehicles associated with the completed development are not to exceed an 8.8m Medium Rigid Vehicle and all deliveries to and servicing of the site are to occur offstreet within the site.

Reason: offstreet loading and turning areas on the site cannot accommodate larger vehicles.

101. **Landscaping adjoining vehicular access**

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

Reason: To maintain unobstructed sight distance for motorists.

102. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in the condition titled 'Approved Plans and Supporting Documentation' of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

103. **Illumination Intensity**

Any lighting on the site shall be maintained so as not to cause a nuisance to other properties in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the relevant Australian Standards.

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

104. **Deliveries and Waste/Recycling Collection Hours**

Deliveries to or from the site, and waste collection and recycling collection from the site, are to be carried out between 7:00am and 10:00pm only, to minimise noise.

Reason: To minimise noise to residential receivers.

105. **Patron Numbers**

The restaurant is limited to a maximum of 594 patrons at any one time.

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

106. **Maintenance of solid fuel heaters**

The owner/occupier shall ensure servicing of the heater is maintained according to the manufacturer's specifications.

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

107. **Compliance with Air Quality Statement**

On an ongoing basis, all solid fuel heaters must be operated in accordance with Air Control Measures as defined by the report - Air Quality Statement by Todorski Air Sciences, reference number 24071748_40MyooraRoad_TerreyHills_AQ_240905.docx, dated 5 September 2024

Reason: To avoid smoke nuisance and promote public health

108. **Operation of solid fuel burning heaters**

The owner/operator must take all practicable measures to prevent the likelihood of causing

smoke and/or odour nuisances. Such measures must include:

- Using dry seasoned hardwood
- Storing wood in a dry well-ventilated place
- Having a hot and well oxygenated fire
- Ensuring that the chimney flue is clean
- Checking the chimney at different stages of the fire to see if there is any smoke
- Maintenance according to the manufacturer's specifications

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

109. **Plan of Management**

Ongoing compliance is required with the Plan of Management entitled "THE FARM BY BOATHOUSE PLAN OF MANAGEMENT" version 2.0 dated 07 April 2025 by Antony Jones

Reason: To assist in maintaining the safety and security of patrons and staff, and to maintain the amenity of the surrounding areas

110. **Hours of Operation**

The hours of operation are to be restricted to:

- 7:00am to 12:00am midnight, seven days a week

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

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

111. **Parking Spaces**

Parking spaces for 211 cars (including 7 accessible spaces), 3 motorcycles, and 10 bicycles are to be maintained on the site for the life of the development.

No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

Reason: To ensure consistency with this consent.

112. **Ongoing Operation**

The restaurant is to operate and be maintained in accordance with the following approved plans and documents (as modified by any conditions of this consent):

- Plan of Management,
- Noise Assessments and Addendums,
- Operational Waste Management Plan, and
- Approved plans listed at the condition titled 'Approved Plans and Supporting Documentation'.

Reason: To ensure operation in accordance with this consent.

113. **Ongoing Noise Management**

The ongoing management of the restaurant must be in accordance with the *Protection of the*

Environment Operations Act 1997.

Reason: To protect the amenity of the surrounding area.

114. **Ongoing Use**

For the life of the completed development, the following requirements shall be complied with:

- a) No vehicular and/or pedestrian access is to be gained directly from Mona Vale Road.
- b) The approved development is not to be used as a 'Function Centre' as defined in the *Warringah Local Environmental Plan 2011*.

Reason: Transport for NSW requirement.