



Land and Environment Court
New South Wales

Case Name: Byrne v Northern Beaches Council

Medium Neutral Citation: [2022] NSWLEC 1207

Hearing Date(s): Conciliation Conference on 4 February 2022 and 18 March 2022

Date of Orders: 21 April 2022

Decision Date: 21 April 2022

Jurisdiction: Class 1

Before: Dickson C

Decision: The Court orders that:
(1) The appeal is upheld.
(2) Development Application No. 2020/1733, for the demolition of existing structure(s) and construction of a 5 storey shop top housing development with basement carparking accessed from Condamine Street, four (4) ground level retail shops, with 12 residential apartments above, associated stormwater infrastructure and landscape works on land legally described as Lot A DP 336220, Lot 1 in DP 796788, Lot 1 in DP 318879, Lot 2 in DP 796788, known as 332-338 Sydney Road, Balgowlah is granted consent subject to the conditions at Annexure A.
(3) Pursuant to s 8.15(3) of the Environmental Planning and Assessment Act 1979 the Applicant is to pay the Respondent's costs that are thrown away as a result of amending Development Application No. DA/2020/1733 in the amount of \$5,000 payable within 28 days from the date of the Court making orders in accordance with this s 34 agreement.

Catchwords: DEVELOPMENT APPLICATION: five storey shop top housing – amended plans – conciliation agreement –

orders

Legislation Cited:	Architects Act 2003, cl 3 Contaminated Land Management Act 1997, Pt 3, Div 1 Environmental Planning and Assessment Act 1979, ss 4.15, 4.16, 8.7, 8.15 Environmental Planning and Assessment Regulation 2000, cll 3A, 50, 55 Land and Environment Court Act 1979, s 34 Manly Local Environmental Plan 2013, cll 4.3, 4.4, 4.6, 6.1, 6.4, 6.11, 6.12, 6.13, 6.16 Roads Act 1993, ss 138, 145 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Infrastructure) 2007, cll 2.119, 45 State Environmental Planning Policy No 55— Remediation of Land State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development, Sch 1, cl 28 State Environmental Planning Policy (Resilience and Hazards) 2021, cl 4.6 State Environmental Planning Policy (Transport and Infrastructure) 2021
Cases Cited:	Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827
Texts Cited:	Apartment Design Guide
Category:	Principal judgment
Parties:	Ted Byrne (Applicant) Northern Beaches Council (Respondent)
Representation:	Counsel: M Staunton (Applicant) J Simpson (Solicitor) (Respondent) Solicitors: Swabb Attorneys (Applicant) Northern Beaches Council (Respondent)
File Number(s):	2021/274989

Publication Restriction: No

JUDGMENT

- 1 **COMMISSIONER:** The proceedings are an appeal pursuant to s 8.7 (1) of the Environmental Planning and Assessment Act 1979 (EPA Act) by the Applicant against the actual refusal of Development Application No DA/2020/1733 by the Northern Beaches Planning Panel. The development application that was refused sought consent for the demolition of existing structures and construction of five storey shop top housing with basement parking, four ground level shops and 14 residential apartments as well as associated stormwater and landscape works. Since the filing of the appeal with the Court, the development application has been amended to 12 residential apartments. The development is proposed at 332-338 Sydney Road, Balgowlah (Lot A DP 336220, Lot 1 in DP 796788, Lot 1 in DP 318879, Lot 2 in DP 796788).
- 2 The Court arranged a conciliation conference under s 34(1) of the Land and Environment Court Act 1979 (LEC Act) between the parties, which was held on 4 February 2022. I presided over the conciliation conference. Following the conciliation, agreement was reached between the parties. That decision is that the appeal is upheld, and the development application is approved, subject to the conditions of consent annexed to this judgment: pursuant to s 4.16(1) of the EPA Act.
- 3 In exercising the functions of the consent authority on the appeal, the Court has the power to determine the development application pursuant to ss 4.15 and 4.16 of the EPA Act. The final orders in this appeal, outlined below, are made as a result of an agreement between the parties that was reached at a conciliation conference.
- 4 As the presiding Commissioner, I am satisfied that the decision is one that the Court can make in the proper exercise of its functions (this being the test applied by s 34(3) of the LEC Act). I have formed this state of satisfaction for the following reasons:

- (1) By reference to the development application form filed, owner's consent has been given to the Applicant for lodgement of the Development Application.
- (2) The development application was notified to adjoining and proximate properties from 12 to 26 February 2021. No submissions were received.
- (3) The development application is accompanied by an updated BASIX certificate to reflect the amended development application, satisfying the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- (4) State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP Resilience and Hazards) came into force on 1 March 2022. SEPP Resilience and Hazards transfers the provisions of State Environmental Planning Policy No 55—Remediation of Land (SEPP 55) to the new instrument. Consideration has been given as to whether the subject site is contaminated as required by cl 4.6 of SEPP Resilience and Hazards. The site does not constitute land declared to be an investigation area: Pt 3, Div 1 *Contaminated Land Management Act 1997*. There is no indication of previous uses that would cause contamination. I accept that the site will be suitable for the proposed development.
- (5) The development application proposes works within the public road reserve of both Sydney Road and Condamine Street. Section 138(3) of the *Roads Act 1993* ('*Roads Act*') requires consent of Transport for NSW (TfNSW) for works on a public road. Submission of such a works application is a requirement of the conditions of consent (Condition 15). The development application has been referred to TfNSW who confirm they have no objection to the development application.
- (6) As the development application is, in part, residential apartment development, the provisions of the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) apply. Clause 28 of SEPP 65 requires a consent authority, or the Court on appeal, to take into consideration advice from the design review panel, and the design quality of the development when evaluated in accordance with the design quality principles, and the Apartment Design Guide (ADG). I have reviewed the amended development application against these provisions, and I am satisfied that adequate regard has been given to the design quality principles at Sch 1 of SEPP 65, and the objectives specified in the ADG.
- (7) Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 (EPA Regulation) requires an application for residential apartment development to be accompanied by a statement by a qualified designer, defined by cl 3 as a person registered under the *Architects Act 2003*, and in a form set out at cl 50(1AB) of the EPA Regulation. The statement by the qualified designer must attest to certain things set out at cl 3A of the EPA Regulation, including attestations in respect of the design quality principles, and the objectives specified in the ADG for the relevant design criteria. A

complying design verification statement prepared by the architect David Wolski (5297) accompanies the application.

- (8) The site is at the junction of Sydney Road and Condamine Street Sydney. Sydney Road is a classified road: s 145 of the *Roads Act*.
- (9) State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP (TAI)) came into force on 1 March 2022. SEPP (TAI) transfers the provisions of State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) to the new instrument. Clause 2.119 of SEPP Infrastructure applies to the development application as: it is for the purpose of residential accommodation; it is on land adjacent to the road corridor of a road with annual average daily traffic volume of more than 20,000 vehicles (Sydney Road); and the consent authority considers is likely to be adversely affected by road noise or vibration.
- (10) Further, as the development application is for the purpose of residential accommodation the consent authority must not grant consent to the development unless it is satisfied measures will be taken to ensure that the following noise levels are not exceeded —
 - (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
 - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.
- (11) I am satisfied that the development achieves compliance with these arrangements as described in the acoustic report, prepared by Acoustic Logic dated 1 December 2020.
- (12) Satisfying cl 45(2) of the then SEPP Infrastructure, the development application was referred to Ausgrid due to the proximity of underground power cables. Ausgrid confirmed by letter of 11 February 2021 that they have no objection to the development subject to requirements which form part of condition 2.
- (13) Manly Local Environmental Plan 2013 (LEP 2013) applies to the subject site and zones the land B2 – Local Centre. Shop top housing is a use permissible with consent in the zone.
- (14) Pursuant to cl 4.3 'Height of Buildings' of the LEP 2013, the maximum height development standard for the site is 12.5m. The development application proposes a maximum height of 16.74m and relies on the provisions of cl 4.6 of LEP 2013 to vary the height of buildings development standard. The variation to the maximum height standard relates to the level four apartment roof and the lift overrun.
 - For the reasons outlined in the cl 4.6 request of the LEP 2013, I am satisfied that the Proposed Development is consistent with the objectives of 4.3: Height of Buildings and that there are sufficient environmental planning grounds to support the variation proposed. In particular I am satisfied that the proposed development provides a building height that is consistent with the desired future character of the

locality, minimises any disruption to public or streetscape views, and maintains adequate solar access.

- The unique constraints imposed by the location of the existing right of way and the required vehicular access and servicing requirements of the site provide sufficient environmental planning grounds as the design responds to these constraints by a redistribution of building mass. I am satisfied that these grounds are tied to the variation of the floor spaces standard and are sufficient in this instance.
 - I find that the objectives of the development standard are achieved despite the breach, and the Applicant's written request has adequately addressed the matters required to be demonstrated by subcl 4.6(3) of the LEP 2013. I am satisfied that those matters have in fact been demonstrated which is the outcome required by subcl 4.6(3) and (4)(a)(i). It follows that strict compliance with the development standard in cl 4.3 of LEP 2013 is both unreasonable and unnecessary: *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 at [44]-[48].
 - I also accept that the Proposed Development will be in the public interest because it is consistent with the objectives of the B2- Local Centres zone and the objectives of the provision despite the breach of cl 6.16 of LEP 2013. Further, I am satisfied that the Applicant's written request adequately addresses the matters required to be demonstrated by subcl (3) of cl 4.6 in LEP 2013.
 - The concurrence of the Secretary required by cl 4.6(5) is assumed as the contravention of the development standard does not raise any matter of significance for State or regional environmental planning given the nature of the development, and there is no public benefit in maintaining the standards on the facts of this case.
- (15) Pursuant to cl 4.4 of LEP 2013, the maximum floor space ratio (FSR) for building on the site is 2:1. The proposed development has an FSR of 2:1, complying with the FSR standard.
- (16) The site is identified on the maps in LEP 2013 as located in Class 5 Acid Sulfate Soils. Clause 6.1 of the LEP 2013 applies. The development application proposes no 'works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m Australian Height Datum (AHD) where the water table is likely to be lowered by 1m AHD on adjacent Class 1, 2, 3 or 4 land'. The clause is satisfied.
- (17) Clause 6.4: Stormwater Management in LEP 2013 applies to the land. The amended development application is accompanied by stormwater plans which includes the provision of an onsite detention tank and demonstrate that the design will avoid adverse impacts on adjoining properties. The precondition at cl 6.4(3) of LEP 2013 is satisfied.
- (18) Clause 6.16 of LEP 2013 mandates that at least 25% of the gross floor area (GFA) of buildings in the B2 Local Centre zone will be used as commercial premises. The proposed development has a total GFA of

1467m², thereby requiring a minimum commercial floor area of 366.75m² to comply with cl 6.16 of LEP 2013. The proposed development has a total commercial floor space of 328m² and relies on the provisions of cl 4.6 of LEP 2013 to vary the development standard.

- For the reasons outlined in the cl 4.6 request of the LEP 2013, I am satisfied that there are sufficient environmental planning grounds to support the variation proposed. In particular I am satisfied that the unique constraints imposed by the location of the existing right of way and the required vehicular access and servicing requirements of the site provide sufficient environmental planning grounds. I am satisfied that these grounds are tied to the variation of the standard for provision of ground floor commercial premises and are sufficient in this instance.
- Further, I find that the objectives of the development standard at cl 6.16 of LEP 2013 are achieved despite the breach, and the Applicant's written request has adequately addressed the matters required to be demonstrated by subcl 4.6(3) of the LEP 2013. I am satisfied that those matters have in fact been demonstrated which is the outcome required by subcl 4.6(3) and (4)(a)(i). It follows that strict compliance with the development standard in cl 4.3 of LEP 2013 is both unreasonable and unnecessary: *Wehbe v Pittwater Council* [2007] NSWLEC 827 at [44]-[48].
- As noted in the preceding I am satisfied that the Proposed Development will be in the public interest because it is consistent with the objectives of the B2- Local Centres zone and that the concurrence of the Secretary can be assumed.

(19) Clause 6.11 of the LEP 2013 Active Street frontages applies to the land on the Active Street Frontages Map. The subject site is identified on the relevant map. As required by cl 6.11(3) of LEP 2013, I am satisfied that the proposed development will have an active street frontage as the premises on the ground floor of the building facing the street are proposed to be used for retail premises.

(20) I am satisfied that the requirements of cl 6.12(1) Essential Services in LEP 2013 are met, and that essential services and access are available to the proposed development.

(21) In determining the development application, I have given consideration to the listed matters at subcl (4) of cl 6.13 Design Excellence in LEP 2013, and I am satisfied that the proposed development exhibits design excellence. The precondition at cl 6.13(3) of LEP 2013 is satisfied.

5 Having reached the state of satisfaction that the decision is one that the Court could make in the exercise of its functions, s 34(3)(a) of the LEC Act requires me to "dispose of the proceedings in accordance with the decision". The LEC Act also requires me to "set out in writing the terms of the decision" (s 34(3)(b)).

- 6 In making the orders to give effect to the agreement between the parties, I was not required to make, and have not made, any assessment of the merits of the development application against the discretionary matters that arise pursuant to an assessment under s 4.15 of the EPA Act.
- 7 The Court notes:
- (1) That Northern Beaches Council as the relevant consent authority has agreed, under cl 55(1) of the EPA Regulation, to the applicant amending the development application DA/2020/1733.
 - (2) That the Respondent has uploaded the amended development application on the NSW planning portal on 1 April 2022.
 - (3) That the applicant filed the amended development application with the Court on 1 April 2022.
- 8 The Court orders that:
- (1) The appeal is upheld.
 - (2) Development Application No. 2020/1733, for the demolition of existing structure(s) and construction of a 5 storey shop top housing development with basement carparking accessed from Condamine Street, four (4) ground level retail shops, with 12 residential apartments above, associated stormwater infrastructure and landscape works on land legally described as Lot A DP 336220, Lot 1 in DP 796788, Lot 1 in DP 318879, Lot 2 in DP 796788, known as 332-338 Sydney Road, Balgowlah is granted consent subject to the conditions at Annexure A.
 - (3) Pursuant to s 8.15(3) of the *Environmental Planning and Assessment Act 1979*, the Applicant is to pay the Respondent's costs that are thrown away as a result of amending Development Application No. DA/2020/1733 in the amount of \$5,000 payable within 28 days from the date of the Court making orders in accordance with this s 34 agreement.

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D Dickson

Commissioner of the Court

Annexure A (404922, pdf)

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Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: DA2020/1733

Development: Demolition works and construction of a 5 storey Shop Top Housing Development with basement car parking accessed from Condamine Street, four (4) ground floor retail shops with twelve (12) residential apartments above

Site:

Lot and DP	Address
Lot A DP 336220	332 Sydney Road, Balgowlah
Lot 2 DP 796788	334 Sydney Road, Balgowlah
Lot 1 DP 796788	336 Sydney Road, Balgowlah
Lot 1 DP 318879	338 Sydney Road, Balgowlah

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

Date of determination: 21 April 2022.

Date from which consent takes effect: Date of determination.

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 332-338 Sydney Road, Balgowlah.

The conditions of consent are as follows:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. 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
DA01 Lower Basement	D	08.02.2022	Wolski Coppin Architecture
DA02 Basement	D	08.02.2022	Wolski Coppin Architecture
DA03 Ground	D	08.02.2022	Wolski Coppin Architecture
DA04 Level 1 Floor Plan	D	08.02.2022	Wolski Coppin Architecture
DA05 Level 2 Floor Plan	D	08.02.2022	Wolski Coppin Architecture
DA06 Level 3 Floor Plan	D	08.02.2022	Wolski Coppin Architecture
DA07 Level 4 Floor Plan	H	29.03.2022	Wolski Coppin Architecture
DA08 Roof / Site Plan	D	08.02.2022	Wolski Coppin Architecture
DA09 West Elevation (Condamine St. Elev)	H	29.03.2022	Wolski Coppin Architecture
DA10 East Elevation	E	22.03.2022	Wolski Coppin Architecture
DA11 North Elevation	F	22.03.2022	Wolski Coppin Architecture
DA12 South Elevation (Sydney Road Elevation)	F	22.03.2022	Wolski Coppin Architecture
DA13 Section AA	G	29.03.2022	Wolski Coppin Architecture
DA14 Section BB	F	22.03.2022	Wolski Coppin Architecture
RW01 Right of Way Plan	A	18.01.22	Wolski Coppin Architecture
C11 Finishes 01	E	30.03.2022	Wolski Coppin Architecture
C12 Finishes 02	D	08.02.2022	Wolski Coppin Architecture
C14 Demolition Plan	B	15.3.22	Wolski Coppin Architecture

Engineering Plans			
Reference	Revision	Date	Prepared By
2020-025-H1 Stormwater Drainage Concept Lower Basement Floor Plan	D	17.02.2022	Burgess, Arnott & Grava PTY. LTD
2020-025-H2 Stormwater Drainage Concept Upper Basement Floor Plan	D	17.02.2022	Burgess, Arnott & Grava PTY. LTD
2020-025-H3 Stormwater Drainage Concept Ground Floor Plan	D	17.02.2022	Burgess, Arnott & Grava PTY. LTD
2020-025-H4 Stormwater Drainage Concept Level 1 Floor Plan	D	17.02.2022	Burgess, Arnott & Grava PTY. LTD
2020-025-H5 Stormwater Drainage Concept Levels 2 & 3 Floor Plan	D	17.02.2022	Burgess, Arnott & Grava PTY. LTD
2020-025-H6 Stormwater Drainage Concept Level 4 Floor Plan, Roof Plan	D	17.02.2022	Burgess, Arnott & Grava PTY. LTD
2020-025-H7 Stormwater Drainage Concept Details Sheet 1 of 2	D	17.02.2022	Burgess, Arnott & Grava PTY. LTD
2020-025-H8 Stormwater Drainage Concept Details Sheet 2 of 2	D	17.02.2022	Burgess, Arnott & Grava PTY. LTD

Approved Documents			
Reference	Revision	Date	Prepared By
Geotechnical Investigation	-	30.11.2020	Alliance Geotechnical

Disability Access Report	2	05.11.2020	Cheung Access
DA Acoustic Assessment	0	01.12.2020	Acoustic Logic
BASIX Certificate No. 1093664M_03	-	17.02.2022	Senica Consultancy Group Pty Ltd

- b. Any plans and /or documentation submitted to satisfy the conditions of this consent.
- c. The development is to be undertaken generally in accordance with the following:

Landscape Plans				
Drawing No.		Revision	Date	Prepared By
DAL01C	Level 1 Landscape Plan	C	10.02.2022	Jane Britt Design
DAL02C	Level 4 Landscape Plan & Plant Schedule	C	10.02.2022	Jane Britt Design
DAL03C	Specifications & Details	C	10.02.2022	Jane Britt Design

Waste Management Plan			
Reference	Revision	Date	Prepared By
Site Waste Management Plan	B	22.05.2020	Senica Consultancy Group Pty Ltd

- d. 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.

2. Compliance with Ausgrid Requirements

The development must be carried out in compliance with the requirements of Ausgrid, as outlined in their correspondence dated 11.02.2021, as follows:

- a. 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.

3. 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.

4. 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.
- l. A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

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

5. 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 \$82,500.00 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 \$8,250,000.00.

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 \$20,000 for the construction of civil works. 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)

The applicant is to lodge a Bond of \$100,000 as security against any 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. The bond will be held until the satisfactory submission of works-as-executed drawings and final acceptance of construction works by Council. A maintenance bond shall be lodged prior to the release of the bond.

Details demonstrating 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 (Drainage Works)

The applicant is to lodge a bond of \$100,000 as security against failure to complete the construction of stormwater drainage works as part of this consent. The bond will be held until the satisfactory submission of works-as-executed drawings and final acceptance of construction works by Council. A maintenance bond shall be lodged prior to the release of the bond.

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

11. On-Site Stormwater Detention Details

The Applicant is to provide drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Burgess, Arnott & Grava P/L, drawing number 2020-025-H1, H2, H3, H4, H5, H6, H7 and H8 Revision D, dated 17/2/2022. 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. Include details of the S138 Roads Act approval for the drainage connection in Condamine St.

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

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

12. 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 Council's 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 relevant Construction Certificate and prior to the commencement of the associated works.

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

13. 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 Hydraulic Engineer.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate and prior to the commencement of the associated works.

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

14. 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.

15. 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 piped connection from the site to the Council drainage system in Totem Lane, footpath paving works and driveway crossing works which are to be generally in accordance with the Council's specification for engineering works. The plan shall be prepared by a qualified Civil Engineer. The design must include the following information:

- a. A stormwater pit and lintel minimum 1.8 metres in Condamine St for the piped connection from the site.
- b. A minimum 375mm RCP pipeline to the existing Council pit in Totem Lane.
- c. Full width paving of the entire frontage of the site in accordance with Council's Public Space Vision and Design Guidelines.
- d. Driveway crossing in accordance with Council standard drawing A4/3330/1 Normal.
- e. Services plan is to be provided for the works. Note any relocation of existing services is to be approved and concurrence provided by the relevant service authority.
- f. TfNSW concurrence for all works associated with this application.
- g. A construction management plan (CMP) for the 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 relevant Construction Certificate and prior to the commencement of the associated works.

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

16. 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 relevant Construction Certificate and prior to the commencement of the associated works.

Reason: To provide public and private safety.

17. 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 relevant Construction Certificate and prior to the commencement of the associated works.

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

18. 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.

19. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both

internally and externally, including walls, ceilings, roof, structural members and other similar items.

a. 330 Sydney Road, Balgowlah

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.

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

The recommendations to manage the risk of hazards identified in the Geotechnical Report referenced in Condition 1 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 relevant Construction Certificate and prior to the commencement of the associated works.

Reason: To ensure geotechnical risk is mitigated appropriately.

21. 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.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

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. Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- j. 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
- k. 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
- l. 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
- m. 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
- n. 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

- o. 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
- p. Proposed protection for Council and adjoining properties
- q. 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.

22. Pedestrian Sight Distance at Property Boundary

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

Reason: To maintain pedestrian safety.

23. Road Occupancy Licence

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows.

Reason: Requirement of TMC for any works that impact on traffic flow.

24. On slab landscape works

Details shall be submitted to the Certifying Authority prior to the issue of the relevant 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:

- i) 600mm for mass shrub/accent planting to terraces and boundaries

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

25. 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.

26. 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.

27. 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.

28. 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 relevant construction certificate and prior to the commencement of the associated works.

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

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

The recommendations of the Access Report referenced in Condition 1 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.

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

The recommendations of the Acoustic Report referenced in Condition 1 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

31. 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.

32. 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. Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- f. 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.
- g. 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.
- h. 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.
- i. Specify spoil management process and facilities to be used on site.
- j. 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.

33. Work Zones and Permits.

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

A separate application is required with a Traffic Control Plan for standing of construction vehicles in a trafficable lane. A Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones and permits are obtained when required.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

34. 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.

35. Stormwater Connection

The applicant shall connect the pipeline in accordance with the Section 138 Roads Act approval and shall reconstruct all affected kerb and gutter, bitumen reinstatements, adjust all vehicular crossings for paths, grass verges and household stormwater connections to suit the works. All works shall be undertaken at the applicant's cost.

Reason: To ensure compliance of drainage works with Council's approved plans.

36. Road Occupancy Licence from Transport Management Centre

The developer shall apply for a Road Occupancy Licence (ROL) from the TfNSW 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 Control Plan (TCP) to be prepared by a person who is certified with 'Prepare a Work Zone Traffic Management' accreditation or equivalent. Should the TCP require a reduction of the speed limit, a Direction to Restrict will also be required from the TMC.

37. 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.

38. Ongoing Management

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

Reason: To ensure public safety.

39. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Section 138 Roads Act approval are to be 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.

40. Notification of Inspections (Infrastructure Works to be Handed Over to Council)

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 the Roads Authority design and specification standards

41. Traffic Control During Road Works

Lighting, 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 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.

42. Progress Certification (Road)

The applicant shall provide written certification by a suitably qualified Engineer upon completion and/or as and when requested by the Roads Authority for the following stages of works:

- a. Silt and sediment control facilities
- b. Laying of stormwater pipes and construction of pits
- c. Proof Roll
- d. Sub-grade trimmed and compacted **
- e. Base-course laid and compacted **
- f. Kerb and gutter construction
- g. Pavement
- h. Landscaping and vegetation
- i. Clean-up of site, and of adjoining Council roadway and drainage system.

(**To be tested by a recognised N.A.T.A. approved laboratory).

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

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

43. Property Boundary Levels

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve.

44. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with the Approved Waste Management Plan referenced in Condition 1 of this consent.

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

45. Waste/Recycling Requirements (Materials)

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, 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.

46. 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 Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

47. 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.

48. 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.

49. Geotechnical Report Recommendations During Works

The works are to be undertaken in accordance with the recommendations of the Geotechnical Investigation report referenced in Condition 1 of this consent.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

50. 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.

51. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages and the street trees fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Tree protection.

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

52. 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.

53. 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 1 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.

54. 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 1 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.

55. 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.

56. 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.

57. 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.

58. 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.

59. 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.

60. 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.

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

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

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

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

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

62. 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 1 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.

63. Certification of Council Drainage Works and Works as Executed Data

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 Roads Act approved plans. Works as Executed data (details overdrawn on a copy of the approved drainage plans) certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' within the subject site shall be submitted.

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

64. Public Domain Paving Works

The applicant shall install a full width footpath on both Sydney Road and Condamine Street fronting the development site.

The works shall be in accordance with the following:

a) All footpath works are to be constructed to match existing granite pavers within the streetscape precinct and in accordance with the following specification:

- i) granite pavers 445 x 220 x 40mm raven black or similar colour as approved by Council,
- ii) existing subgrade compaction shall be minimum 95% modified dry density (AS 1289 5.2.1) and fill any voids with granular basecourse material if required; concrete slab shall be 90mm thickness 24Mpa strength; expansion joints shall be 10mm mastic expansion joints into concrete slab at 5m intervals; continue expansion joints to granite pavers, bedding course shall be 20mm thick 3:1 sand:cement slurry shall be applied to the concrete slab to fix the granite pavers onto; pavers shall be laid butt-joint in a stretcher bond pattern (perpendicular to kerb), and pre-sealed granite pavers shall be supplied, with 5 sides sealed,
- iii) 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,
- iv) utility services shall match gradient levels,
- v) existing utility pit lids are to be altered to paver infill types to accommodate the proposed pavement type,

- vi) all existing street trees shall have a paver border installed,
- vii) 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,

b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Council's specification for footpath.

Any work carried out upon public land shall have all the necessary prior approvals submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993 prior to commencement to conduct such works.

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

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

65. Landscape completion

Landscape works within the site is to be implemented in accordance with the approved Landscape Plans, inclusive of the following:

- i) all Rhipiolepis (Indian Hawthorn) species shall be deleted from the schedule and replaced with a non seed-spreading species of similar form and size.

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.

66. 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.

67. 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 any interim / final Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided.

68. 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 any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

69. Positive Covenant for Council and Contractor Indemnity

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final 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.

70. 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.

71. 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.

72. No Right Turn Signage

A plan demonstrating the proposed signage for preventing Right Turns into and out of the development's driveway shall be prepared by a suitably qualified person and submitted for consideration by the Local Traffic Committee. Following approval by the Traffic Committee the signs are to be installed to Council's satisfaction prior to the issue of any Occupation Certificate.

Note: The applicant is advised that as the plan will require approval by the local Traffic Committee adequate time should be allowed for this process

Reason: To ensure safety for road users and to obtain required Roads Act approval.

73. 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.

74. 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 Standard.

75. Convex Mirror at Ramps

Convex mirrors are to be installed and maintained at the locations shown on the basement parking levels. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To minimise vehicular conflicts at ramps

76. Footpath Construction

The footpath, in accordance to Council's standard specifications, shall be reconstructed along the property frontage to Council's satisfaction. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To provide pedestrian access to and from the property.

77. 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.

ON-GOING CONDITIONS

78. Landscape maintenance

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

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

For all new residential works with two or more dwellings and mixed use developments, 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.

79. Commercial Waste and Recycling Storage

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

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

80. Transfer of Waste Bins between the Basement Bin room and the Collection Bay

The owners corporation is responsible to ensure that the waste bins are presented in, and removed from, the collection bay at the appropriate times. Waste bins are to be transferred from the basement bin room to the collection bay no earlier than 4.00pm on the day prior to collection. Waste bins, once emptied, are to be transferred from the collection bay to the basement bin room no later than the evening of the day of collection.

Reason: To ensure waste bins do not remain in the collection bay for an excessive amount of time. To ensure waste bins are available for resident use in the basement bin room for the maximum amount of time.

81. Vehicle Parking

The car parking area shown on the approved drawings must be used for vehicle parking only. Loading and unloading of vehicles and delivery of goods to the site must be carried out within the site. Any loading or unloading of materials of potential environmental damage must be appropriately bunded with adequate spill response equipment in place to ensure nil runoff from the site.

Reason: To ensure the safety and amenity of the general public using public streets, and to ensure the protection of the environment from spillage of materials.

82. Sight Lines Within Carparks

The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

83. 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.

84. 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.

85. Parking

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

- a. 20 x residential parking spaces inclusive of 3 disabled spaces, with a minimum of 1 space per unit,
- b. 3 x residential visitor spaces,
- c. 8 x retail spaces inclusive of 1 disabled parking space,
- d. 1 x 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.

86. 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.

87. Outdoor Dining

Any application for outdoor dining must be made to the Property team via the Outdoor Dining Area Approval Application form on Council's website.

Reason: To ensure that outdoor dining is appropriately managed having regard to the requirements of the Roads Act 1993.

88. Adaptable and Liveable Housing Units

The proposal must maintain 2 Silver Level Liveable units in addition to 3 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.

