



Issued: 25 March 2022 2:56 PM

JUDGMENT/ORDER

COURT DETAILS

Court	Land and Environment Court of NSW
Division	Class 1
Registry	Land and Environment Court Sydney
Case number	2021/00286326

TITLE OF PROCEEDINGS

First Applicant	Hyside 15 Chapman Pty Ltd
First Respondent	City of Canada Bay Council ABN 79130029350

DATE OF JUDGMENT/ORDER

Date made or given	25 March 2022
Date entered	25 March 2022

TERMS OF JUDGMENT/ORDER

The orders of the Court are:

- (1) The appeal is upheld.
- (2) Development Application No. 2021/0192 for the construction of a residential flat building containing 55 apartments, basement carparking, associated site preparation, excavation, landscaping and other related works, at 11-21 Chapman Street, Strathfield, is approved, subject to the conditions of consent at Annexure A.
- (3) The Applicant is to pay those costs of the Respondent thrown away as a result of the amendment of the application pursuant to s 8.15(2) of the Environmental Planning and Assessment Act 1979, as agreed or assessed

SEAL AND SIGNATURE



Signature	S. Froh
Capacity	Registrar
Date	25 March 2022

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document is taken to have been signed if the person's name is printed where his or her signature would otherwise appear.

FURTHER DETAILS ABOUT Applicant(s)

First Applicant

Name	Hyside 15 Chapman Pty Ltd
Address	C/- AL MAHA PTY LTD - Tower Three Unit 2301 Level 23 300 Barangaroo Avenue BARANGAROO NSW 2000
Telephone	
Fax	
E-mail	
Client reference	

Legal representative

Name	SEAN AARON GADIEL
Practicing certificate number	50275
Address	Level 7 151 Clarence Street SYDNEY NSW 2000
DX address	DX 13025 Sydney NSW
Telephone	02 8035 7918
Fax	02 92471315
Email	szhao@millsoakley.com.au
Electronic service address	szhao@millsoakley.com.au

FURTHER DETAILS ABOUT Respondent(s)

First Respondent

Name	City of Canada Bay Council ABN 79130029350
Address	1A Marlborough Street DRUMMOYNE NSW 2047
Frequent User Identifier	CANACC

ATTACHMENTS TO ORDERS

(286326.21 O'Neill C (Annexure A).pdf)

[attach.]

Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: DA2021/0192

Development: The erection of a residential flat building containing 55 apartments, including basement carparking and associated site preparation, excavation, landscaping and other related works.

Site: 1A, 11 – 21 Chapman Street STRATHFIELD NSW 2135 (Lot 1 in DP 1059024, Lots 9, 10, 11, 12 and 14 in DP 2409 and Lot 13 in DP 589132)

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

Date of determination: 25 March 2022

Date from which consent takes effect: Date the consent is registered on the NSW Planning Portal.

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 1A, 11 – 21 Chapman Street STRATHFIELD NSW 2135 (Lot 1 in DP 1059024, Lots 9, 10, 11, 12 and 14 in DP 2409 and Lot 13 in DP 589132).

The conditions of consent are as follows:

Deferred Commencement Conditions

DADCA01 - Deferred Commencement Approval

This is a ‘Deferred Commencement Consent’ under Section 4.16(3) of the Environmental Planning and Assessment Act, 1979, (as amended). This consent does not become operative until the applicant has satisfied the requirements listed in Schedule ‘A’ of this consent. All issues shall be satisfactorily resolved within the period of Five (5) years from the ‘Determination Date’, that is shown on this consent. Upon compliance with the issues under Schedule ‘A’, and written confirmation from Council to that effect, then the consent shall become operative from a “Date of Endorsement” (to be included on the written notification) subject to the conditions listed in Schedule ‘B’ and any additional conditions arising from the requirement of Schedule ‘A’.

(Reason: Statutory requirement)

Schedule A

1. Registration of Easements

The easements for drainage of water, services and right of way benefitting 11-21 Chapman Street, Strathfield, burdening Lot 1, DP1059024 imposed by order of the Land and Environment Court of New South Wales dated 2 May 2014 must be registered in accordance with the Court’s orders of that date. Subject to the preconditions in those orders, documentation relative to the registration of these easements is to be lodged with NSW Land Registry Services, with registration being effected prior to “Schedule B” conditions becoming operational. All costs associated with the creation and registration of the easements shall be borne by the applicant.

SCHEDULE B

General Conditions

1. DAGCA01 - Approved Plans and Supporting Documents

The development shall be carried out substantially in accordance with the approved plans and/or documentation listed below **except where modified by any following condition**. Where the plans relate to alteration or additions only those works shown in colour or highlighted are approved.

<i>Reference/Dwg No</i>	<i>Title/Description</i>	<i>Prepared By</i>	<i>Date/s</i>
21016	Amended Waste Management Plan	Dickens Solutions	February 2022
21.052r01v04	Traffic Impact Assessment	Traffix	February 2022

E25043.E01_Rev1	Preliminary Site Investigation	eiaaustralia	08.06.2021
E25043.G01	Preliminary Geotechnical Assessment	eiaaustralia	18.03.2021
E25043.G20	Geotechnical Opinion Letter	eiaaustralia	13.08.2021
SYD2021-1023-R001E	Acoustic Assessment Report	Acourus Consultancy	01.02.2022
6763.1	Arborist Report	Redgum Horticultural	25.02.2022
1186770M_03	BASIX Certificate	ESD Synergy Pty Ltd	01.03.2022
21-025	Clause 4.6 Variation Request	BBC Consulting Planners	March 2022
2085DT06	Survey plan	Strata Surv	Issue B1 25.02.2021
DA0101	Site Analysis	Integrated Design Group	Issue C 01.03.2022
DA0102	Site Plan	Integrated Design Group	Issue C 01.03.2022
DA1001	Upper Basement plan	Integrated Design Group	Issue C 01.03.2022
DA1002	Lower basement plan	Integrated Design Group	Issue C 01.03.2022
DA1100	Ground floor plan	Integrated Design Group	Issue E 01.03.2022
DA1101	Typical floor plate	Integrated Design Group	Issue B 01.03.2022
DA1102	Level 4 plan	Integrated Design Group	Issue B 01.03.2022
DA1103	Roof plan	Integrated Design Group	Issue B 01.03.2022
DA2000	North Elevation	Integrated Design Group	Issue B 01.03.2022
DA2001	East Elevation	Integrated Design Group	Issue B 01.03.2022
DA2002	South Elevation	Integrated Design Group	Issue B 01.03.2022
DA2003	West Elevation	Integrated Design Group	Issue B 01.03.2022
DA3000	Section A-A	Integrated Design Group	Issue B 01.03.2022
DA3001	Section B-B	Integrated Design Group	Issue B 01.03.2022
DA3002	Driveway section c-1	Integrated Design Group	Issue C 01.03.2022

DA3003	Driveway section c-2	Integrated Design Group	Issue C 01.03.2022
DA3004	Driveway section D	Integrated Design Group	Issue B 01.03.2022
L-01	Ground Floor Landscape Plan	Site Design Studios	Issue F 25.02.2022
L-02	Planting Detail	Site Design Studios	Issue F 25.02.2022

***Note 1:** Modifications to the approved plans (other than those made as a consequence of a condition of consent) will require the lodgement and consideration by Council of a modification pursuant to Section 4.55 of the Environmental Planning and Assessment Act.*

***Note 2:** The approved plans and supporting documentation are subject to conditions imposed under section 4.17 of the Act modifying or amending the development (refer to conditions of consent which must be satisfied prior to the issue of any Construction Certificate).*

(Reason: To confirm and clarify the terms of consent)

2. DAGCA03 - Construction within Boundary

All approved construction including but not limited to footings, walls, roof barges and guttering are to be constructed wholly within the boundaries of the premises (which includes the part of 1A Chapman Street that is burdened by the easements referred to in condition 1 of schedule A).

(Reason: To ensure compliance with approved plans)

3. DAGCB01 - Australia Post Guidelines

Mail deliveries are to be in accordance with Australia Post Guidelines, as set out in the Australia Post publication "General Post Guide - September 2007". A copy of this Guide can be obtained from Australia Post's web page at www.auspost.com.au. A copy of the brochure may be obtained from Australia Post. In general, a clearly marked mailbox (or group of mailboxes) shall be provided within 500mm of the footpath alignment.

(Reason: To ensure compliance with mail delivery regulations)

4. DAGCB02 - Compliance with Disability Discrimination Act

This approval does not necessarily protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the *Disability Discrimination Act 1992*, and the applicant/owner is therefore advised to investigate their liability under this Act. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of

1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the *Disability Discrimination Act 1992*.

(Reason: To inform of relevant access requirements for persons with a disability)

5. DAGCB10 - Site Management

The following procedures apply:

- (a) Implement the site management plan and measures, and provide for erosion and sediment control according to the SSROC "Do It Right On Site" publication;
- (b) Prevent sediment and/or building materials being carried or washed onto the footway, gutter, road, or into Council's stormwater drainage system;
- (c) Ensure soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
- (d) Ensure safe access to and from the site including the road reserve and footpath area, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like;
- (e) Ensure safe loading and unloading of excavation machines, building materials, formwork and the erection of the structures within the site;
- (f) Ensure storage on site of all excavated material, construction materials and waste containers during the construction period (except where otherwise approved); and
- (g) Ensure support of any excavation beside any adjoining property or the road reserve is designed by a Chartered Civil Engineer.

(Reason: Environmental protection)

6. DAGCB16 - Tree Preservation

All street trees and trees on private property that are protected under Canada Bay Council's controls, shall be retained except where Council's prior written consent has been obtained or when they are identified to be removed in the Arboricultural Impact Assessment and Tree Management Plan prepared by Redgum Horticultural, dated 25 February 2022.

(Reason: Tree preservation)

7. DAGCC07 - Waste Management - General

- All waste management on site is to be carried out in accordance with the approved waste management plans.
- All waste is to be stored in a way that does not pose threat to public health or threat to the environment at all times.
- The property owner and/or occupier shall present waste and recycling bins at the bin presentation location no earlier than the night before their scheduled collection day and shall promptly return them to the basement bin storage room (prior to 12 midnight on the collection day).
- The path for moving bins between the bin storage location and the bin

presentation location must be free of steps and not exceed a grade of 1:14 at any point.

- The bin holding room must be of sufficient size to hold all bins for collection. As per the Waste Management Plan, this is to include 10 x 660L waste bins, 10 x 660L recycling bins and 3 x 240L garden organics bins.

Prior to the issue of a Construction Certificate the applicant must submit a completed Waste Management Plan for the demolition and construction stages of the development.

(Reason: Waste Management, Environmental Protection and Amenity)

8. **DAGCD01 - Approved Stormwater Drainage Design**

The stormwater drainage system for the proposed development shall be constructed in accordance with the following approved plans and documentation, endorsed with Council's Stamp, and Council's "Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan", except where amended by other conditions of consent:

Stormwater Drainage

Project/Drawing No.	Prepared By	Revision	Dated
Project no. 20210054: (SW100, SW200, SW201, SW202, SW203, SW300, SW301, SW400, SW500)	SGC Consulting Engineers	D	01 March 2022

Important Note:

- The approved stormwater drainage plan as identified above is for Concept Only. The designer is responsible for providing sufficient information and/or updates to the Stormwater Drainage suitable for Construction Certificate approval.
- Should any changes be required to the approved stormwater drainage plan as referred to above, the amended design shall achieve equivalent performance standards in accordance with Council's "Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan".
- Construction Certificate Approval does not include approval for works external to the property. Where the proposed design extends beyond the property boundary, separate approval under Section 138 of the Roads Act 1993, must be obtained from Council prior to the commencement of works. The applicant is advised to contact Council for clarification of proposed works for which approval under Section 138 applies.

(Reason: Stormwater management)

Conditions which must be satisfied prior to the issue of a Construction Certificate**9. DACCA01 - Access for People with Disabilities**

Access for people with disabilities must be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*. **Prior to the issue of a Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

(Reason: To inform of relevant access requirements for persons with a disability)

10. DACCA03 - Driveway Design and Certification

The driveway design shall be amended in accordance with Council's "Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan" and AS/NZS2890.1:2004 "Off Street Car Parking" and AS2890.2-2002 "Off-street Commercial Vehicle Facilities" to the following:

- a. A longitudinal section through the proposed driveway shall be provided and shall start from the centre line of the road within 1A Chapman Street to the basement 1 and shall be prepared demonstrating compliance with the scraping provisions for the B99 vehicle as stipulated in AS/NZS2890.1:2004 "Off Street Car Parking" Code. The longitudinal section shall include:
 - i. All changes in levels and gradients e.g. lip of gutter, gutter invert, kerb layback, edge of footpath and at the property boundary.
 - ii. Footpath shall have a maximum crossfall of 2.5% graded but no less than 0.5% graded towards the street.
 - iii. A standard layback having a 90mm height over 450mm distance from the invert of gutter is to be incorporated into the driveway long section.
 - iv. Driveway shall have a crest to prevent the runoff from the street entering the property in case of street flooding during major storm event.
 - v. The entire travel path of Council's garbage truck shall achieve a minimum height clearance of 3.8m and a minimum of 2.2 for all other vehicular travel paths including ramps.
- b. The vehicular access driveway for loading bay shall be designed to accommodate a truck as required in swept path analysis of Council's 10.44 metre waste collection vehicle.

The longitudinal section shall be designed and certified by a Professional Civil Engineer whose qualifications are recognised by, and who is a current member of, Engineers Australia. The engineer shall certify that the driveway longitudinal section achieve compliance with AS/NZS2890.1:2004 and Council's "Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan" and AS2890.2-2002 "Off-street Commercial Vehicle Facilities". All existing levels

indicated on the driveway design plans shall be checked and confirmed by a registered surveyor.

The longitudinal section and design certification shall be submitted and approved by the Principal Certifier **prior to the issue of a Construction Certificate**.

(Reason: Vehicular access)

11. DACCB02 - Damage Deposit for Council Infrastructure

You must complete a Deposit/Bond Application Form located on Council's website under Forms and Fact Sheets > Rates and Finance.

A Damage Deposit (calculated in accordance with Council's adopted Fees and Charges) of **\$50000.00** shall be paid to Council **prior to the issue of the Construction Certificate**.

This Damage Deposit shall be refunded upon completion of all works, at the Occupation or Final Certificate stage.

Any costs associated with works necessary to be carried out to rectify any damages caused by the development, shall be deducted from the Damage Deposit.

Note: Full panel concrete footpath replacement in areas where connection to all services are required. This includes driveways and road concrete panels. This will stop differential settlement and maintain the integrity of council infrastructure and asset.

(Reason: Protection of Council infrastructure)

12. DACCB05 – Canada Bay Local Infrastructure Contributions Plan

The following Section 7.11 Development Contributions are required towards the provision of public amenities and services in accordance with the Canada Bay Local Infrastructure Contributions Plan (commenced 7 March 2022).

Based on the following number of Dwellings:

No. of Dwellings	Per Dwelling
55	\$20,000
TOTAL	\$1,100,000.00

Any change in the Consumer Price Index between December 2021 (CPI 121.6) and the date that the Section 7.11 Development Contribution is paid, will be added/subtracted from the amount cited above, however, not so as to increase the contribution amount above \$20,000.

Contributions must be receipted by Council and submitted to the Registered Certifier **prior to the issue of the first Occupation Certificate** in respect of any building to

which this consent relates, except as provided below.

If no construction certificate in respect of the erection of any building to which the consent relates has been issued before or on 25 September 2022, the monetary contribution must be paid before the issue of the first Construction Certificate after the date for any such building.

Please present a copy of this condition when paying the contribution at the Customer Service Centre so that it can be recalculated.

A copy of the Strathfield Triangle Development Contributions Plan may be obtained from Council's website.

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments)

13. Root mapping investigation

Prior to the issue of the first Construction Certificate, the Applicant shall conduct a root mapping investigation to identify construction techniques and tree sensitive excavation to reduce any impact to trees 5, 7, 10 and 11 in the Arboricultural Impact Assessment and Tree Management Plan prepared by Redgum Horticultural, dated 25 February 2022 (ref 6763.1).

14. DACCE02 - Construction Management Plan

Prior to the issue of a Construction Certificate, submit to the Registered Certifier a Construction Management Plan that clearly sets out the following:

- (a) What actions and works that are proposed to ensure safe access to and from the site, and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like.
- (b) The proposed method of loading and unloading excavation machines, building materials, formwork, and the erection of any part of the structure within the site.
- (c) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
- (d) How it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
- (e) 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 by a Chartered Civil Engineer.
- (f) A Soil and Water Management Plan detailing all sedimentation controls.

(Reason: Safety, amenity and protection of public infrastructure and the environment)

15. DACCE02A - Construction Traffic Management Plan (CTMP)

Prior to the issue of a Construction Certificate, the applicant shall submit and have approved by Council's Engineers, a detailed Construction Traffic Management Plan (CTMP). The plan shall demonstrate how construction and delivery vehicles will access the development site during the demolition, excavation and construction phase of the development. The plan shall be certified by a suitably qualified and experienced traffic consultant and all traffic associated with the subject development shall comply with the terms of the approved Construction Traffic Management Plan.

The following matters (at a minimum) must be addressed in the CTMP:

- (a) A detailed description and route map of the proposed truck/construction vehicle access routes.
- (b) The locations of any proposed Construction Works Zones along the site frontage.
- (c) Provide a construction schedule.
- (d) Tradesperson parking (parking shall be provided on-site where possible).
- (e) Provide relevant Traffic Control Plans (must be certified by a suitably qualified RMS ticket holder).
- (f) Provide relevant Pedestrian Management Plans.
- (g) A site plan which indicates site entrances and exits, turning areas within the site for construction and spoil removal vehicles allowing a forward ingress and egress for all construction vehicles on the site (superimposed truck swept path diagrams). Site entrances and exits shall be controlled by a certified traffic controller.

(Reason: Traffic safety and amenity during construction phase)

16. DACCE04 - Obtaining a Construction Certificate for Building Work

This Development Consent does not constitute approval to carry out construction work. Construction work may only commence **upon the issue of a Construction Certificate, appointment of a Principal Certifier (PC), and lodgement of Notice of Commencement.**

(Reason: Information)

17. DACCG02 - Bicycle Storage Provision

Provision for bicycles shall be in accordance with the City of Canada Bay Development Control Plan for Bicycle Parking and Storage Facilities. Details shall be submitted **prior to the issue of the Construction Certificate.**

(Reason: Convenience)

18. DACCG06 - Maintaining Sight Lines (multi- unit development)

The sightlines at the access driveway are to be designed in accordance with Figure 3.3 of AS2890.1:2004. Any objects including landscaping within the splay of a minimum of 2.5m by 2.0m adjacent to the driveway at the property boundary shall have a maximum height of 600mm above the internal driveway level. Details are to be

submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** showing compliance with this condition.

19. DACCG10 - Speed Hump and Stop Sign on Exit

The applicant shall install a stop sign and a speed hump at the exit from 11 – 21 Chapman Street Strathfield. The stop sign must be accompanied by the associated line marking and the speed hump shall be set back by 1.5 metres from the boundary alignment. The devices shall be designed and constructed in accordance with the provision of all relevant Australian Standards. The building plans shall indicate compliance with this requirement **prior to the issue of a construction certificate**.

(Reason: Traffic safety and management)

20. DACCH00 - Obscure Glazing for Privacy in Wet Areas

All bathroom, ensuite and toilet windows shall be installed with obscure glazing.

(Reason: Amenity)

21. DACCI01 - Pre-Commencement Damage Report

Prior to the issue of the Construction Certificate, the Pre-Commencement Damage Report Form shall be completed and submitted to Council. This Damage Report Form is for the evaluation of the existing condition of the road reserve, and shall be filled out and signed by the Applicant and submitted to Council. This form is generally for “minor works” (as defined in the Driveways and Ancillary Works Application Form). For “major works”, a Dilapidation Report will be required.

This Form is used to assist Council in determining the refund of any damage deposits and any likely repairs necessary upon the completion of the development.

When lodging the Damage Report Form, fees are payable in accordance with Council’s fees and charges schedule, which will go towards administration and inspection costs.

The cost of repairing any damage to Council property (including the footpath, verge, street trees, kerb, gutter, road pavement or the like) during and/or immediately after construction must be paid to Council or shall be deducted from the damage deposit bond. Repair of damaged Council property by the Applicant or his agent is not permitted unless approved by Council.

For roadways requiring asphaltic concrete works or adjustment works, these shall be done to a minimum width as specified by Council. Minimum dimensions are given in Council’s Specification for Driveway Construction or Specification for Restoration Works.

(Reason: Maintain public assets)

22. DACCI03 - Protection of Public Places

The adjoining or adjacent public area is not to be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances unless approved in writing by Council.

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected **prior to the commencement of any work** subject to approval of a Traffic Management Plan.

An application to occupy public space is to be submitted to Council for approval prior to commencement of works.

Where a hoarding is required, an application for hoarding is also to be submitted to and approved by Council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of WorkCover, the Principal Certifier and with relevant Australian Standards.

(Reason: Safety)

23. DACCI04 - Submission of Plans for Works within the Road and Council Reserve

Prior to issue of the Construction Certificate, submission two (2) copies of Civil Engineering drawings with electronic copy for the design of all civil works required in Chapman Street and Cooper Street, Strathfield with a civil public domain works application under Section 138 of Roads Act to Council for approval, including the following:

Public Domain and Civil Works:

All the required civil works shall be designed and constructed in accordance with Council's DCP, Appendix 2 - Engineering Specification. The following shall be addressed:

- ☐ Consultation with The Owners—Strata Plan No SP1973, the owners corporation responsible for property 5-9 Chapman Street, Strathfield, which may be affected by the proposed civil works, shall be undertaken by the applicant.
- ☐ Details road pavement, kerb, gutter, footpath and associated vehicular crossing shall be designed in accordance with AUS-SPEC and Council's Civil Works Specification.
- ☐ Any landscaping, existing trees and trees planting within footpath area shall be indicated on the plan.
- ☐ All services near the work area (e.g., pits (Telecom, stormwater), lighting, poles, sewer etc) shall be shown on the drawings. Written approval from the relevant public utility services authority is required to submit to Council if relocation

and/or adjustment of the public utility services affected by the proposed works. Any alteration works for the public utility services shall address the relevant public authority requirement.

Civil Works in Council's property

Any proposed civil works within proposed access easement shall be designed in accordance with AUS-SEPC and Council's Civil Works Specification and submitted to Council for approval.

The drawings shall include plan view, long/cross sections with existing and finished surface levels, existing and proposed signage (if any) and other relevant details for the new works. The drawing shall also demonstrate how the proposed civil works is to be smooth connected with the remaining street scape or any existing vehicular crossing of adjoining property/s.

The engineering drawings shall be prepared by a Chartered Civil Engineer with NER Accreditation and be submitted to, and approved by Council in writing and all fees and charges paid prior to issue of construction certificate.

Notes:

- ☐ Prepared and submitted on A1, or A3 size sheets, undertaken by a consulting Civil Engineer,
- ☐ All engineering works shall be designed and undertaken in accordance with the Council's "Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan" and Council's Development Control Plan, and
- ☐ Approval in writing by Council under Section 138 of the Roads Act 1993, prior to the issue of the Construction Certificate for the works within the road reserve, and
- ☐ All public stormwater drainage works adjacent existing Cooper Street, Strathfield is to be fully supervised by Council. A maintenance period of six (6) months or as specified by Council shall apply to the work after it has been completed and approved. In that period the Applicant shall be liable for any part of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the design conditions, and
- ☐ Upon completion of the works, the Applicant is to provide to Council two (2) copies of "work as executed plans". The plans are to show relevant dimensions and finished levels and are to be certified by a registered surveyor. Also the Applicant is to provide to Council, in an approved format, details of all public infrastructure created as part of the works, including certification from the Design Engineer.
- ☐ The approved works must be completed to Council's satisfaction at no cost to Council.

Note: Driveway construction will require a separate approval through a Driveway Application.

(Reason: To ensure compliance of engineering works/Council assets are constructed to acceptable standards for engineering works)

24. DACCI05 - Vehicular Crossings

Heavy-duty concrete vehicular crossing(s) shall be installed across the footpath at the entrance(s) and/or exit(s) to the site, subject to separate Council approval under Section 138 of Roads Act 1993. In this regard the Applicant must obtain a copy of Council's "Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan" and lodge an application for vehicular crossing(s) (available from Council's Customer Services Centre or can be downloaded from Council's website), and pay the appropriate fees and charges **prior to the lodgement of the Construction Certificate**.

(Reason: To ensure appropriate access to the site can be achieved)

25. DACCJ02 - Redundant Vehicular Crossings and Ancillary Works

Where new pavement, repair or reinstatement of footpath or other ancillary works such as kerb and gutter and stormwater pit construction is proposed in the road reserve, the Applicant shall complete a Section 138 Civil Works in the Public Domain Area Application for major works, or for minor works (as defined in the Driveways & Ancillary Works Application) adjacent to the site, an application for "Driveway & Ancillary Works" and submit the application to Council for approval **prior to the issue of a Construction Certificate**. Both forms are available from Council's Customer Services Centre or can be downloaded from Council's website.

All disused or redundant vehicle crossings and laybacks shall be removed and reinstated with concrete kerb and gutter or to the existing edging profile as specified by Council and the footpath area is to be restored to the satisfaction of Council's Utilities & Development Engineer, **prior to the issue of the Occupation Certificate**.

(Reason: Public infrastructure maintenance)

26. DACCJ03 - Separate Approval for Works in the Public Road (External Works) - Section 138 Roads Act

Pursuant to Section 138 of the Roads Act 1993 and **prior to the issue of a Construction Certificate**, the applicant must submit detailed plans to and obtain a written approval from the Appropriate Road Authority (usually Council for Local and Regional Roads and both Council and Roads & Maritime Services (RMS) for Arterial Roads), for any works in the road reserve.

Additionally, where the work involves closure of a carriageway on a State Road, Regional Road, or it is such that it may impact the traffic flow on a State Road or Regional Road, or is within close proximity of a Traffic Facility (eg Traffic Lights) then a Road Occupancy License (ROL) must be obtained from the Planned Incidents Unit of the Traffic Management Centre of the RMS. The application should be lodged at least 10 days prior to the planned commencement date.

(Reason: Protection of Public Assets and information)

27. DACCK02 - BASIX Commitments

The approved BASIX Certificate shall be submitted to the Registered Certifier with the application for a Construction Certificate.

Where a change or changes are proposed in the BASIX commitments, the applicant must submit a new BASIX Certificate to the Registered Certifier and Council. If any proposed change in the BASIX commitments is inconsistent with the development consent the applicant will be required to submit a modification to the development consent to Council under Section 4.55 of the Environmental Planning and Assessment Act 1979.

All commitments in the BASIX Certificate must be shown on the plans accompanying the Construction Certificate **prior to the issue of any Construction Certificate**.

(Reason: Statutory Compliance)

28. DACCL01 - Detailed Stormwater Drainage System Design

Prior to the issue of the Construction Certificate a detailed stormwater drainage plan for the safe disposal of stormwater from the site, prepared in accordance with Council's "Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan" shall be submitted to, and approved by, the Registered Certifier. The stormwater drainage plan shall be designed and certified by a Professional Civil Engineer whose qualifications are recognised by, and who is a current member of, Engineers Australia. The following shall also be addressed:

- Access points to the OSD system, rainwater tank and water quality treatment storage for maintenance/formal surcharge path shall be located in common area not in private courtyards or balconies.
- The basement pump-out system shall be designed and able to store the runoff from weather exposed areas for a period of 5 hours plus subsurface drainage requirement in accordance with Section of Subsurface Water (Clause SW77-SW84) in DCP, Appendix 2 - Engineering Specification. Detailed design and calculation of holding tank shall be indicated on the construction stormwater drawing.

A notice shall be indicated on the engineering plan states "A minimum 5,000L rainwater storage tank shall be provided for the development to collect minimum 970m² of roof area and to be used for common areas and landscaping in accordance with Council's engineering specification and the water sensitive urban design strategy"

Any existing overland flow up to the 1% Annual Exceedance Probability (AEP) storm event that enter the site via the upstream boundary shall be accepted and conveyed through the site to Council's drainage system without surcharging to any adjacent property(s). Design and construction details including the size/number of inlet pit(s) and pipe(s) required to convey the flow above to Council's drainage system shall be indicated on the construction stormwater drawing.

The maximum allowable stormwater discharge to the kerb and gutter from the development is 25L/s.

Important Note: Construction Certificate Approval does not include approval for works external to the property. Where the proposed design extends beyond the property boundary, separate approval under Section 138 of the Roads Act 1993, must be obtained from Council or the relevant road authority prior to the commencement of works.

The applicant is advised to contact Council for clarification of proposed works for which approval under Section 138 applies.

(Reason: Stormwater management)

29. DACCL02 - Certification of the Stormwater Drainage System Design

Certification of the proposed stormwater design shall be obtained from a Professional Civil Engineer whose qualifications are recognised by, and who is a current member of, Engineers Australia and shall certify that the proposed stormwater drainage system has been designed in accordance with Council's "Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan". The certified design shall be submitted to the Principal Certifier **prior to the issue of the Construction Certificate**.

(Reason: Adequate stormwater management)

30. DACCL04 - Erosion and sedimentation controls

Erosion and sedimentation controls must be provided to ensure:

- (a) Compliance with the approved Soil and Water Management Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All uncontaminated run-off is diverted around cleared or disturbed areas
- (d) Silt fences or other devices are installed to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition/ development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadways
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) All water pumped or otherwise removed from excavations or basement areas is filtered to achieve suspended solids/non filterable residue levels complying with the *Australian Water Quality guidelines for Fresh and Marine Waters*
- (i) Pumped or overland flows of water are discharged so as not to cause, permit or allow erosion before the commencement of work (and until issue of the occupation certificate).

Details of the proposed soil erosion and sedimentation controls to be implemented on site must be submitted **with the Construction Certificate Application**. Under no circumstances may any works commence prior to these details being approved by the Registered Certifier and the controls being in place on the site

(Reason: Environmental protection)

31. DACCL05 - Grated Drain to Garage

A grated trench drain shall be provided across the (garage entrance/driveway/street boundary). Unless otherwise designed by a Qualified Civil Engineer, the dimensions of the trench grate shall not be less than 200mm wide by 150mm deep at the shallow end, and have a “bottom” slope of 2 %. This trench drain shall be connected to an approved drainage system. The grated drain calculation shall be in accordance with AS/NZS3500.

The above information must be indicated on all relevant drawings **to be submitted with the Construction Certificate.**

(Reason: Environmental protection)

32. DACCL06 - Rainwater Harvesting

A rainwater harvesting system shall be provided in accordance with either the BASIX minimum requirements, any relevant Council Rainwater Re-use Policy and/or “Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan”, whichever is applicable. A detailed stormwater plan showing the proposed re-use system shall be submitted and approved by Council or an Registered Certifier **prior to the issue of the Construction Certificate.**

(Reason: Compliance and Amenity)

33. DACCL07 - Silt Arrestors and Gross Pollutant Traps

Silt and gross pollutant traps shall be fitted in all stormwater pits, designed in accordance with Council’s “Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan” and to the satisfaction of Council or an Registered Certifier. Details are to be submitted with the design **prior to the issue of the Construction Certificate.**

(Reason: Environmental Protection)

34. DACCM01 - Dilapidation Report

A Dilapidation Report is to be undertaken on all properties, which in the opinion of a suitably qualified engineer, could be potentially affected by the construction of the project. The Dilapidation Report shall be carried out **prior to the issue of the Construction Certificate.** However, where the Principal Certifier is satisfied that the occupier of the property has declined to provide reasonable access on request the Dilapidation Report only need address that property to the extent it is practicable to do so without such access.

The Dilapidation Report is to be prepared by a suitably Qualified Chartered

Professional Civil or Structural Engineer with current Institution of Engineers, Australia Corporate Membership and registered on the National Engineers Register (NER) or Geotechnical Practitioner.

The Report shall cover structural and geotechnical factors likely to arise from the development.

A copy of this Report shall be submitted to the owners of all properties inspected and Council as a record.

The person having the benefit of the development consent must, at their own cost, rectify any damage caused to other properties during the construction of the project.

(Reason: Safety)

35. **DACCM09 - Water Sensitive Urban Design (WSUD)**

The development has been identified as requiring water sensitive urban design (WSUD) which has formed part of the development consent. Therefore, in order to satisfy the drainage requirements for the building, any construction certificate for the building shall include the construction of the WSUD system. The design and construction details of WSUD system and specification shall achieve the pollution reduction target in accordance with the Council's "Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan" shall be submitted to the certifying authority **prior to issue of Construction Certificate**.

(Reason: Stormwater quality management)

Conditions which must be satisfied prior to the commencement of any development work

36. **DAPC04 - Removal of Trees**

The following trees within the site are approved for removal:

Number of the tree, as listed in approved Arborist Report (pages 7 and 8)	Species
2	Golden Rain Tree
3	Golden Rain Tree
4	Chine Celtis
6	Norfolk Island Pine
8	Palm
9	Silky oak
17	Chinese Celtis
20	Chinese Celtis

To ensure the protection of tree/s to be retained on site all removals are to be undertaken by a suitably qualified arborist practicing industry current arboricultural best practice methods.

Trunk protection to applicable trees must be in place **prior to the commencement of any works.**

(Reason: Compliance with consent and tree protection)

37. DAPCB01 - Appointment of Principal Certifier

No work shall commence in connection with this Development Consent until:

- (a) A construction certificate for the building work has been issued by:
 - (i) the consent authority; or
 - (ii) a Registered Certifier; and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a Principal Certifier for the building work, and
 - (ii) notified the Principal Certifier that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the Principal Certifier has, no later than 2 days before the building work commences:
 - (i) notified the Council of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - (ii) notified the Principal Certifier of such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (c) the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

Note: If the Principal Certifier is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates.

Under the Environment Planning and Assessment (Quality of Construction) Act, 2003, a sign must be erected in a prominent position on the work site showing the name, address and telephone number of the Principal Certifier; the name of the principal contractor (if any) for the building work and a telephone number at which that person may be contacted outside working hours. That sign must also state that unauthorised entry is prohibited. The sign must not be removed until all work has been completed.

(Reason: Statutory requirements)

38. DAPCB02 - Construction Certificate

No work shall commence until you:

- (a) Obtain a Construction Certificate from either the City of Canada Bay Council or an Registered Certifier - a fee applies for this service; and
- (b) Lodge with the City of Canada Bay Council any Construction Certificate obtained from an Registered Certifier (together with associated plans and documents) - a fee applies for this service

(Reason: Statutory Requirement)

39. DAPCB05 - Notice of commencement

No work shall commence until you submit a notice of commencement (form will be attached with issue of a Construction Certificate or available from our website) giving Council:

- (a) Not less than two (2) days' notice of the date on which it is proposed to commence work associated with this Development Consent;
- (b) Details of the appointment of a Principal Certifier (either Canada Bay Council or another Registered Certifier)
- (c) Details of the name, address and licence details of the Builder.

(Reason: Statutory Requirement)

40. DAPCB06 - Site Safety Fencing

Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the construction works. The fencing **must be erected before the commencement of any work and maintained.**

The site shall be secured in accordance with Clause 146 of the Environmental Planning and Assessment Regulation 2000. The site shall be maintained in a clean and orderly condition during demolition and construction works.

Hoardings

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

(Reasons: Statutory Requirement and health and safety)

41. DAPCB07 - Principal Certifier (PC) Sign

Prior to commencement of any work, signage must be erected in a prominent position on the work site identifying:

- The Principal Certifier (PC) by showing the name, address and telephone number of the PC;
- The Principal Contractor by showing the Principal Contractor's name, address and telephone number (outside of work hours) for that person.
- The sign must state that unauthorised entry to the work site is prohibited.

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

This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

(Reason: Statutory Requirement)

42. DAPCB09 - Toilet Amenities on Construction Site

Prior to commencement of any building works, toilet facilities for employees must be provided in accordance with WorkCover NSW requirements.

Where female workers are present on site, appropriate measures for sanitary item disposal should be made, such as a disposal unit provided in the portable toilet or sewer connected toilet closet.

(Reason: Statutory Requirement - Health and amenity)

43. DAPCB10 - Notice of Requirements from Sydney Water

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through Sydney Water or an authorised Water Servicing Coordinator (WSC). An assessment will be made to determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. Please refer to Sydney Water's website at www.sydneywater.com.au/section_73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

Following application, Sydney Water will assess the development and if required will issue a "Notice of Requirements" letter detailing all requirements that must be met. Please apply early as building of water and services can be time consuming and may impact on other parts of your development such as building, driveway or landscape design.

The Notice of Requirements must be submitted to the Registered Certifier **before the**

commencement of works. A Section 73 Compliance Certificate must be obtained before the issue of an Occupation Certificate.

(Reason: To comply with statutory requirements)

44. DAPCB11 - Alterations/removal of services

The applicant to arrange with the relevant public utility authority for the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.

(Reason: Asset Protection)

45. DAPCC01 - Erosion & Sediment Control: Minor works - Prior to construction

Erosion and sedimentation controls shall be in place **prior to the commencement of site works**; and maintained throughout construction activities until the site is landscaped and/or suitably revegetated. The controls shall be in accordance with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater - Soils and Construction produced by Landcom (Blue Book).

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and made available to Council officers on request.

Erosion and sediment control measures as detailed in the submitted Erosion and Sediment Control Plan must be installed and operating **prior to and during all construction works**.

(Reason: Environmental protection)

46. DAPCC02 - Soil & Water Management during Construction

Landcom's "Managing Urban Stormwater - Soil and Conservation" August 1998 outlines the general requirements for the preparation of a soil and water management plan. All works shall be conducted in accordance with a soil and water management plan that has been submitted and approved by the Registered Certifier **prior to the commencement of works**. A copy of the plan shall be kept on-site and made available to Council's Officers on request. All erosion and sediment control measures must be maintained in a functional condition throughout the duration of the works.

(Reason: Environmental protection)

Conditions which must be satisfied during any development work**47. DADWA01 - Burning and Burying of Waste**

No materials or rubbish resulting from the land clearing, demolition and building works must be burnt or buried on the site.

(Reason: Health and amenity)

48. DADWA02 - Construction Hours

No construction or any other work related activities shall be carried out on the site outside the hours of 7.00 am to 5.00 pm Mondays to Saturdays. No work to occur on Sundays and public holidays.

Where the development involves the use of jackhammers/ rock breakers and the like or other heavy machinery, such equipment may only be used between the hours of 7.00 am - 5.00 pm Monday to Friday only.

(Reason: Safety and amenity)

49. DADWA03 - Disruption of Traffic

During any construction works on the public road that is associated with this approval, the Applicant must provide appropriate signage and traffic control facilities as per the requirements of AS 1742.3 and the RTA "Traffic Control at Works Sites" manual.

(Reason: Safety and information)

50. DADWA04 - Dust Control***Small Works***

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like and shall be modified as directed by the City of Canada Bay Council should it fail to adequately control any dust nuisance.

Major Works

The following measures must be implemented (in part or in total) as directed by the City of Canada Bay Council to control the emission of dust:

- (a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- (b) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be contaminated or allowed to enter the stormwater system.
- (c) All stockpiles of materials that are likely to generate dust must be kept damp or

covered.

- (d) All stockpiles of soil or other materials shall be placed away from drainage lines, gutters or stormwater pits or inlets.
- (e) All stockpiles of soil or other materials likely to generate dust or odours shall be covered.
- (f) All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours or as directed by the City of Canada Bay Council.

(Reason: Environmental amenity)

51. DADWA05 - Excavation - Water

All excavations must be kept free from the accumulation of water.

(Reason: Health and safety)

52. DADWA06 - Prevention of Nuisance

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from windblown dust, debris, noise and the like during the demolition, excavation and building works.

(Reason: Health and amenity)

53. DADWB03 - Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan.

All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Registered Certifier and Council on request.

(Reason: Compliance with condition of consent)

54. DADWB04 - Damage to Adjoining Properties

All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

(Reason: Structural safety)

55. DADWB05 - Stamped Plans

Stamped construction certificate plans, specifications, documentation and the consent shall be available on site at all times during construction.

(Reason: To ensure compliance with approved plans)

56. DADWB06 - Site requirements during demolition and construction

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- (a) All demolition is to be carried out in accordance with Australian Standards AS 2601-2001.
- (b) Demolition must be carried out by a registered demolition contractor.
- (c) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.
- (d) No blasting is to be carried out at any time during construction of the building.
- (e) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- (f) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- (g) Any demolition and excess construction materials are to be recycled wherever practicable.
- (h) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- (i) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in the approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- (j) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- (k) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- (l) Details as to the method and location of disposal of demolition materials (weight dockets, receipts etc.) should be kept on site as evidence of approved methods of disposal and recycling.
- (m) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- (n) Public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction unless prior separate approval from Council is obtained including payment of relevant fees.
- (o) Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other

locations which could lead to the discharge of materials into the stormwater drainage system.

- (p) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.

(Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.)

57. DADWD01 - Road Opening Permit

Pursuant to Section 138 of the Roads Act, should any work on the verge, footpath, public road reserve or public reserve (open space) be required, approval will need to be obtained from Council. In this regard the Applicant is to contact Council's Customer Services Centre to apply for a Road Opening Permit, for works in relation to the excavation of the verge (e.g. for the purpose of installation of services such as private stormwater, private gas line, private sewer, private water pipe, etc.). This Permit is to be obtained **prior to any works on the verge, footpath, public road reserve or public reserve being undertaken.**

Important Note: Road Opening Permits do not include driveways, laybacks, footpath and major stormwater drainage construction which are covered separately by the Driveways and Ancillary Works Application (for minor domestic works) or a Section 138 Works Application (for major or public works).

(Reason: Maintain public asset)

58. DADWE02 - Protection of Landscape Features

To minimise impacts on trees to be retained, no permanent fill or storage of building materials, excavated fill or topsoil during the site works shall take place within their drip lines.

(Reason: Tree preservation)

59. DADWF01 - Noise - Construction

All works carried out on site during construction/ demolition/ excavation/ earthworks shall comply with the NSW Protection of the Environment Operations Act 1997, the Department of Environment and Climate Changes' Interim construction noise guideline' and AS 2436-2010 - 'Guide to noise and vibration control on construction, demolition and maintenance sites' for the control of construction noise which specifies that:

- Construction period of 4 weeks and under - The L90 level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 20 dB(A) at the boundary.
- Construction period greater than 4 weeks but not exceeding 26 weeks - The L90 level measured over a period of not less than 15 minutes when the construction site

is operating must not exceed the background level by more than 10 dB(A) at the boundary.

- Construction period exceeding 26 weeks - The L90 level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 5 dB(A) at the boundary.

Should complaints of a noise nuisance be substantiated, Council may require the acoustic treatment of the premises to ensure compliance with the NSW Department of Environment and Climate Changes 'Interim construction noise guideline' and AS 2436-2010 - 'Guide to noise and vibration control on construction, demolition and maintenance sites' for the control of construction noise. A further acoustic assessment & report will be required to be provided to Council assessing the premises in working order.

(Reason: Noise Attenuation)

60. DADWF02 - Noise - Plant

All works carried out on site during construction/demolition/excavation or earthworks shall comply with the NSW Protection of the Environment Operations Act 1997. Approved and effective silencing measures shall be provided and maintained on all power-operated plant used on site if required.

(Reason: Safety and Amenity)

61. DADWF03 - Noise & Vibration

The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

In the event of a noise or vibration problem arising, the person in charge of the premises must, when instructed by City of Canada Bay Council or the Registered Certifier, cease work and carry out an acoustical survey and/or investigation by an appropriate acoustical engineer or consultant and submit the results to Council. The person in charge of the site must implement any or all of the recommendations of the consultant and any additional requirements of Council. Any requirements of Council in this regard must be complied with immediately.

(Reason: Noise attenuation)

62. DADWG01 - Obstruction of Road or Footpath

The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste bins or any other matter is not permitted unless

approved in accordance with Council's Waste Skip Bin Policy. A Penalty Infringement Notice may be issued for any offence.

(Reason: Protection of infrastructure, safety & information)

63. DADWG02 - Protection of Public Places

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a hoarding or fence shall be erected. Hoardings shall be erected to comply with the requirements of WorkCover and the Principal Certifier.

(Reason: Safety)

64. DADWG04 - Inspection of on-site stormwater detention and stormwater quality improvement devices

The stormwater drainage, overland flowpath works and/or stormwater quality improvement devices shall be inspected during construction, by the Council if the principle certifying authority or by a suitably qualified Civil/Stormwater Engineer and a registered surveyor. Documentary evidence of compliance with Council's specifications and approved stormwater plan shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:

On-site Stormwater Detention:

- (a) Initial inspection to discuss concept and site conditions/constraints prior to commencement of the construction of the detention basin/tank.
- (b) Prior to pouring of the roof of the detention tank.
- (c) After completion of storage but prior to installation of fittings (e.g. Orifice plates, screens, flap valves etc.)
- (d) Final Inspection prior to issuing the relevant certificate.

Stormwater quality Improvement devices:

- (a) Initial inspection to discuss concept and site conditions/constraints prior to commencement of the construction of the improvement devices.
- (b) After completion of storage but prior to installation of **fittings** (e.g., Screens etc.)
- (c) Final Inspection prior to issuing the relevant certificate.

Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees will apply for additional inspections required to be undertaken by Council.

(Reason: To ensure compliance with approved plans)

65. DADWH01 - Compliance with Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia. Note: Applicants who have lodged an objection and who have been granted exemption under clause 187(6) & 188(4) of the *Environmental Planning and*

Assessment Regulation 2000, must comply with the Building Code of Australia in all other respects.

(Reason: Prescribed statutory control)

66. DADWH02 - Critical Stage Inspections - General

Critical stage inspections must be called for by the Principal Contractor or Owner Builder as required by the Principal Certifier (PC), any PC Service Agreement, the Act and the Regulation.

Work must not proceed beyond each critical stage until the PC is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the Act. 'Critical Stage Inspections' means the inspections prescribed by the Regulations for the purposes of section 6.5 of the Act or as required by the PC and any PC Service Agreement.

Note 1: The PC may require additional inspections beyond mandatory critical stage inspections in order that the PC be satisfied that work is proceeding in accordance with this consent.

Note 2: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

(Reason: Statutory requirement)

67. DADWI01 - Progress Survey - Major Development (greater than two stories)

In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, shall be prepared by a Registered Surveyor showing the following:

- (a) At the completion of excavation, prior to the placement of any footings, showing the completed level of the excavation and its relationship to the boundaries;
- (b) Prior to placement of concrete, the ground floor level, showing the level of the form work and its relationship to boundaries including relevant footpath and roadway levels;
- (c) Prior to placement of concrete at each second floor level showing the principal level of the formwork and the intended relationship of the completed works to the boundary;
- (d) Prior to roofing, or completion of the highest point of the building, showing the anticipated level of the completed work and the relationship to the boundary; and
- (e) At completion, works showing the relationship of the building to the boundary.

Progress certificates in response to points (a) through to (e) shall be produced to the Council or the Principal Certifier at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such

survey information be unavailable or reveals discrepancies between the approved plans and the proposed works.

(Reason: To ensure compliance with approved plans)

Conditions which must be satisfied prior to the issue of any Occupation Certificate relating to the use of the building or part

68. DAOCB01 - Certification of Engineering Works

Prior to occupation, the following documents must be submitted to the Principal Certifier.

- a) A Certificate from a Professional Civil Engineer whose qualifications are recognised by, and who is a current member of, Engineers Australia, and
- b) “Works - As - Executed” drawings of the engineering works prepared by a Registered Surveyor or equivalent.

The abovementioned Certificate is to certify that:

- (i) the stormwater drainage system and/or
- (ii) the car parking arrangement and area including circulating ramps, and/or
- (iii) any related footpath works, and/or
- (iv) the basement mechanical pump and well system, and/or
- (v) the proposed driveway and layback, and/or
- (vi) other civil works have been constructed in accordance with the approved plans and details and satisfies the design intent and complies with the appropriate SAA Codes, relevant Standards and Council’s Policies and Specifications.

Two (2) copies of the above documents are to be provided to Council **prior to the issue of any Occupation Certificate**.

(Reason: Asset management)

69. DAOCC01 - Civil Works on the Footway

The Applicant is required to carry out the following works:

- Reconstruct sections of cracked or defective footpath along the full frontage of the site, and/or
- Reconstruct existing public drainage pit/pipe system, and/or
- Construct a new vehicular crossing, and/or
- Remove any redundant vehicular crossings and replace with kerb and gutter to match the adjoining.

The above works must be completed to the written satisfaction of Council **prior to issue of any Occupation Certificate**.

Note: The above works will require the submission of the relevant application for the

works to be undertaken.

Where the Applicant nominates Council to undertake the civil and stormwater works, they must contact Council's Manager Construction, City Services in order to obtain an estimated cost for construction and contract to undertake the works.

(Reason: To preserve Council's assets and amenity)

70. DAOCC04 - Vehicular Crossings

Prior to the issue of the Occupation Certificate, a letter of completion of works in relation to vehicular crossing shall be obtained from Council and submitted to the Principal Certifier. Vehicular crossing/s shall be constructed in accordance with Council requirements under Driveway Location application approval. All disused or redundant vehicle crossings, laybacks and stormwater outlet shall be removed and reinstated with concrete kerb and gutter or to the existing edging profile as specified by Council and the footpath area is to be restored to the satisfaction of Council.

(Reason: To ensure appropriate access to the site can be achieved and asset management)

71. DAOCC06 - Noise, Air or Water Pollution - Protection of the Environment Operations Act 1997

The activities carried out on site shall not constitute a nuisance in relation to noise, air or water pollution as specified under the Protection of the Environment Operations Act 1997.

(Reason: Environmental protection)

72. DAOC12 - Acoustic Assessment

All recommendations contained in the approved acoustic assessment report prepared by prepared by Acouras Consultancy, reference: SYD2021-1023-R001D, dated 8/12/2021 shall be adopted, implemented, and adhered to.

The Principal Certifier (PC) shall obtain a certificate from an appropriately acoustic consultant, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupational Certificate.

Any changes made to the proposal that would alter the outcome will require a further assessment and a copy of this further report shall be provided to the PC for approval and all recommendations of the report shall be adopted, implemented and available upon request of the Council.

(Reason: Noise Control and Amenity)

73. DAOCD01 - Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use (*or change of use where an existing building*) of the whole or any part of a new building (within the meaning of section 6.10 of the *Act*) unless an Occupation Certificate has been issued.

The Principal Certifier is required to be satisfied, amongst other things, that:

- All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- Any preconditions to the issue of the certificate required by a development consent have been met.

Note: New building includes an altered portion of, or an extension to, an existing building.

(Reason: Statutory requirement)

74. DAOCD02 - Evidence of Lawful Asbestos Disposal

An Occupation Certificate for a development involving the removal of asbestos must not be issued until such time the applicant provides the Principal Certifier with a copy of receipt/s confirming lawful disposal of asbestos waste.

NOTE: Asbestos waste must be disposed at a waste management facility licensed by the NSW Environment Protection Authority (EPA) to accept such waste. Please see Appendix F of City of Canada Bay's Asbestos Policy, Contact NSW EPA on 131 555 or visit www.epa.nsw.gov.au for a list of waste management facilities licensed to accept asbestos waste.

(Reason: Health and Safety)

Conditions which must be satisfied prior to the issue of a Final Occupation Certificate**75. DAFOE01 - Certification of the Constructed Stormwater Drainage System**

The constructed stormwater drainage system shall be certified by a Professional Civil Engineer whose qualifications are recognised by, and who is a current member of, Engineers Australia, as being designed and installed in accordance with Council's Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan", **prior to issue of the Final Occupation Certificate.**

(Reason: Adequate stormwater management)

76. DAFOE02 - Covenant & Restriction as to User for Stormwater Controlled Systems

Prior to issue of an Occupation Certificate, the documents giving effect to the creation of Positive Covenant and Restriction on Use of Land over the constructed stormwater drainage, on-site stormwater detention and stormwater quality improvement devices (SQID) under Section 88E Instrument and/or Section 88B Instrument of the Conveyancing Act shall be submitted to the authority benefited for approval prior to lodge and register with the NSW Land Register Service. The wording

of the terms of the Positive Covenant and Restriction on use of land shall be in accordance with Council's "Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan" for ensuring the system is ongoing retention, maintenance and operation of the stormwater drainage and storage facility in accordance with the approved drawings and Council's requirement.

NOTE: Prior to release of the documents, the benefiting authority shall be satisfied that the as constructed stormwater drainage, on-site stormwater detention, basement pump-out and stormwater quality improvement devices are in accordance with the approved drawings, report and Council requirements.

(Reason: Compliance and adequate maintenance of drainage system)

77. DAFOE03 - OSD Identification Plate

Prior to issue of Final Occupation Certificate, the applicant shall install an identification plate near or onto the control structure of the On-site Stormwater Detention system (OSD). This is to advise the registered proprietor of their responsibility to maintain the OSD facility. The applicant can obtain the OSD identification plate from the Council at a cost.

(Reason: To ensure that the OSD system is installed and identified in accordance with this approval)

78. DAFOE04 - Maintenance Schedule of on-site stormwater detention and stormwater quality improvement devices

Prior to issue of an Occupation Certificate, a maintenance schedule for the stormwater drainage, on-site stormwater detention and stormwater quality improvement devices system, including a sketch plan of the components forming the sites stormwater drainage system shall be submitted to the Principal Certifier. The maintenance schedule shall be prepared by a qualified hydraulic engineer.

(Reason: adequate maintenance of drainage system to achieve positive covenant)

79. DAFOE05 - Civil Works in Public Domain

Prior to the Issue of an Occupation Certificate, all works as per the items listed under Civil Works in Public Domain approval under Section 138 of the Roads Acts 1993 shall be completed and a completion letter shall be obtained from Council's Engineering Section following the completion of civil and stormwater works within Council's road reserve.

(Reason: Protection of Council Assets)

80. Civil Works in Council Reserve

Prior to the Issue of an Occupation Certificate, the applicant shall obtain a letter from Council as property owner upon completion of the civil works stating the restoration or the works in Council property is satisfactory and submit to the Principal Certifier.

(Reason: Protection of Council property)

81. DAFOG01 - Prospective Owners/Tenants - Ineligible for Parking Permits

All owners, residents, tenants/occupiers of the development are not eligible to participate in any existing or proposed Council on-street Permit Parking Schemes. The owner of the property and/or any managing agent appointed by the owner to sell or lease the residential and commercial units on their behalf shall ensure that all prospective purchasers and/or tenants are advised in writing via any advertising material, lease documents, etc that no on-street parking permits will be issued by Council for the use of owners, tenants or their visitors. Any strata manager/management company appointed following the strata subdivision of the development shall also be responsible for ensuring that all owners and their tenants are informed of this restriction on an ongoing basis.

(Reason: To ensure that prospective residents and/or tenants are aware that on-site parking is available in the building and that no on-street parking permits will be issued by Council.)

Advisory Notes**1. DAANN01 - Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.



Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's mobile network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision or essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

2. DAANN02 - Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of or payment for the erection of dividing fences.

If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre or if legal advice or action is required, you may contact the Chamber Magistrate.

3. DAANN04 - Lapsing of Consent

In accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 (as amended), this Development Consent lapses five (5) years after the date from which it operates unless building, engineering or construction work has physically commenced. **A Construction Certificate must be obtained and the works commenced in accordance with the approved plans and specifications within five (5) years from the date of this Development Consent.**

4. DAANN06 - Process for Modification

The plans and/or conditions of this Consent are binding and may only be modified upon written request to Council under Section 4.56 of the Environmental Planning and Assessment Act, 1979 (as amended), or by application to the Land and Environment Court under section 4.55(8) of this Act. Any request to Council shall be accompanied by the appropriate fee and application form. You are not to commence any works on the requested modification unless and until the written authorisation of Council or approval of the Court is received by way of an amended consent.

5. DAANN10 - Skips on Council Footpath

The applicant must apply to Council's Customer Services Centre and pay the respective minimum ten (10) day application fees and deposit, should a mini-skip type or larger builder's waste container be required to be left on Council's footpath, nature strip or roadway for the removal of any builder's waste etc. These fees must be paid prior to the container's placement. In the event of the container being removed within the ten day period, and the Council being notified, a pro-rata refund will be made. If the container is to remain at the site for longer than ten days, a further fee must be paid before the ten day period expires. No consultation is necessary if placing the container within the property to which this application is related. However, caution should be exercised in placing the bin to ensure no damage occurs to Council property.

6. DAANN11 - WorkCover Requirements

The Work Health and Safety Act 2011 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Further information can be obtained from WorkCover NSW's website at <http://www.workcover.nsw.gov.au/newlegislation2012/your-industry/construction/Pages/default.aspx> or through their head office: WorkCover

NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW,
Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.