



**Land and Environment
Court**
of New South Wales

Level 4 225 Macquarie Street SYDNEY NSW 2000
Level 4 GPO Box 3565 SYDNEY NSW 2001
DX 264, Sydney

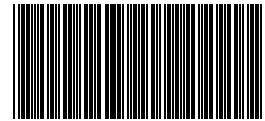
Telephone: 02 9113 8200
Facsimile:
02 91138208

Email: lecourt@justice.nsw.gov.au
Website: <http://www.lec.justice.nsw.gov.au>

ABN: 52 659 114 436

Jessica Simpson Northern Beaches Council
Jessica.Simpson@northernbeaches.nsw.gov.au

Your Ref:



D0001IXTFJ

11 February 2022

NOTICE OF ORDERS MADE

Case number 2021/00286483
Case title Manly Vale Developments No2 Pty Limited v Northern Beaches Council

On 11 February 2022 the following orders (and/or directions) were made:

The Orders of the Court are:

(1) The updated written request made pursuant to clause 4.6 of Warringah Local Environmental Plan 2011 (WLEP), seeking to vary the height of buildings development standard in clause 4.3 of WLEP, prepared by Boston Blyth Fleming dated 24 January 2022, is upheld.

(2) The Appeal is upheld.

(3) Pursuant to s 8.15(3) of the Environmental Planning and Assessment Act 1979 the Applicant is to pay the costs of the Respondent that are thrown away as a result of the Court allowing the Applicant to file the Amended Development Application, in the amount of \$3,500.

(4) Development Application DA2020/0824 for demolition of existing buildings and construction of a four storey shop top housing development at 321-331 Condamine Street, Manly Vale is approved subject to the conditions in Annexure A to this agreement.

For the Registrar

Annexure A**DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF
CONSENT****Development Application No:** DA2020/0824**Development:** Demolition of existing structures and construction
of a shop top housing development**Site:**

Lot and DP	Address
Lot 20 DP 11320	321 Condamine Street, Manly Vale
Lot 21 DP 11320	323-325 Condamine Street, Manly Vale
Lot 22 DP 11320	323-325 Condamine Street, Manly Vale
Lot 123 DP 737259	327-329 Condamine Street, Manly Vale
Lot 25 DP 11320	331 Condamine Street, Manly Vale

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

Date of determination: 11 February 2022**Date from which consent takes effect:** 11 February 2022**TERMINOLOGY**

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as 321-331 Condamine Street, Manly Vale.

The conditions of consent are as follows:

DEFERRED COMMENCEMENT CONDITIONS

1. Planning Agreement for the Dedication of Land

The developer shall enter into a Planning Agreement (PA) with Northern Beaches Council pursuant to section 7.4 of the *Environmental Planning and Assessment Act, 1979* to dedicate a 1.4m wide x 38.075m long strip of land adjacent to Somerville Place for the purpose of road widening and consistent with the developer's offer dated 22 December 2021.

The Executed Planning Agreement is to be in place before this condition is satisfied.

Note: Please be advised that no decision as to whether Council will enter into a Planning Agreement has been made and there is no representation that such a decision will be made until the draft Planning Agreement has been exhibited, assessed and determined by Council in accordance with the *Environmental Planning and Assessment Act, 1979*.

Evidence required to satisfy the deferred commencement condition must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

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

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. Approved plans and supporting documentation

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

a. Approved Plans & Documents

Approved Plans			
Drawing No.	Revision	Date	Prepared By
DA-02 Basement B2 Plan	H	17.01.2022	Gartner Trovato Architects
DA-03 Basement B1 Plan	H	17.01.2022	Gartner Trovato Architects
DA-04 Ground Floor Plan	L	17.01.2022	Gartner Trovato Architects

DA-05 Level 1 Plan	M	17.01.2022	Gartner Trovato Architects
DA-06 Level 2 Plan	M	17.01.2022	Gartner Trovato Architects
DA-07 Level 3 Plan	Q	17.01.2022	Gartner Trovato Architects
DA-08 Roof Plan	F	17.01.2022	Gartner Trovato Architects
DA-09 East & South Elevations	G	17.01.2022	Gartner Trovato Architects
DA-10 West & North Elevations	H	17.01.2022	Gartner Trovato Architects
DA-11 Section A & B	F	17.01.2022	Gartner Trovato Architects
DA-12 Section C & 4	F	17.01.2022	Gartner Trovato Architects
DA-13 Section 1 & 3	F	17.01.2022	Gartner Trovato Architects
DA-15 Landscape Plan – Ground Floor	F	17.01.2022	Gartner Trovato Architects
DA-16 Landscape Plan – Level 1	F	17.01.2022	Gartner Trovato Architects
DA-17 Landscape Plan – Level 3	F	17.01.2022	Gartner Trovato Architects
DA-18 Schedule of External Finishes	D	17.01.2022	Gartner Trovato Architects

Engineering Plans			
Reference	Revision	Date	Prepared By
C01 Civil Works Plan	A	21.07.2021	iStruct Consulting Engineers
C02 Civil Works Sections 1	A	21.07.2021	iStruct Consulting Engineers
C03 Civil Works Sections 2	A	21.07.2021	iStruct Consulting Engineers
C04 Civil Works Standard Details	B	20.11.2020	iStruct Consulting Engineers
D01 Ground Floor Drainage & Site Stormwater Management Plan	C	30.08.2021	iStruct Consulting Engineers
D02 Basement B1 & B2 Drainage Plan	C	30.08.2021	iStruct Consulting Engineers
D03 Level 1 & 2 Drainage Plans	C	30.08.2021	iStruct Consulting Engineers
D04 Level 3 & Roof Drainage Plans	C	30.08.2021	iStruct Consulting Engineers
D05 Ocean Protect's Details	C	30.08.2021	iStruct Consulting Engineers

Approved Documents			
Reference	Revision	Date	Prepared By
Preliminary Site Investigation	0	31.03.2020	EI Australia
Geotechnical Site Investigation	1	14.05.2020	Crozier Geotechnical Consultants
Access Report		January 2022	Gartner Trovato Architects
Acoustic Report	B	04.08.2020	Wilkinson Murray
BASIX Certificate 1112833M_05		27.01.2022	Gartner Trovato Architects

- b. Any plans or documents to satisfy the deferred commencement condition (Condition 1) of this consent.
- c. Any plans and /or documentation submitted to satisfy the conditions of this consent.
- d. The development is to be undertaken generally in accordance with the following:

Waste Management Plan			
Reference	Revision	Date	Prepared By
Waste Management Plan	-	25.06.2020	Gartner Trovato Architects

- e. In the event of any inconsistency between conditions of this consent and the Approved Plans & Documents listed above, the conditions of this consent will prevail.

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

3. Compliance with TfNSW Requirements

The development must be carried out in compliance with all recommendations and requirements of TfNSW, as outlined in their correspondence dated 27 April 2021 and 23 August 2020, as follows:

- a. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@transport.nsw.gov.au.

Excavation below the level of the base of the footings of Condamine Street are proposed. The person acting on the consent shall ensure that the TfNSW are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Notice should also be given to council for excavation below the base of the footings on other adjoining roadways with at least seven (7) days notice of the intention.

- b. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Documents should be submitted 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.

- c. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Condamine Street.
- d. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Condamine St during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.
- e. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.

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

4. Compliance with Ausgrid Requirements

The development must be carried out in compliance with the requirements of Ausgrid, as outlined in their correspondence [undated], as follows:

a. Overhead powerlines

Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, www.ausgrid.com.au

It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."

b. Underground cables

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

5. Prescribed Conditions

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

- a. the name and licence number of the principal contractor, and
 - b. the name of the insurer by which the work is insured under Part 6 of that Act,
 - ii. in the case of work to be done by an owner-builder:
 - a. the name of the owner-builder, and
 - b. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- e. Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i. protect and support the adjoining premises from possible damage from the excavation, and
 - ii. where necessary, underpin the adjoining premises to prevent any such damage.
 - iii. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - iv. the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
 - v. In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

6. 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:

- 8:00am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances

(wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- I. 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.

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

7. Approved Land Use

This consent authorises a shop top housing development at the subject site. Shop top housing is defined, as follows:

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

This consent authorises the first use of the retail premises on the Ground Floor.

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

- (a) (Repealed)
 - (b) cellar door premises,
 - (c) food and drink premises,
 - (d) garden centres,
 - (e) hardware and building supplies,
 - (f) kiosks,
 - (g) landscaping material supplies,
 - (h) markets,
 - (i) plant nurseries,
 - (j) roadside stalls,
 - (k) rural supplies,
 - (l) shops,
 - (la) specialised retail premises,
 - (m) timber yards,
 - (n) vehicle sales or hire premises,
- but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

Any variation to the use of the development for the purpose of shop top housing, or the Ground Floor tenancies beyond the scope of the above definitions will require separate development consent.

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

FEES / CHARGES / CONTRIBUTIONS

7. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$89,450.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$8,945,000.00.

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

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

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

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

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

8. Construction, Excavation and Associated Works Security Bond (Maintenance for Civil Works)

The developer/applicant must lodge with Council a maintenance bond of \$5,000 for the construction of the stormwater drainage works that revert to Council's care and control. The maintenance bond will only be refunded upon completion of the six month maintenance period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council issuing practical completion.

Reason: To ensure adequate protection of Council infrastructure.

9. Construction, Excavation and Associated Works Security Bond (Crossing / Kerb / Footpath)

The applicant is to lodge a Bond of \$125,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: Protection of Council's infrastructure.

10. Construction, Excavation and Associated Works Security Bond (Road Works)

The applicant is to lodge a bond with Council of \$20,000 as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works as part of this consent.

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

Reason: Protection of Council's infrastructure.

11. Construction, Excavation and Associated Works Security Bond (Drainage Works)

The applicant is to lodge a bond of \$10,000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

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

Reason: Protection of Council's infrastructure.

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

12. On-Site Stormwater Detention Details

The Applicant is to provide 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 referenced in Condition 2 of this consent. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- a. Approval for the proposed connection to the existing stormwater pit in Condamine Street from TfNSW in accordance with their letter dated 23 August 2020.

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

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

13. Shoring of Councils Road Reserve or Adjoining Property (Temporary road anchors)

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

An application to Council for approval under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Councils road reserve. The form can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/temporary-ground-anchors-road-reserve/4018-temp-ground-anchors-application-jun19.pdf>

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

Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

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

14. Pump-Out System Design for Stormwater Disposal

The design of the pump-out system for stormwater disposal will be permitted for drainage of hard surfaces areas such as driveways and basement pavement areas only and must be designed in accordance with AS/NZS 3500. The Applicant is to provide engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practising Civil Engineer.

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

Reason: To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site.

15. 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 approved plans and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment.

16. Utilities Services

Prior to the issue of the Construction Certificate, the Applicant is to obtain the following:

- a. A letter from the utility provider confirming that satisfactory arrangements have been made for the approved development have been made; and
- b. Evidence that notification has been received from a utility authority that, requirements for the development can be provided.

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

Reason: To ensure that services have been provided as required by this Consent.

17. 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 four (4) copies of Civil Engineering plans for the design of the lane widening works, footpath paving, street tree planting, driveway crossing and stormwater pit relocation which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1 and Northern Beaches Public Space Vision & Design Guidelines. The plan shall be prepared by a qualified Civil Engineer.

The design must include the following information:

- a. Public Domain Works in accordance with the Public Domain Works condition in this consent.
- b. A driveway crossing 5.5 metres wide in accordance with Council drawing A4/3330/1 N.
- c. Kerb and gutter and concrete pavement widening in Sommerville Lane.

- d. Relocation of the existing stormwater pit in Sunshine Street to clear the proposed new lane widening.
- e. Provision of a 2.4 metre minimum lintel to the new relocated pit.
- f. A kerb return from the widening in Sommerville Lane to the connection with Sunshine Street.
- g. Signposting to suit the revised road works.

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

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

18. Structural Adequacy and Excavation Work

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

- a. maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- b. Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

19. Compliance with Standards

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

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

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

20. Sydney Water "Tap In"

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

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

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

21. Pre-Construction Dilapidation Report

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

- a. 2 Sunshine Street, Manly Vale
- b. 333 Condamine Street, Manly Vale

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing and prior to the issue of the construction certificate.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

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

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site and prior to the issue of the construction certificate.

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

22. Pre-Construction Stormwater Assets Dilapidation Report

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets prepared by a suitably qualified person in

accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the assets prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the approval issued to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Approved Geotechnical Site Investigation referenced in Condition 2 of this consent are to be incorporated into the construction plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

24. Construction Traffic Management Plan.

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:-

- a. The proposed phases of construction works on the site, and the expected duration of each construction phase;
- b. 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;
- c. Make provision for all construction materials to be stored on site, at all times;
- d. The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- e. 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;

- f. 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;
- g. Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- h. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- i. Specify that, due to the proximity of the site adjacent to St. Kieran's School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- j. Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- k. 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.
- l. 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.
- m. 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.
- n. 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;
- o. Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- p. 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;
- q. Proposed protection for Council and adjoining properties;
- r. 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.

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

25. Sight Lines

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at 1. the vehicular access to the property, 2. where Somerville Place meets Sunshine Street and 3. where internal circulation roadways intersect with footpaths or other pedestrian access areas. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

26. On slab landscape works

Details shall be submitted to the Certifying Authority 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 Certifying Authority prior to the issue of the construction certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- a. 600mm for shrubs
- b. 1m for small trees

Design certification shall be submitted to the Certifying Authority 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 secure waterproofing and drainage is installed.

27. Waste and Recycling Requirements

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

28. Underground services

All services connecting to/servicing the development are to be provided underground (both within the site and within the adjacent road reserve).

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

Reason: To minimise visual clutter associated with services and infrastructure. No existing trees on site.

29. Loading Zone Plan

A plan for an on-street Loading Zone of approx. 12m on length on the sites Sunshine Street frontage is to be prepared by a suitably qualified person and submitted for approval by the Local Traffic Committee. The parking restrictions to apply 6am to 6pm Monday to Saturday.

Reason: To obtain approval for parking restriction changes within the road reserve

30. Visitor Spaces Located Behind Security Shutter/Door.

The installation of any security roller shutter for parking areas shall not restrict access to any designated visitor car parking space. In the event that the approved visitor car parking spaces are located behind any proposed security roller shutter, an intercom system is required to be installed to enable visitor access into the basement car parking area. This requirement is to be reflected on the Construction Certificate plans and any supporting documentation for the endorsement of the Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure visitor car parking is accessible to visitors.

31. Boundary Identification Survey

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

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

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

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

32. Internalised Services

Service ducts, drainage, plumbing, pipes, cables and conduits are to be internalised and must not be visible from the public domain. All service, communication and electricity connections must be provided underground.

Provision must also be made for any future ventilation or exhaust system required for the retail tenancies throughout the development.

Details demonstrating compliance with this requirement must be provided to the certifying authority prior to the issuance of the construction certificate.

Reason: To remove visual clutter and ensure a high-quality finish to the development.

33. Access Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the Access Report referenced in Condition 2 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure the development is accessible.

34. Acoustic Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the Acoustic Report referenced in Condition 2 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure appropriate amenity.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT

35. Public Liability Insurance - Works on Public Land

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

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

36. 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.

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

The DTMP must:-

- a. Make provision for all construction materials to be stored on site, at all times.
- b. The DTMP is to be adhered to at all times during the project.
- c. Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- d. 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.
- e. Specify that, due to the proximity of the site adjacent to St. Keiran's School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- f. Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- g. 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.

- h. 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.
- i. 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.
- j. Specify spoil management process and facilities to be used on site.
- k. 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.

37. 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. 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.

38. Road Occupancy Licence.

The developer shall apply for a Road Occupancy Licence (ROL) from the RMS Transport Management Centre (TMC) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is

certified with 'Prepare a Work Zone Traffic Management' accreditation or equivalent. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TMC.

Reason: To inform the relevant Roads Authority of proposed disruption to traffic flows.

39. Detailed Site Investigations Recommendations

Before the commencement of demolition works, a survey of the existing buildings is to be completed by a suitably qualified and experienced consultant, to identify any hazardous materials present within the building fabrics or structures. All identified hazardous materials must then be appropriately managed, to maintain worker health and safety during site demolition. Completion of an asbestos clearance inspection must be undertaken following the demolition of site structures and removal of demolition debris where hazardous materials have been identified.

Reason: To protect the environment and workers from potential contamination.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

40. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

41. 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 Certifying Authority for approval prior to installation.

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

42. Dewatering Management

Tailwater (surface water and rainwater): Please contact catchment@northernbeaches.nsw.gov.au for advice on Council's water quality requirements for a single instance of dewatering tailwater that collects in an excavation during works. A dewatering permit application must be made for expected multiple instances or continuous dewatering of tailwater.

Groundwater: A permit from Council is required for any dewatering of groundwater. An application for interference with an aquifer is required to the Natural Resources Access Regulator. Contact catchment@northernbeaches.nsw.gov.au for more information about permits.

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

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

Reason: Protection of the receiving environment and groundwater resources.

43. 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.

44. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

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

45. Notification of Inspections (Section 138A)

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

- a. Installation of Silt and Sediment control devices
- b. Prior to backfilling of pipelines
- c. Prior to pouring of stormwater pits
- d. Prior to pouring of kerb and gutter, driveway crossing
- e. Subgrade level / basecourse level / subbase
- f. Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

46. Traffic Control During Road Works

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

Reason: Public Safety.

47. Vehicle Crossing

The Applicant is to construct one vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1N and the Section 138 Roads Act 1993 application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to kerb, footpath and grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

48. Kerb and Gutter Construction

The Applicant is to construct kerb and gutter and associated lane widening works along the Sommerville Lane frontage of the site in accordance with Northern Beaches Council Drawing No. A4 2276/A, and the Section 138 Roads Act Approval. Prior to the pouring of concrete, the works are to be inspected by Council and an approval issued.

The approval is to be submitted to the Principal Certifying Authority.

Reason: To facilitate the construction of public infrastructure.

49. Footpath Construction

The applicant shall construct a new footpath along the Sunshine Street and Condamine Street frontages of the site. The works shall be in accordance with the following:

- a. All footpath works are to be constructed in accordance with Section 138 Road Act approval
- b. Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Section 138 Road Act approval for footpath.

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

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

50. Waste/Recycling Requirements

During demolition and/or construction the proposal/works shall be generally consistent with the Approved Waste Management Plan referenced in Condition 2 of this consent.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

51. Waste/Recycling Requirements (Materials)

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

52. 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 RMS 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 DTMP where it is deemed unsuitable during the course of the project.

53. 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 RMS 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.

54. 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 Certifying Authority.

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

55. Geotechnical Report Recommendations During Works

The works are to be undertaken in accordance with the recommendations of the Geotechnical Investigation report referenced in Condition 2 of this consent.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

56. Detailed Site Investigations Recommendations

The development is to be undertaken in accordance with the recommendations of the Detailed Site Investigation referenced in Condition 2 of this consent.

Reason: To ensure compliance with SEPP 55.

57. Dust Control Measures

Dust control measures, including best practice and in accordance with NSW Workplace Health and Safety Regulations and the Protection of the Environment Operations Act 1997, shall be implemented to minimise dust to neighbouring residents and businesses and ensure any airborne substance is kept within the boundaries of the site.

Measures may include but not be limited to:

- Water sprays
- Bunker storage
- Limiting size of stockpiles and covering stock piles

- Vertical barriers e.g. fencing with fine mesh attached
- Exhaust and capture

Reason: To minimise dust to neighbouring residents and businesses and avoid air pollution.

58. Requirement to Notify about New Contamination Evidence

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

Reason: To protect human health and the environment.

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

59. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

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

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

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any occupation certificate.

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

60. Access Certification Prior to Occupation Certificate

A suitably qualified Access Consultant is to confirm that the development has been constructed in accordance with the recommendations of the Access Report reference in Condition 2 of this consent.

Written certification is to be provided to the Principal Certifying Authority prior to the issuance of any occupation certificate.

Reason: To ensure appropriate accessibility.

61. Acoustic Certification Prior to Occupation Certificate

A suitably qualified Acoustic Consultant is to confirm that the development was constructed in accordance with the recommendations of the Acoustic Report reference in Condition 2 of this consent.

Written certification is to be provided to the Principal Certifying Authority prior to the issuance of any occupation certificate.

Reason: To ensure appropriate amenity.

62. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: Proper identification of buildings.

63. Unit Numbering

The units within the development are to be numbered in accordance with the Australia Post Address Guidelines:

(https://auspost.com.au/content/dam/auspost_corp/media/documents/Appendix-01.pdf).

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website [Unit Numbering for Multi-Unit Developments Form](#).

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with the occupation certificate or strata subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

64. 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 <<http://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 Certifying Authority prior to the issue of the occupation certificate.

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

65. Fire Safety Matters

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

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the occupation certificate.

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

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

66. Consolidation of Land

Prior to the issue of the occupation certificate, evidence of the consolidation of five lots into one lot is to be provided to the Principal Certifying Authority.

Reason: To ensure the consolidation of land.

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

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers’ certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council’s website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system 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 as to user for the on-site stormwater detention system is to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

68. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities

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), hydraulic engineers' certification.

The Applicant shall create on title a positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the pump out facility is to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard.

69. Geotechnical Certification Prior to Occupation Certificate

A suitably qualified Geotechnical Engineer is to confirm that the development was constructed in accordance with the recommendations of the Geotechnical Investigation Report reference in Condition 2 of this consent.

Written certification is to be provided to the Principal Certifying Authority prior to the issuance of any occupation certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

70. Certification of Civil Works and Works as Executed Data on Council Land

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data (details overdrawn on a copy of the approved civil plans) for Council Assets' in an approved format shall be submitted to Council for approval prior to the release of any security deposits.

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

71. 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 plans. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

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

Reason: Protection of the receiving environment.

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

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

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

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

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

73. 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:

- a. Detail on the stormwater treatment measures:
 - i. Work as executed drawings
 - ii. Intent of the stormwater treatment measures including modelled pollutant removal rates
 - iii. Site detail showing catchment for each device
 - iv. Vegetation species list associated with each type of vegetated stormwater treatment measure
 - v. Impervious area restrictions to maintain the water balance for the site
 - vi. Funding arrangements for the maintenance of all stormwater treatment measures
 - vii. Identification of maintenance and management responsibilities
 - viii. Maintenance and emergency contact information
- b. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
 - i. Activity description, and duration and frequency of visitsAdditionally for vegetated devices:
 - ii. Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - iii. 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
- c. Maintenance schedule and procedure - ongoing
 - i. Activity description, and duration and frequency of visits
 - ii. Routine maintenance requirements
 - iii. Work Health and Safety requirements
 - iv. Waste management and disposal
 - v. Traffic control (if required)
 - vi. 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)

- vii. Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

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

Reason: Protection of the receiving environment.

74. Works as Executed Drawings – Stormwater Treatment Measures

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

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

Reason: Protection of the receiving environment.

75. Maintenance Contract for Stormwater Filtration Cartridges

A minimum of a five-year contract with a suitably qualified provider is required for the maintenance of the stormwater filtration cartridges.

A copy of the maintenance contract must be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

Reason: To ensure maintenance of the stormwater treatment measures.

76. Public Domain Works

Public Domain pavement works and street tree planting shall be installed in accordance with the following:

- a. works are to be subject to a road reserve works application under section 138 and 139 of the Roads Act,
- b. paving shall be granite pavers (Sesame Grey) 600mm x 300mm x 40mm exfoliated and with a stretcher bond pattern, in accordance with Council's Public Space Vision & Design Guidelines, consisting of a high street urban palette,
- c. paving gradients across the road verge shall be no more than 2.5% fall to kerbs, and all pavements shall match levels of adjoining road verge footpaths,
- d. utility services shall match proposed gradient levels,
- e. any pedestrian crossings and crossovers shall provide tactile ground surface indicators in accordance with Australian Standard 1428.4.1-2009 - Design for Access and Mobility, and Council's Public Space Vision & Design Guidelines,
- f. existing utility pit lids are to be altered to paver infill types to accommodate the proposed pavement type,
- g. street tree planting locations, species and size shall be as selected and advised by Council,

- h. proposed street tree planting shall be located behind the kerb, and shall be in accordance with Northern Beaches Standard Drawing 1300 - Tree Pit Details, Plan and Section, or as otherwise advised by Council, including structural soil, 1600 x 1400 tree pit opening finished with porous paving sitting on a cast iron perforated grate, excluding strata cell provisions in this instance due to the presence of underground services.

Any work carried out upon public land shall have all the necessary prior approvals (section 138 Roads Act application) and permits from Council in place prior to commencement to conduct such works.

Reason: Compliance with Council policies and standards for works on public land.

77. Landscape completion

Landscaping is to be implemented in accordance with the Approved Landscape Plans referenced in Condition 2 of this consent, inclusive of the following requirements:

- a. the nominated Kentia Palms shall be installed at mixed trunk heights between 2 to 3.5 metres,
- b. shrubs within planters shall be installed at 700mm centres,
- c. all other planting areas within the planters shall be occupied by mass planting groundcovers and accents planted at 4 per square metre densities.

Prior to the issue of an occupation certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

78. Garbage and Recycling Facilities

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning. Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

79. Waste and Recycling Facilities Certificate of Compliance

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure waste and recycling facilities are provided.

80. Waste/Recycling Compliance Documentation

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure waste is minimised and recycled.

81. Positive Covenant for Council and Contractor Indemnity

A positive covenant shall be created on the title of the land prior to the issue of the occupation certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

82. Authorisation of Legal Documentation Required for Waste Services

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

83. Underground services

All services connecting to/servicing the development are to be underground (both within the site and within the adjacent road reserve).

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

Reason: To minimise visual clutter associated with services and infrastructure.

84. Allocation of parking spaces (strata title)

All carparking spaces are to be assigned to individual unit. All residential units must be assigned a minimum of one parking space.

Reason: To ensure parking availability for residents in accordance with section C3 of Warringah Council's Development Control Plan.

85. Allocated Parking Spaces (retail/commercial)

Parking allocated to this development must be clearly signposted and line-marked as being for the exclusive use of this development.

Reason: To ensure parking availability

86. 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 Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with Australian Standards.

87. 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 Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with Australian Standards.

88. Loading Zone

That a Loading Zone parking restriction be installed on the north side of Sunshine Street between Somerville Place and Condamine Street at no cost to Council and to the satisfaction of Council's traffic engineer in accordance with any approval for the changes received from the Northern Beaches Council Local Traffic Committee.

Reason: to ensure loading zone facilities are installed as per approved plans

89. Plan of Management

A Plan of Management is to be produced for the management of the site and adjacent road reserves identifying:

- a. Consistency with all 'on-going' conditions of consent over the life of the development
- b. Outlining all required maintenance responsibilities for private infrastructure, including water management infrastructure and landscaping, and

- c. Space management strategies including activity coordination, site cleanliness, rapid repair of vandalism and graffiti, and the maintenance of lighting and landscaping.

The Plan of Management is to be submitted to the Principal Certifying Authority prior to the issuance of the occupation certificate.

Reason: To ensure the on-going management of the site over the life of the development.

90. Consistency with Recommendations of Preliminary Site Investigation

A suitably qualified and experienced consultant is to certify that the development was undertaken in accordance with the recommendations of the Preliminary Site Investigation referenced in Condition 2 of this consent.

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

Reason: Protection of the environment and SEPP 55 compliance.

ON-GOING CONDITIONS

91. Landscape maintenance

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 Plans required by this consent and any other conditions of consent.

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.

Street trees shall be maintained for a period of 12 months following the issue of an occupation certificate. Any failure due to lack of maintenance will require replacement at the discretion of Council.

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.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

92. Environmental and priority weed control

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: Preservation of environmental amenity.

93. Sight Lines

All fencing, walls and/or vegetation along the frontage road(s) and vehicular access points shall not impede pedestrian or driver visibility. This requires that vegetation and solid walls or fences do not exceed one (1) metre in height. Appropriate plants shall be selected within the 2.0 x 2.5m splay to ensure this condition is met.

94. Resident Parking Permits.

Any residents and/or tenants of the subject site are not eligible for resident parking permits. This condition is to be provided on the property Title.

Reason: To ensure the tenants are aware that they are not entitled to a permit regardless if they are within a Resident Parking Scheme (RPS).

95. Plant Equipment - Noise and Vibration

Noise from all plant equipment including mechanical plant rooms/equipment, mechanical ventilation for car parks or commercial premises, extraction units and exhaust fans, air conditioning units and any motors of other equipment associated with the building must not generate noise above 5dBA at the property boundary and must not be audible within habitable rooms of units within complex and surrounding premises including when doors and windows to those rooms are open.

Above equipment must not create vibrations that can be detected within habitable rooms of units within complex and surrounding premises.

Reason: To ensure no ongoing negative impacts on persons living within the complex and surrounding premises.

96. Consistency with Plan of Management

The development is to be maintained in accordance with the Plan of Management required by this consent.

Reason: To ensure that the site is maintained in accordance with the standards required by this consent.

97. Parking

The development is to maintain the following parking allocation for the life of the development:

- a. 37 x residential parking spaces, with a minimum of 1 space per unit,
- b. 6 x residential visitor spaces,
- c. 20 x retail space, inclusive of 1 disabled parking space,
- d. 1x loading bay

All spaces must be line-marked and identified accordingly.

Manoeuvring areas must be kept clear of obstructions at all times. Vehicles must not be required to queue on public roads at any time.

Reason: To ensure the appropriate management of parking on site.

98. Hours of Operation

The hours of operation of the Ground Floor retail premises are to be restricted to 7:00am to 7:00pm every day.

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.

Deliveries of goods and waste collection associated with the retail and business premises must not occur outside of the hours of operation prescribed above.

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

99. Adaptable and Liveable Housing Units

The proposal must maintain three Silver Level Liveable units in addition to three units capable of being adapted in accordance with the Class C requirements of AS4299.

Reason: To maintain the appropriate quantity of liveable and adaptable units over the life of the development.

100. Maintenance of Stormwater Treatment Measures

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

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

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.