



**Land and Environment Court
New South Wales**

Case Name: **Mona Vale Holdings (NSW) Pty Ltd v Northern Beaches Council**

Medium Neutral Citation: **[2022] NSWLEC 1399**

Hearing Date(s): **Conciliation conference on 26 April, 27 May, 7 June 2022, final agreement filed 7 June 2022**

Date of Orders: **27 July 2022**

Date of Decision: **27 July 2022**

Jurisdiction: **Class 1**

Before: **Pullinger AC**

Decision: **The Court orders that:**
(1) Leave is granted to the Applicant to amend Development Application DA/2021/1901 and rely on the amended plans and documents listed at condition 1 of Annexure A.
(2) The Applicant is to pay the Respondent's costs thrown away pursuant to s 8.15(3) of the Environmental Planning and Assessment Act 1979 (NSW), in the amount of \$3,000 within 28 days of these orders.
(3) The appeal is upheld.
(4) Consent is granted to Development Application DA/2021/1901 (as amended) for demolition of the existing dwelling houses and construction of a seniors housing development comprising 12 dwellings over one level of basement car parking containing 26 parking spaces, at 21-23 Mona Avenue and 120 Bassett Street, Mona Vale, subject to conditions contained in Annexure A.

Catchwords: **DEVELOPMENT APPLICATION – seniors housing development – access requirements – agreement between the parties – orders**

Legislation Cited: **Environmental Planning and Assessment Act 1979, ss 4.16, 8.7, 8.15**

Environmental Planning and Assessment Regulation
2000, cl 55

Land and Environment Court Act 1979, s 34

Pittwater Local Environmental Plan 2014, cll 4.3, 4.4,
5.10, 5.21, 7.1, 7.2, 7.4, 7.10

State Environmental Planning Policy (Building
Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Housing for
Seniors or People with a Disability) 2004, cl 26

State Environmental Planning Policy (Resilience and
Hazards) 2021, ss 2.10, 2.11, 4.6

Texts Cited:

Land and Environment Court of New South Wales,
COVID-19 Pandemic Arrangements Policy (February
2022)

Category:

Principal judgment

Parties:

Mona Vale Holdings (NSW) Pty Ltd (Applicant)
Northern Beaches Council (Respondent)

Representation:

Counsel:

M Sonter (Solicitor) (Applicant)

J Simpson (Solicitor) (Respondent)

Solicitors:

Mills Oakley (Applicant)

Northern Beaches Council (Respondent)

File Number(s):

2021/361685

Publication Restriction:

Nil

JUDGMENT

- 1 **COMMISSIONER:** This is an appeal pursuant to the provisions of s 8.7 of the *Environmental Planning and Assessment Act 1979* (EPA Act) against the deemed refusal of Development Application DA/2021/1901 (the DA) by the Northern Beaches Council (the Respondent). The DA sought consent for demolition of the existing dwelling houses and construction of a seniors housing development comprising 12 dwellings over a single level of basement car parking comprising 26 parking spaces, at 21-23 Mona Avenue and 120 Bassett Street, Mona Vale (the site).
- 2 The Court arranged a conciliation conference under s 34 of the *Land and Environment Court Act 1979* (LEC Act) between the parties, which was held on 26 April, 27 May and 7 June 2022. I presided over the conciliation conference.
- 3 Consistent with the Court's COVID-19 Pandemic Arrangements Policy, published in February 2022, and at the request of the parties, the matter commenced with a site viewing limited in the number of participants before resuming by Microsoft Teams.
- 4 Prior to the conciliation conference, on 21 January 2022, the Applicant was granted leave by the Court to amend the DA and rely on amended documents.
- 5 Again, prior to the conciliation conference, on 8 April 2022, the Respondent granted consent to this amended DA subject to a number of conditions of consent, which required the Applicant to undertake specific footpath and road reservation upgrade works aimed at improving access from the site to local public transport services.
- 6 On 26 April 2022, at the conciliation conference, the parties sought to discuss these conditions of deferred commencement.
- 7 During the conciliation conference, the parties reached agreement as to the terms of a decision in these proceedings that would be acceptable to the

parties. The agreement involves the Court upholding the appeal and granting development consent to an amended DA, subject to conditions.

- 8 Whilst the final amended DA remains largely the same as the original proposal, a series of measures have cumulatively resolved the matter.
- 9 Of relevance, the parties have now reached agreement on the final form of conditions of consent, which includes the deletion of existing conditions of deferred commencement and the inclusion of an operational condition requiring certain footpath and road upgrade works to be carried out prior to the issue of a construction certificate.
- 10 Also of relevance, the parties agree that the relatively new “Keo Ride” service fulfils necessary requirements for public transport access in the vicinity of a seniors housing development.
- 11 Under s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties' decision if the parties' decision is a decision that the Court could have made in the proper exercise of its functions. The parties' decision involves the Court exercising the function under s 4.16 of the EPA Act to grant consent to the amended DA.
- 12 There are jurisdictional prerequisites that must be satisfied before this function can be exercised.
- 13 In that regard, I am satisfied the DA was made with the consent of the owner of the land, evidenced within the Class 1 Application accompanying this matter.
- 14 The parties agree, and I am satisfied, that the Pittwater Local Environmental Plan 2014 (PLEP) is a relevant environmental planning instrument. The site is zoned R2 Low Density Residential and the proposed development - characterised as dwelling houses - is permissible with consent.
- 15 The parties agree, and I am satisfied, that all principal development standards of the PLEP have been met by the amended DA, specifically cl 4.3 - Height of

buildings which establishes a maximum height of 8.5m for the site. Of note, cl 4.4 - Floor space ratio (FSR) of the PLEP does not prescribe a FSR for the site.

- 16 The parties agree, and I am satisfied, that the amended DA meets the requirements of cl 5.10 - Heritage conservation of the PLEP. The site is not identified as heritage item, nor located within a heritage conservation area.
- 17 The parties agree, and I am satisfied, that cl 5.21 - Flood planning and cl 7.4 - Floodplain risk management are relevant jurisdictional considerations. The site is mapped within the low risk and medium risk precincts, and the Applicant has provided a corresponding flood study report within its DA documentation. The recommendations of this report are incorporated within the agreed conditions of consent.
- 18 The parties agree, and I am satisfied, that the amended DA meets the requirements of cl 7.1 - Acid sulfate soils of the PLEP. The Applicant has provided an Acid Sulfate Assessment as part of the DA documentation. Requirements for the management and reporting of acid sulfates are incorporated in the agreed conditions of consent.
- 19 The parties agree, and I am satisfied, that the amended DA meets the requirements of cl 7.2 - Earthworks of the PLEP. The proposal comprises earthworks for the construction of a basement level for car parking, which is proposed to be set back a minimum of 3m from the boundaries of adjoining properties. The Applicant has provided a geotechnical report with the DA documentation, and this has been accepted by the Respondent.
- 20 The parties agree, and I am satisfied, that the amended DA meets the requirements of cl 7.10 - Essential services of the PLEP. The site is appropriately serviced.
- 21 The parties agree, and I am satisfied, that the amended DA remains subject to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors).

- 22 Clause 26 of SEPP Seniors provides that, prior to the grant of consent, the consent authority must be satisfied that residents of the proposed development will have appropriate access to shops, bank service providers and other retail and commercial services, community services and recreation facilities, and the practice of a general medical practitioner.
- 23 Although the site is situated more than 400m away from the services identified at cl 26(1), the proposed development complies with these access requirements in accordance with cl 26(2)(b), since there is a public transport service, being the on-demand “Keo Ride” service, available to residents who occupy the proposed development, located not more than 400m from the site by means of a suitable access pathway. The amended DA includes footpath upgrades and pedestrian refuges within the vicinity of the development site necessary to meet the requirements of cl 26 of SEPP Seniors.
- 24 The parties agree, and I am satisfied, that the design requirements set out in Pt 3 of SEPP Seniors have also been met by the amended DA.
- 25 The parties agree, and I am satisfied, that the State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP Resilience and Hazards) is an additional relevant environmental planning instrument.
- 26 The site is jointly mapped as “coastal environment area” and “coastal use area” within the meaning of Divs 3 and 4 of Ch 2. In compliance with the requirements of SEPP Resilience and Hazards, the Applicant has demonstrated that the proposed development is not considered to significantly impact upon any of the relevant statutory considerations as development on land within the coastal environment area in accordance with s 2.10, and similarly, that the proposed development is sited and designed to avoid an adverse impact upon any of the statutory considerations as development on land within the coastal use area in accordance with s 2.11.
- 27 Further, the parties agree, and I am satisfied, that the site has historically been used for residential purposes not associated with contamination.

Consequently, I am satisfied the site is unlikely to be contaminated and further investigation is not required. Accordingly, I am satisfied the amended DA addresses the matters outlined in s 4.6 of SEPP Resilience and Hazards.

- 28 The parties agree, and I am satisfied, that the amended DA is subject to the provisions of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. In compliance with the relevant requirements of this SEPP, the Applicant has prepared the necessary BASIX certificate reflecting the final amended DA.
- 29 Having considered each of the preceding jurisdictional requirements and having formed the necessary view required by s 34(3) of the LEC Act, I find it is appropriate to make the orders agreed to by the parties and now dispose of the matter.
- 30 The Court notes that:
- (1) The Applicant has amended Development Application DA2021/1901 with the agreement of the Respondent pursuant to cl 55(1) of the Environmental Planning and Assessment Regulation 2000.
 - (2) The amended Development Application was uploaded to the NSW Planning Portal on 27 May 2022.
 - (3) The Applicant has filed the amended Development Application with the Court on 7 June 2022.

Orders

- 31 The Court orders that:
- (1) Leave is granted to the Applicant to amend Development Application DA/2021/1901 and rely on the amended plans and documents listed at condition 1 of Annexure A.

- (2) The Applicant is to pay the Respondent's costs thrown away pursuant to s 8.15(3) of the *Environmental Planning and Assessment Act 1979* (NSW), in the amount of \$3,000 within 28 days of these orders.
- (3) The appeal is upheld.
- (4) Consent is granted to Development Application DA/2021/1901 (as amended) for demolition of the existing dwelling houses and construction of a seniors housing development comprising 12 dwellings over one level of basement car parking containing 26 parking spaces, at 21-23 Mona Avenue and 120 Bassett Street, Mona Vale, subject to conditions contained in Annexure A.

I certify that this and the preceding 5 pages are a true copy of my reasons for judgment.



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M Pullinger

Acting Commissioner of the Court

Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No:	DA2021/1901
Development:	Demolition works and construction of a Seniors Housing development
Site:	Lot 8 DP 701367, 23 Mona Street, MONA VALE NSW 2103 Lot 9 DP 701367, 21 Mona Street, MONA VALE NSW 2103 Lot 10 DP 701367, 120 Bassett Street, MONA VALE NSW 2103

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

Date of determination: 27 July 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 21-23 Mona Avenue and 120 Bassett Street, Mona Vale.

The conditions of consent are as follows:

SCHEDULE 1 CONDITIONS OF DEVELOPMENT CONSENT

DEFERRED COMMENCEMENT CONDITIONS

Nil

ADMINISTRATION CONDITIONS

1. **Approved Plans and Supporting Documentation**
The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA100 Rev 2 Title Page / Schedule of BASIX Commitments	10.02.2022	PropovBass
DA102 Rev 02 Demolition Plan	10.02.2022	PropovBass
DA103 Rev 03 Site Plan	10.02.2022	PropovBass
DA104 Rev 04 Ground Floor Plan	10.02.2022	PropovBass
DA105 Rev 04 Level 01 Plan	10.02.2022	PropovBass
DA106 Rev 04 Roof Plan	10.02.2022	PropovBass
DA107 Rev 04 Basement Plan	10.02.2022	PropovBass
DA108 Rev 04 Elevations	10.02.2022	PropovBass
DA109 Rev 02 Finishes Schedules and 3D View	10.02.2022	PropovBass
DA110 Rev 04 Sections	10.02.2022	PropovBass
Engineering Plans - Drawing No.	Dated	Prepared By
D1 Rev G No 1 of 5, Details, notes and legend	24.05.2022	NY Civil Engineers
D2 Rev G No 2 of 5, Bassett Street Refuge	24.05.2022	NY Civil Engineers
D3 Rev G No 3 of 5 Basset/Mona Street Footpath	24.05.2022	NY Civil Engineers
D4 Rev G No 4 of 5 Basset/Mona Street Swept Path	24.05.2022	NY Civil Engineers
D5 Rev G No 5 of 5 Pedestrian Refuge Details	24.05.2022	NY Civil Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report Ref J3763	06.10.2021	White Geotechnical Group
Preliminary seepage analysis Ref 34852SFlet	03.02.2022	JK Geotechnics
Acid Sulfate Preliminary Assessment Ref J3763	06.10.2021	White Geotechnical Group
Estuarine Risk Management Report	13.12.2021	Horton Coastal Engineering
BCA Compliance Assessment Report REF J1031-BCA-r2	27.09.2021	Building Code Clarity
Arboricultural Impact Assessment an Tree Protection Plan V1	22.09.2021	Tree Survey

Disability Access Report Ref LP_21288	20.09.2021	Lindsay Perry Access
NatHERS Certificate No.0006628750	27.09.2021	Design matters National
BASIX Certificate No. 1244308M_02	01.06.2022	FrysEnergywise
Traffic Statement Ref 21NL215.Ts2	22.02.2022	Loka Consulting Engineers
Stormwater / Civil Design Compliance (Flooding) Ref E210350	27.01.2022	NY Civil Engineering
Transport Assessment Version 5 Ref P0266r1v5	27.05.2022	Arc Traffic and Transport

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.	Dated	Prepared By
Landscape Plan 1 of 3	February 2021	IScape Landscape Architecture
Landscape Plan 2 of 3	February 2021	IScape Landscape Architecture
Landscape Plan 2 of 3	February 2021	IScape Landscape Architecture

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	22.09.2021	Built Projects

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	10 December 2022
Water NSW General Terms of Approval (GTAs)	Water NSW General Terms of Approval (GTAs)	08 March 2022

(For a copy of the above referenced document/s, please see Application Tracking on Council's

website www.northernbeaches.nsw.gov.au)

Note: The GTA issued by WaterNSW do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to WaterNSW for a Water Supply Work approval after consent has been issued by Council and before the commencement of any work or activity.

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

3. **Telecommunications in New Developments**

Prior to the issue of the Construction Certificate in connection with the development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

(i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

and

(ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

Reason: To ensure that telecommunications infrastructure is considered early in the planning process.

4. **Prescribed Conditions**

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

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

5. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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.
 - (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork

NSW Codes of Practice.

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

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$79,373.97 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 2021. The monetary contribution is based on a development cost of \$7,937,397.00.

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 2021 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.

7. Security Bond

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

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

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

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

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

8. **Construction, Excavation and Associated Works Security Bond (Road works)**

The applicant is to lodge a bond with Council in accordance with the current fees and charges at the time of payment as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works as part of this consent.

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

Reason: Protection of Council's infrastructure.

9. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$5,000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

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

Reason: Protection of Council's infrastructure.

10. **Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)**

The applicant is to lodge a Bond of \$20,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

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

Reason: Protection of Council's infrastructure.

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

11. **Amended Landscape Plans**

Amended Landscape Plans shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to include the following details:

- i) all tree planting within the site shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- ii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 5.0 metres from building for all proposed large trees (*Angophora costata*, *Eucalyptus punctata*, *Acmena smithii* and *Banksia integrifolia*) and 3.0 metres from buildings for all other trees capable of attaining at least 5.0 metres in height at maturity, and additionally all trees shall be at least 2.0 metres from structures including driveways, kerbs, walling and paths, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- iii) all proposed tree planting shall be positioned in locations to minimise significant impacts on

neighbours in terms of blocking winter sunlight to living rooms, and to private open space,
iv) Landscape Plan documentation of the works required under Public Road Reserve Landscaping and Infrastructure condition,
v) landscape details of the on slab planter works for the roof garden over apartment 05 as required under On Slab Landscape Works condition.

Certification shall be provided to the Certifying Authority that these amendments have been documented.

Reason: Landscape amenity.

12. On Slab Landscape Works

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

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

i) minimum 300mm soil depth for groundcovers and accent planting.

Maintenance access provisions shall include that access through common area window W200, as identified in the architectural plans, shall be lockable by key or by a security touch pad mechanism and that keys or security codes are available to the maintenance staff to access the roof garden to undertake repair and maintenance activities.

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.

13. Public Road Reserve Landscaping and Infrastructure

Development with a frontage within a residential street, comprising 6 or more dwellings, is required to provide a footpath and street tree planting. The footpath shall be 1.5m wide, and street trees shall be planted generally at 6m intervals, in accordance with the following:

i) widened footpath at 1.5 metres width, aligned at a constant 600mm from the front boundaries of the property along Bassett Street and Mona Street, and kerb ramp at corner junction to satisfy Council and in accordance with standard kerb ramp details,

ii) street trees shall be selected from the following suggested species: *Syzygium leuhmannii*, *Tristaniopsis laurina*, *Tristaniopsis laurina* 'luscious' under powerlines, and *Lophostemon confertus* and *Waterhousia floribunda* where no powerlines exist, or as otherwise proposed for consideration, and shall be proposed as pre-ordered stock of a minimum 200 litre container, including a four post and top and mid rail timber tree guard,

iii) street trees shall be located following consideration of existing trees, existing underground utilities and street lighting,

iv) grassed areas are to be turfed with Couch species (weed free), unless otherwise advised, and even grade to a maximum 4% grade.

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

Reason: To enable the long term retention of the desired streetscape character.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 6/10/2021 are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

15. Flooding

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – B1

All new development below the Flood Planning Level (including Climate Change) of 2.9m AHD shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the Probable Maximum Flood of 3.1m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level (including Climate Change) of 2.9m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Floor Levels – C2

New floor levels within the development must be set at or above the Probable Maximum Flood Level of 3.1m AHD.

Car parking – D7

All access, ventilation and any other potential water entry points to the basement car park shall be at or above the Probable Maximum Flood (PMF) level of 3.1m AHD. The driveway crest level to the basement carpark must be at or above the Flood Planning Level of 2.35m AHD. The basement driveway flood gate/barrier must be self-actuating, not electrical supply to operate and when operational, the top of the gate/barrier must be at or above the PMF level.

Flood Emergency Response – E2

The shelter-in-place refuge must contain emergency power.

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

15A Flood Gate

Prior to the issue of the Construction Certificate engineering details of the design, construction and maintenance of the flood gate are to be submitted to the Principal Certifier for approval and shall include installation details, the calibration of the structure and the ongoing maintenance regime, together with periodic compliance reports from an appropriate engineer.

Reason: To reduce the impact of flooding and flood liability on owners of flood prone property and reduce public and private losses in accordance with Council's and NSW Government Policy

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

16. Amendment of Landscape Plans

The submitted Landscape Plan is to be amended in accordance with the following:

- i Deletion of *Nandina domestica* and *Raphiolepis indica*

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

17. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

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

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

Reason: Protection of the receiving environment.

18. Detailed Design of Stormwater Treatment Measures - Major

The detail design must satisfy the General Stormwater Quality Requirements (Water Management for Development Policy).

A certificate from a suitably qualified Civil Engineer, who has membership to the Engineers Australia, National Engineers Register, stating that the stormwater treatment measures have been designed in accordance with the stormwater plans and Council's Water Management for Development Policy.

The water quality model (MUSIC or equivalent) is to be reviewed and approved in the certificate.

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

Reason: Protection of the receiving environment.

19. Construction Traffic Management Plan

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

The CTMP must address following:

- i The proposed phases of construction works on the site, and the expected duration of each construction phase
- i 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
- i Make provision for all construction materials to be stored on site, at all times
- i The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- i 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
- i 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
- i Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
 - i 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 Due to the proximity of the site adjacent to Pittwater High School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays)
 - 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
 - i 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
 - i 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

- i 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
- i 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
- i 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
- i 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 practicing Structural Engineer, or equivalent
- i Proposed protection for Council and adjoining properties
- i 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.

20. **Vehicle Access & Parking**

All internal driveways, vehicle turning areas, garages and vehicle parking space/wash bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken;

All internal driveways and vehicle access ramps must have ramp grades and transitions complying with AS 2890.1. To ensure the gradient requirements and height clearances are satisfied, a driveway profile must be prepared for all internal ramps showing ramp lengths, grades, surface RL’s and overhead clearances, taken from the crest of the ramp to the base. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

Plans prepared by a suitably qualified Engineer shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

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

21. **On-Street Work Zone**

The applicant shall lodge an application for a work zone for the Bassett Street frontage of the site to Council for consideration and approval. The provision of a work zone will require

approval from Northern Beaches Local Traffic Committee. Application forms for work zones are available on Council's website or at the Customer Service section at Council's administration building. Applications shall be lodged at least 4 weeks prior to work commencing.

An application must be lodged with Council for consideration and approval for a work zone for the frontage of the site.

The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Applications must be lodged at least four (4) weeks prior to work commencing.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

22. Works in the Public Road – Pedestrian & Transport Facilities

The Applicant is to submit an application for Infrastructure Works in the Public Road Reserve, for Council approval.

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, generally in accordance with the Plans (Pedestrian Refuge Plans Drawing Set D1-5 Revision G), for the design of the footpaths, pram ramps, and pedestrian refuge.

The Concept Plans are to be updated in accordance with Council's Standards and specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

- a) A pedestrian refuge to be located in Bassett Street on the approach to the intersection with Mona Street;
- b) The pedestrian refuge island is to be 2m wide and 3m spacing in accordance with Council standard drawings;
- c) New pram ramps are to be constructed at the Bassett Street crossing points with footpath connections in accordance with Council standard drawings;
- d) Relocate existing signage and make adjustments to linemarking, where required, to accommodate the changes.
- e) The installation of traffic control devices and facilities requires the approval of Council and the Northern Beaches Local Traffic Committee prior to commencement of installation. A plan providing details of the proposed signage, line marking, and dimensions of the traffic facility must be lodged for consideration at least twelve (12) weeks prior to work commencing.

Details demonstrating compliance are to be submitted to Council for approval prior to the issue of the Construction Certificate.

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

23. 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.

24. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

(a) Privacy Screens / planter beds shall be installed adjacent to the following balconies and windows:

(i) Planter beds shall be installed in between the privacy screens on the balcony adjoining bed 1, 2 and 3 of apartment 10.

(ii) The screen proposed to the northern end of apartment 12 shall be relocated to the front of the kitchen window (ref W0127) in apartment 12.

The screens shall measure a minimum of 1.7m in height from the finished floor levels of the respective balconies / windows. The screens shall be fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that are consistent with the approved colours and materials and that complement the design of the approved development.

(b) Roof garden - The roof garden above apartment 05 shall not be accessible to residents, except for essential access for maintenance. A sign to this effect is to be kept on the outside of the door leading to the roof garden.

(c) The high level "flying" roof over the Basset Street entrance shall be replaced with a lower level awning.

(e) The fences shall be modified as follows:

(i) The sandstone wall to Bassett Street shall be reduced to 1m in height above ground level.

(ii) The fence to Mona Street and the private gardens to the street frontage shall be modified to an open style dark coloured timber fence. The fence shall have a maximum height of 1m above ground level.

(iii) The side and rear boundary fences shall be modified to closed style timber fences which have a maximum height of 1.8m above ground level.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

26. **Building Code of Australia Fire Safety Measures**

The Building Code of Australia works and fire measures as detailed and recommended in the Building Code of Australia Audit Report prepared by Building Code Clarity, dated 27 September 2021, Report Ref No. J1031-BCA-r2 are to be carried out in full to the building.

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

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

27. **On-site Stormwater Disposal Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater disposal in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY, and generally in accordance with the concept drainage plans prepared by NY Civil Engineering, Job number E210350, Drawing No. D1 to D8 and dated 28/9/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer.

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

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

28. **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 vehicle crossing, footpath and kerb ramps which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

- a) the driveway crossing shall be 5.5 m wide in accordance with Council's standard profile.
- b) a 1.5 m wide concrete footpath must be installed on both sides of Bassett Street for the length of the Site and on the eastern side of Mona Street south of Bassett Street for a distance of not less than 40m from the corner of Mona Street and Bassett Street
- c) all utility services must be plotted on the submitted plan.

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

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

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

29. **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.

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

Reason: To provide public and private safety.

30. **Shoring of Council's Road Reserve (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.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

31. **Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval.

The submission is to include four (4) copies of Civil Engineering plans for the design of the pipeline connection which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

32. **Noise - Design of Mechanical Plant**

Prior to the issue of a Construction Certificate, the design, specifications and location of noise generating mechanical plant are to be provided to the Principal Certifying Authority. An acoustic assessment is to be undertaken by a suitably qualified professional such as an acoustic engineer to determine acoustic treatments to control noise emissions from all mechanical plant noise in accordance with:

- *Pittwater Development Control Plan* Section C1.6, and
- *Protection of the Environment Operations (Noise Control) Regulation 2017* Section 45.

Any design recommendations made by the consultant must be implemented into the plans prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of

this consent.

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

Reason: To maintain amenity of the surrounding area.

33. Compliance with Estuarine Risk Management Report

The development is to comply with all requirements and recommendations of the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd., dated 13 December 2021 and these recommendations are to be incorporated into construction plans as necessary. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

Reason: To minimise potential hazards associated with development in an estuarine habitat.

34. Stormwater Management

Stormwater shall be disposed of in accordance with Council's Policy. The stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development, ensuring that the proposed works do not negatively impact receiving waters.

35. Compliance with Standards

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

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

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

36. 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

37. Tree Removal Within the Property

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- i) tree ID number 12 - *Buckinghamiana celsissima*
- ii) tree ID number 14 - *Callistemon viminalis*

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal, and within the development site these include existing tree ID numbers, 1, 2, 3, 4, 5, 11, and 13.

Reason: To enable authorised development works.

38. **Dead or Injured Wildlife**

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

Reason: To protect native wildlife.

39. **Work Zones and Permits**

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

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

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

40. **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 a suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

The DTMP must:-

- i Make provision for all construction materials to be stored on site, at all times.
- i The DTMP is to be adhered to at all times during the project.
- i Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- i 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.
- i Due to the proximity of the site adjacent to Pittwater High School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays)
- i Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- i 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.
- i Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- i Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and

consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.

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

41. 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.

- i 25 Mona Street, Mona Vale
- i 52 Bangalow Street, Mona Vale
- i 54 Bangalow Street, Mona Vale
- i 56 Bangalow Street, Mona Vale

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

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.

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

42. Installation and Maintenance of Sediment and Erosion Control

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**43. Tree and Vegetation Protection**

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

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

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

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment, including section 5 Tree Protection Plan.

The Certifying Authority must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

44. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

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

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

Reason: Protection of the receiving environment.

45. Substitution of Stormwater Treatment Measures

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

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

46. Dewatering Management

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

Groundwater: A permit from Council is required for any dewatering of groundwater. An application for interference with an aquifer is required to the Natural Resources Access

Regulator. Contact catchment@northernbeaches.nsw.gov.au for more information about permits.

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

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

Reason: Protection of the receiving environment and groundwater resources.

47. 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.

48. 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.

49. 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.

50. Removing, Handling and Disposing of Asbestos

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

- i Work Health and Safety Act;
- i Work Health and Safety Regulation;

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

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

51. Geotechnical Requirements

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

52. Survey Certificate

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

53. Footpath Construction

The applicant shall construct 1.5 metres concrete footpath in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Section 138 Road Act approval
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Section 138 Road Act approval for footpaths. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

54. Requirement to notify about new Acid Sulfate Soils evidence

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifying Authority prior to further commencement.

Reason: protection of the environment.

55. Pollution Control

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance with applicable regulations to ensure that no pollutants enter receiving waters.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

56. **Parking for all construction staff and contractors**

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

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

57. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated [INSERT].

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

58. **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.

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

59. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Amended Landscape Plans.

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

Reason: Environmental amenity.

60. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. 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 appropriate provision for the disposal of stormwater arising from the development.

61. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

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

62. **Certification of Services (B3)**

Certification that new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections are located above the FPL (including Climate Change) of 2.9m AHD and waterproofing of electrical equipment and installation of residual current devices below the FPL (B3).

A suitably qualified electrical engineer or contractor is to certify that all new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections are located above the Flood Planning Level and any existing electrical devices, wiring and the like located below the FPL are protected from water egress or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

63. **Restriction as to User and Positive Covenant over the self-actuating flood gate**

A restriction as to user shall be created on the title over the self-actuating flood gate in order to:

- (a) Prohibit the removal or modification of the self-actuating flood gate.
- (b) The flood protection offered by the self-actuating flood gate must be continuous and at a minimum level of 3.1m AHD. Such levels are to be detailed to Australian Height Datum on the Section 88B instrument and submitted to Council for approval.

Northern Beaches Council shall be nominated as the sole authority empowered to release, vary or modify such restriction.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood prone property and reduce public and private losses in accordance with Council and NSW Government policy.

64. **Positive Covenant for self-actuating flood gate**

The Applicant shall submit a positive covenant (under the provisions of Section 88B of the Conveyancing Act 1919) to be created on the final plans and accompanying 88B instrument, requiring the proprietor of the land to maintain the self-actuating flood gate structures in accordance with the maintenance regime approved by the Principal Certifier pursuant to Condition 16A to ensure ongoing flood protection.

The terms of the positive covenant are to be prepared to Council's standard requirements, which are available from Northern Beaches Council. Northern Beaches Council shall be nominated as the sole authority empowered to release, vary or modify such covenant.

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

to the issue of the Occupation Certificate.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood prone property and reduce public and private losses in accordance with Council and NSW Government policy.

65. **Certification for the Installation of Stormwater Treatment Measures**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared for construction certificate. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

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

Reason: Protection of the receiving environment.

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

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

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

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

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

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

67. **Stormwater Treatment Measures Operation and Maintenance Plan**

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

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

A. Detail on the stormwater treatment measures:

- i) Work as executed drawings
- ii) Intent of the stormwater treatment measures including modelled pollutant removal rates
- iii) Site detail showing catchment for each device

- iv) Vegetation species list associated with each type of vegetated stormwater treatment measure
- v) Impervious area restrictions to maintain the water balance for the site
- vi) Funding arrangements for the maintenance of all stormwater treatment measures
- vii) Identification of maintenance and management responsibilities
- viii) Maintenance and emergency contact information

B. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:

- i) Activity description, and duration and frequency of visits

Additionally for vegetated devices:

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

C. Maintenance schedule and procedure - ongoing

- i) Activity description, and duration and frequency of visits
- ii) Routine maintenance requirements
- iii) Work Health and Safety requirements

- iv) Waste management and disposal

- v) Traffic control (if required)

- vi) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)

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

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

Reason: Protection of the receiving environment.

68. Works as Executed Drawings - Stormwater Treatment Measures

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

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

Reason: Protection of the receiving environment.

69. Installation of Rainwater Tanks

Rainwater tanks shall comply with the following:

- a) Be fitted with a first-flush device that causes initial rainwater run-off to bypass the tank and must drain to a landscaped area. The first flush device will not be permitted to connect to the stormwater system
- b) Have a sign affixed to the tank stating the contents is rainwater
- c) Be constructed or installed in a manner that prevents mosquitoes breeding, such as the use of mesh to protect inlets and overflows

- d) Have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners
- e) Pumping equipment must be housed in a soundproof enclosure
- f) Where the rainwater tank is interconnected to a reticulated water supply, it must be installed in accordance with Plumbing Code of Australia, particularly backflow/cross connection prevention requirements

A certificate from a licenced plumber shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To conserve potable water.

70. Strata Management Statement

The Strata Management Statement must specifically list the stormwater treatment measures that will be maintained under strata title. The statement must also include the Stormwater Treatment Measure Operation and Maintenance Plan.

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

Reason: To ensure maintenance of all stormwater management assets and protection of the receiving environment.

70(A) Strata Management Statement – Residents to be informed of the Keoride On-Demand Public Transport Service

The Strata Management Statement must specifically detail how all initial and future residents can access the Keoride On-Demand public transport service as set out in the Arc Transport report Version 5 dated 27 May 2022, or any such future alternately named public transport service.

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

Reason: To ensure adequate information is provided to residents in relation to accessibility arrangements and to satisfy the relevant legislation.

71. Section 138 Roads Act 1993 Works

All works the subject of consent under Section 138 of the Roads Act 1993, shall be constructed 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 safe pedestrian access to and from the property.

72. 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:

- i Compare the post-construction report with the pre-construction report,
- i Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- i 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.

73. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

74. Reinstatement of Kerb

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

75. 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.

76. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

77. Environmental Reports Certification

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- (a) Geotechnical Report Ref J37630,6 dated 06.10.2021, prepared by White Geotechnical Group
- (b) Preliminary seepage analysis Ref 34852SFlet, dated 03.02.2022, prepared by JK Geotechnics
- (c) Acid Sulfate Preliminary Assessment Ref J3763, dated 06.10.2021, prepared by White Geotechnical Group
- (d) Estuarine Risk Management Report, dated 13.12.2021, prepared by Horton Coastal Engineering
- (e) BCA Compliance Assessment Report Ref J1031-BCA-r2, dated 27.09.2021, prepared by Building Code Clarity
- (f) Arboricultural Impact Assessment and Tree Protection Plan V1, dated 22.09.2021, prepared by Tree Survey
- (g) Disability Access Report Ref LP_21288, dated 20.09.2021, prepared by Lindsay Perry Access
- (h) NatHERS Certificate No.0006628750, dated 27.09.2021, prepared by Design Matters National
- (i) BASIX Certificate No. 1244308M, dated 28.09.2021, prepared by Frys Energywise
- (j) Traffic Statement Ref 21NL215.Ts2, dated 22.02.2022, prepared by Loka Consulting Engineers
- (k) Stormwater / Civil Design Compliance (Flooding) Ref E210350, dated 27.01.2022, prepared by NY Civil Engineering

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

Reason: To ensure compliance with standards.

78. Acoustic Report Certification

Prior to any occupation certificate being issued, a subsequent acoustic assessment is to be undertaken by a qualified and experienced person(s) to confirm compliance with:

- *Pittwater Development Control Plan Section C1.6,*
- *Protection of the Environment Operations (Noise Control) Regulation 2017 Section 45,*
- and any acoustic treatment recommendations made in the acoustic assessment done prior to Construction Certificate.

Any recommendations made by the consultant must be implemented prior to issuing the Occupation Certificate, in order to achieve compliance with noted conditions of this consent. The updated acoustic assessment is to be submitted to the satisfaction of the Principal Certifying Authority for certification.

Reason: To protect the acoustic amenity of neighbouring properties.

79. **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.

80. **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 any interim / final Occupation Certificate.

Reason: Proper identification of buildings.

81. **Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**

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 any Interim/Final 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.

82. **Fire Safety Matters**

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

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the

issue of the Interim / Final Occupation Certificate.

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

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

83. **Occupation of Seniors Housing or Housing for Persons with a Disability**

A positive covenant pursuant to s88E of the Conveyancing Act 1919 is to be registered on the title of the land to which this development consent applies.

The covenant shall stipulate that Council is the sole authority to release or modify the covenant and that the development is only permitted to be occupied by persons detailed as follows:

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability;
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

(Note: Under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004):

Seniors are people aged 55 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 <http://www.comlaw.gov.au/> of the Commonwealth) is provided and / or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider. AND

People with a disability are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.)

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

Reason: Statutory requirements.

84. **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.

85. **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.

86. 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.

87. 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.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**88. 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.

89. Protection of Habitat Features

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

Reason: To protect wildlife habitat.

90. Replacement of Canopy Trees

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

91. **Maintenance of Stormwater Treatment Measures - Major**

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

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

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

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

Reason: Protection of the receiving environment.

92. **Landscaping adjoining vehicular access**

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1,140mm

Reason: To maintain unobstructed sight distance for motorists.

93. **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.

94. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

95. **Traffic Management**

Traffic management procedures and systems must be in place and practised during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A plan of traffic management is to be submitted to and approved by the Consent Authority. Reason: To ensure pedestrian safety and continued efficient network operation