



**Land and Environment Court  
New South Wales**

**Case Name:** **Turner v Northern Beaches Council**

**Medium Neutral Citation:** [2023] NSWLEC 1219

**Hearing Date(s):** Conciliation conference on 27 and 28 April 2023

**Date of Orders:** 9 May 2023

**Date of Decision:** 9 May 2023

**Jurisdiction:** Class 1

**Before:** Chilcott C

**Decision:** The Court orders that:  
(1) The appeal is upheld.  
(2) Development Application No DA2021/2296 for the partial demolition of the existing dwelling and construction of a new dwelling comprising the retention of portions of the existing dwelling and a new studio over the existing garage at 26 Iluka Road, Palm Beach, is determined by the grant of consent subject to the conditions of consent in Annexure 'B'.

**Catchwords:** DEVELOPMENT APPLICATION – conciliation conference – agreement between the parties – orders.

**Legislation Cited:** Environmental Planning and Assessment Act 1979, ss 4.15, 4.16, 8.7  
Environment Planning and Assessment Regulation 2021, cl 37  
Pittwater Local Environmental Plan 2014, cl 2.3  
Land and Environment Court Act 1979, s 34  
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004  
State Environmental Planning Policy (Resilience and Hazards) 2021, s 4.6

Texts Cited: Northern Beaches Council, Northern Beaches  
Community Participation Plan (2019)  
Pittwater 21 Development Control Plan

Category: Principal judgment

Parties: Orlaith Turner (Applicant)  
Northern Beaches Council (Respondent)

Representation: Counsel:  
L Nupuri (Applicant)  
J Simpson (Solicitor) (Respondent)

Solicitors:  
Mills Oakley (Applicant)  
Northern Beaches Council (Respondent)

File Number(s): 2022/343687

Publication Restriction: No

## JUDGMENT

- 1     **COMMISSIONER:** Orlaith Turner (the Applicant) has appealed the imposition of certain conditions imposed by Northern Beaches Council (the Respondent) with its grant of consent to Development Application No DA2021/2296 for the partial demolition of the existing dwelling and construction of a new dwelling comprising the retention of portions of the existing dwelling and a new studio over the existing garage (the Proposed Development) at 26 Iluka Road, Palm Beach (the Subject Site).
- 2     The appeal is made under s 8.7(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and falls within Class 1 of the Court's jurisdiction. The appeal is determined pursuant to the provisions of s 4.16 of the EP&A Act.
- 3     The Applicant's Development Application was notified between 8 December 2021 and 13 January 2022, under the provisions of Northern Beaches Community Participation Plan, 2019, and three submissions were received in response to that notification.
- 4     On 27 and 28 April 2023, the Parties participated in a s 34 conciliation conference under the *Land and Environment Court Act 1979* (LEC Act) and reached an in-principle agreement regarding the granting of consent to the Applicant's amended development application, subject to conditions.
- 5     A site inspection had been undertaken prior to the commencement of the conciliation conference and no objector submissions were received on-site during the inspection.
- 6     Under the Parties' agreement, which included the terms of a decision in the proceedings that would be acceptable to the Parties, the appeal would be

finalised through the Court upholding the appeal and granting consent to the Applicant's amended development application, subject to conditions.

7 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.

8 There are jurisdictional matters that must be satisfied before the Court can exercise its power to grant consent to the Proposed Development, and those requirements have been satisfied as follows:

(1) in relation to the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP R&H):

(a) section 4.6 of SEPP R&H requires a consent authority, or the Court on appeal, to consider the contamination and remediation of land when determining a development application, and in relation to this:

(i) the historic use of the Subject Site has been residential and the Proposed Development does not propose a change to the residential use of the land;

(ii) I am satisfied that the Subject Site is suitable for its intended use under the Proposed Development; and

(iii) I am further satisfied that the provisions of s 4.6 of SEPP R&H have been satisfied in relation to the Proposed Development in the current appeal.

(2) in relation to the provisions of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP Basix):

- (a) the Applicant has provided a BASIX certificate A438996 dated 10 November 2021 in relation to the Proposed Development; and
  - (b) I am satisfied that the relevant provisions of SEPP Basix have been satisfied in relation to the Proposed Development.
- (3) in relation to the provisions of Pittwater Local Environmental Plan 2014 (PLEP):
  - (a) the Subject Site is zoned C4 Environmental Living under the provisions of cl 2.3 of PLEP and a dwelling house, as proposed by the Applicant, is permissible with consent in this zone;
  - (b) the Parties have advised, and I am satisfied, that the objectives of the C4 Environmental Living zone have been considered in relation to the assessment and determination of the Applicant's development application; and
  - (c) the Applicant's development application has been previously assessed by the Respondent, which granted conditional consent to the application;
    - (i) the Respondent has provided to the Court the assessment report presented to Council in relation to the Proposed Development, and
    - (ii) having reviewed that document I am satisfied that there are no matters within PLEP that would provide a basis to refuse the grant of consent.
- (4) in relation to the provisions of Pittwater 21 Development Control Plan (PDCP):

- (a) the Applicant's appeal concerns the imposition, by the Respondent, of certain conditions with a grant of consent to the Proposed Development, and relate to the application of the following provisions of Part D of PDCP in relation to the Palm Beach locality:
  - (i) Part D12.1 concerning "Character as viewed from a public place";
  - (ii) Part D12.5 concerning "Front Building Line"
  - (iii) Part D12.10 concerning "Landscaped Area – Environmentally Sensitive Land";
  - (iv) Part D12.11 concerning "Fences – General".
- (b) the Parties have considered the relevant provisions of PDCP and they agree, and I am satisfied, that the Proposed Development is compliant with the provisions of the relevant parts of PDCP or if not, the Proposed Development achieves the objectives of the controls in PDCP such that it merits flexibility in the application of the relevant controls pursuant the provisions of cl 4.15(3A)(b) of the EP&A Act.

9 Having considered the advice of the Parties, provided above at [8], I agree that:

- (1) regard has been had to the objectives of the Subject Site's C4 Environmental Living zoning in determining the Applicant's development application;
- (2) the Applicant's development application can be approved having regard to the matters in s 4.15(1)(b) – (e) of the EP&A Act, including in relation

to the submissions received in response to notification, which have been considered by the Parties in reaching agreement;

(3) the jurisdictional prerequisites on which I must be satisfied before I can exercise the power under s 4.16 of the EP&A Act have been satisfied; and

(4) approval of the Proposed Development is in the public interest.

10 Further, I am satisfied that the Parties' decision is one that the Court could have made in the proper exercise of its functions, as required by s 34(3) of the LEC Act.

11 As the Parties' decision is a decision that the Court could have made in the proper exercise of its functions, I am required to dispose of the proceedings in accordance with the Parties' decision.

12 In making the orders to give effect to the agreement between the Parties, I was not required to make, and have not made, any merit assessment of the issues that were originally in dispute between the Parties.

13 The Court notes that:

(1) The Northern Beaches Council, as the relevant consent authority, has agreed under s 37(1) of the Environmental Planning and Assessment Regulation 2021 to the Applicant amending Development Application No DA2021/2296 in accordance with the documents listed in Annexure 'A' ('Amended Application').

(2) The Applicant filed the Amended Application with the Court on 28 April 2023.

## Orders

14 The Court orders that:

- (1) The appeal is upheld.
- (2) Development Application No DA2021/2296 for the partial demolition of the existing dwelling and construction of a new dwelling comprising the retention of portions of the existing dwelling and a new studio over the existing garage at 26 Iluka Road, Palm Beach, is determined by the grant of consent subject to the conditions of consent in Annexure 'B'.

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



.....  
**M Chilcott**

**Commissioner of the Court**

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## ANNEXURE A

Orlaith Turner  
v  
Northern Beaches Council

Land and Environment Court Proceedings No. 2022/343687

### Index to Amended Application

TAB	DOCUMENT	DATE
1.	<p>Revised Architectural Plans (up to Rev 6) prepared by CM Studios, including</p> <ul style="list-style-type: none"> <li>- DA040 – Erosion + Sediment Control – Rev 4 – 27.04.23</li> <li>- DA101 – Proposed Ground Floor – Rev 4 – 27.04.23</li> <li>- DA102 – Proposed First Floor – Rev 6 – 27.04.23</li> <li>- DA103 – Proposed Roof Plan – Rev 4 – 27.04.23</li> <li>- DA201 – Elevation NW – Rev 5 – 27.04.23</li> <li>- DA202 – Elevation SW – Rev 2 – 11.04.23</li> <li>- DA203 – Elevation SE – Rev 4 – 11.04.23</li> <li>- DA204 – Elevation NE – Rev 2 – 11.04.23</li> <li>- DA205 – Streetscape Elevation – Rev 3 – 27.04.23</li> <li>- DA301 – Section A-A + B-B – Rev 3 – 18.04.23</li> <li>- DA401 – Landscape Calculations – Rev 4 – 27.04.23</li> </ul>	11 & 27 April 2023
2.	<p>Revised Landscape Plans (Rev F) prepared by Dangar Barin Smith</p> <ul style="list-style-type: none"> <li>- LP01-D9121 – Ground Landscape</li> <li>- LP02-D9121 – Ground Front Landscape Plan</li> <li>- LP03-D9121 – Ground Rear Landscape Plan</li> <li>- LP04-D9121 – First Floor Landscape Plan</li> </ul>	27 April 2023



## ANNEXURE B

### DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

**Development Application No:** DA2021/2296 (as modified by the Court)

**Development:** Partial demolition of existing dwelling and the construction of a new dwelling comprising the retention of portions of the existing dwelling and including a new studio over existing garage

**Site:** Lot 40 DP 14682, 26 Iluka Road  
PALM BEACH NSW 2108

**Schedule of Modifications:**

Date approved	Development Application Number	Decision maker (Land and Environment Court or relevant council)	Proceedings Name and Number (if applicable)
21 Sep 2022	DA2021/2296	Northern Beaches Council	N/A
9 May 2023	DA2021/2296	Land and Environment Court	Orlaith Turner v Northern Beaches Council LEC No: 2022/343687

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

**Date of determination:** 9 May 2023

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

#### TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as Lot 40 DP 14682, 26 Iluka Road PALM BEACH NSW 2108.

The conditions of consent are as follows:

**CONDITIONS OF DEVELOPMENT CONSENT**

<b>Application Number:</b>	DA2021/2296
<b>Determination Type:</b>	Development Application

**APPLICATION DETAILS**

<b>Applicant:</b>	Orlaith Turner
<b>Land to be developed (Address):</b>	Lot 40 DP 14682 , 26 Iluka Road PALM BEACH NSW 2108
<b>Proposed Development:</b>	Partial demolition of existing dwelling and the construction of a new dwelling comprising the retention of portions of the existing dwelling and including a new studio over existing garage

**Detail of Conditions**

*The conditions, which have been applied to the consent, aim to ensure that the Environmental Impacts of Development are minimised and the Health and Safety of the community is maintained in accordance with the relevant standards and the Building Code of Australia.*

**Note:**

*If the works are to be certified by a Private Certifying Authority, then it is the certifier's responsibility to ensure all outstanding fees and bonds have been paid to Council prior to the issue of the Construction Certificate or as otherwise specified by Consent conditions.*

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA040 <u>Rev 4</u> Erosion and Sediment Control Plan	<u>27.04.2023</u>	CM Studios
DA050 Rev 1 Demolition Plan Ground Floor	15.11.2021	CM Studios
DA101 <u>Rev 4</u> Proposed Ground Floor Plan	<u>27.04.2023</u>	CM Studios
DA102 <u>Rev 6</u> Proposed First Floor Plan	<u>27.04.2023</u>	CM Studios
DA103 <u>Rev 4</u> Proposed Roof Plan	<u>27.04.2023</u>	CM Studios
DA201 <u>Rev 5</u> Elevation NW	<u>27.04.2023</u>	CM Studios
DA202 <u>Rev 2</u> Elevation SW	<u>11.04.2023</u>	CM Studios
DA203 <u>Rev 4</u> Elevation SE	<u>11.04.2023</u>	CM Studios
DA204 <u>Rev 2</u> Elevation NE	<u>11.04.2023</u>	CM Studios
DA205 <u>Rev 3</u> Streetscape Elevation	<u>27.04.2023</u>	CM Studios
DA301 <u>Rev 3</u> Section A-A and B-B	<u>18.04.2023</u>	CM Studios
DA404 Rev 1 Schedule of Finishes	15.11.2021	CM Studios

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
CP100 Rev A Cover Page Notes and Calculations	18.11.2021	RTS Civil Consulting Engineers
SW100 Rev A Stormwater Management Plan	18.11.2021	RTS Civil Consulting Engineers
SW200 Rev A Stormwater Drainage Details	18.11.2021	RTS Civil Consulting Engineers

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
*Geotechnical Assessment Project 207854.00	September 2021	Douglas Partners
Basix Certificate No: A438996	10.11.2021	The House Energy Rating Company

**\*Note:** The complete demolition of the existing dwelling and garage is not approved.

- 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:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
LP01-D9121 <u>Rev F</u> Ground Landscape / Planting Schedule	<u>27.04.2023</u>	Dangar Barin Smith
LP02-D9121 <u>Rev F</u> Ground Landscape	<u>27.04.2023</u>	Dangar Barin Smith
LP03-D9121 <u>Rev F</u> Ground Landscape	<u>27.04.2023</u>	Dangar Barin Smith
LP04-D9121 <u>Rev F</u> First Floor Landscape	<u>27.04.2023</u>	Dangar Barin Smith

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	19.11.2021	O Turner

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. **Demolition / Approved Land Use**

Nothing in this consent shall authorise the complete demolition of the existing dwelling and garage, including demolition works outside the scope of those shown on 'DA050 Rev 1 Demolition Plan Ground Floor', nor the use of structures as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house.

A dwelling house is defined in the Pittwater LEP 2014 as:

*A building containing only one dwelling.*

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

No approval is granted or implied under this Development Consent for the use of the retreat / studio above the garage for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area.

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

## 3. **Prescribed Conditions**

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

a telephone number on which that person may be contacted outside working hours, and

(iii) stating that unauthorised entry to the work site is prohibited.

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

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

- A. the name and licence number of the principal contractor, and
- B. the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

- A. the name of the owner-builder, and
- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

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

Reason: Legislative requirement.

#### 4. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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



Demolition and excavation works are restricted to:

- 8.00 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 an 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.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$29,119.51 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 2022. The monetary contribution is based on a development cost of \$2,911,951.00.

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 2022 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](http://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.

## 6. **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](http://www.northernbeaches.nsw.gov.au)).

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

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

### 7. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to an absorption trench within the rear yard.

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

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

**8. No Clearing of Vegetation**

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

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

Reason: To protect native vegetation.

**9. Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of 2.47 m AHD has been adopted by Council for the subject site and shall be applied to all development proposed below this level as follows:

- i All structural elements below 2.47 m AHD shall be of flood compatible materials;
- i All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 2.47 m AHD or waterproofed to this level; and
- i The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 2.47 m AHD.
- i All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 2.47 m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above 2.47 m AHD to avoid the likelihood of contact with splashing waves and spray.

Reason: To ensure aspect of the development are built at the appropriate level

**10. 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.

**11. Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- i "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- i Guidelines for Building Over/Adjacent to Sydney Water Assets.

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

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

**12. Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic

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

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

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.
- i Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- 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 practising 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.

### CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier 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.

No. 24 Iluka Road, Palm Beach  
No. 28 Iluka Road, Palm Beach

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier 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 Certifier 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 Certifier prior to the commencement of any works on site.

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

14. **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

15. **Protection of existing street trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the Norfolk Island Pine street tree fronting the development site, between properties 24 and 26, shall be protected by tree protection fencing in accordance with Section 4 of AS4970-2009

Protection of trees on development sites. As a minimum the tree protection fencing for the Norfolk Island Pine shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings.

All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge. The fencing shall remain in place until completion of all development works.

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

Reason: Street tree protection.

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 16. Road Reserve

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

Reason: Public safety.

### 17. 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.

### 18. Geotechnical Requirements

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

### 19. Demolition Works - Asbestos

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

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

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

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

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

20. **Survey Certificate**

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

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

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

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

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

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

21. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

22. **Acid Sulphate Soil Management Trigger**

If excavation works go beyond 2 metres below ground level, acid sulphate soil investigation and management must be done in accordance with the NSW Acid Sulfate Soil Management Advisory Committee "Acid Sulfate Soil Manual" (1998).

Reason: Protect environment from acid sulphate soil exposure.

23. **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 to local regulations.

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

24. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage

Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning and Environment.

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

Reason: Aboriginal Heritage Protection.

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

### 25. **Landscape Completion**

Landscape works are to be implemented in accordance with the approved Landscape Plans, and inclusive of the following conditions:

- (a) landscape works are to be contained within the legal property boundaries;
- (b) all tree planting shall be a minimum pre-ordered planting size as shown in the Plant Schedule, and shall meet the requirements of Natspec - Specifying Trees, 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, other than for the screening planting indicated in the northern setback, shall be located at least 3 metres from buildings, and at least 1.5 metres from common boundaries and any structures;
- (c) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space, and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces;
- (d) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan(s), unless otherwise required by any other condition of consent.

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

Reason: Environmental amenity.

### 26. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified Civil Engineer.

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

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

### 27. **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.

**28. 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 Certifier prior to the issue of an Occupation Certificate.

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

**29. Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

**30. Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifier 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 Assessment Project 207854.00, dated September 2021, prepared by Douglas Partners

(b) Basix Certificate No: A438996, dated 10.11.2021, prepared by The House Energy Rating Company.

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

Reason: To ensure compliance with standards.

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

**31. 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 Plans and any conditions of consent.

The approved landscape planted areas consisting of lawn, planting at grade, planting on structure

shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

All planters are to be fitted, supplied and maintained with an automatic watering system and drainage system.

Reason: To maintain local environmental amenity.

32. **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.

33. **Window of the First Floor Balcony**

The window located on the east side of the first floor (W16) must be maintained as a window and is not to be fitted as a door providing access to the first floor balcony.

Reason: To protect visual privacy to neighboring properties.

## Right to Review by the Council

You may request Council to review this determination of the application under Division 8.2 of the Environmental Planning & Assessment Act 1979. Any Division 8.2 Review of Determination application must be lodged on the NSW Planning portal within 3 months of this determination, to enable the assessment and determination of the application within the 6 month timeframe.

*NOTE: A fee will apply for any request to review the determination.*

## Right of Appeal

If you are dissatisfied with this decision Division 8.3 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

**Signed** On behalf of the Consent Authority



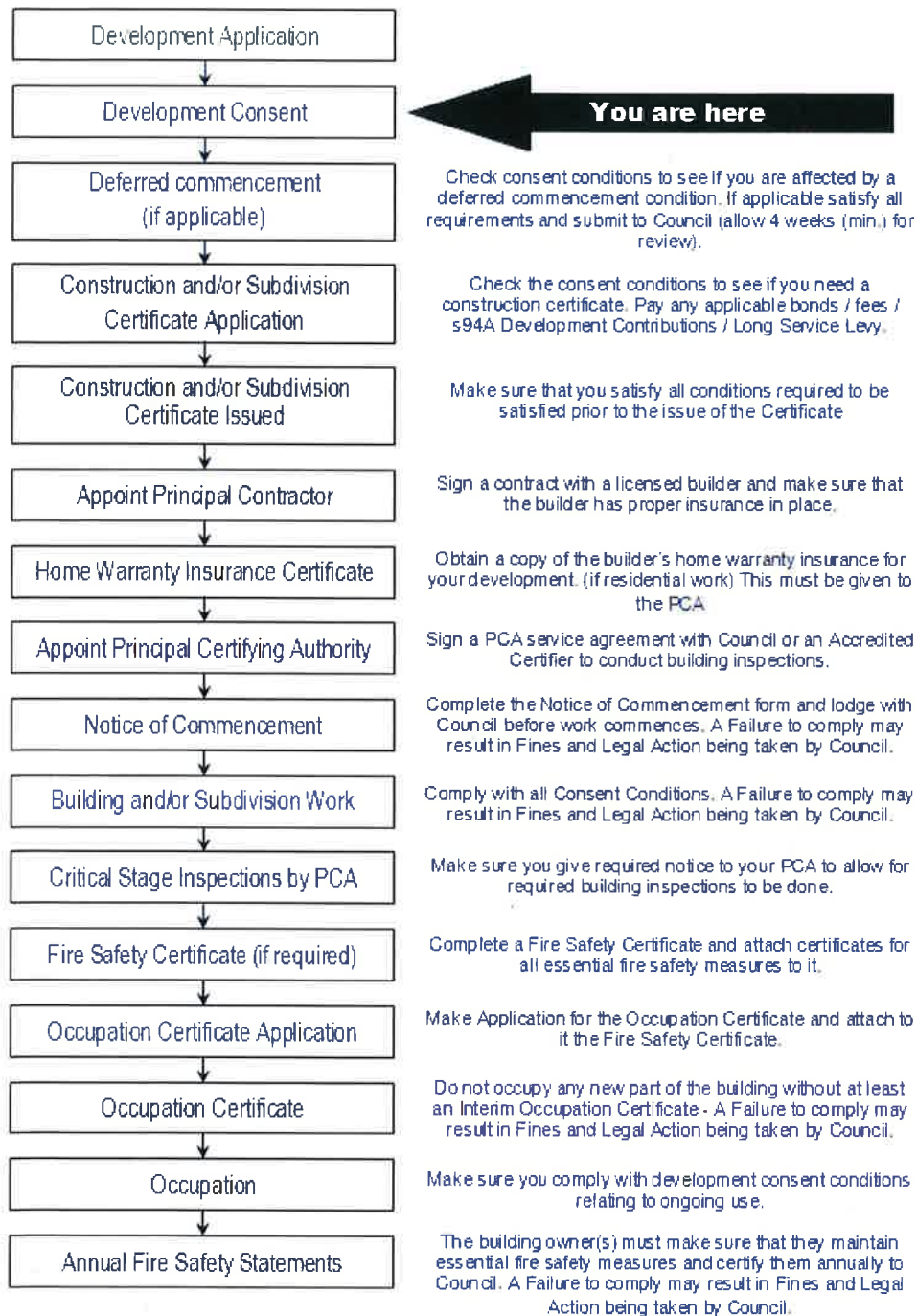
**Name** Anne-Marie Young, Planner

**Date** 21/09/2022

## GENERAL ADVICE

## Advisory Notes (General)

Where are you in the development process?



*Note: The advice within this document is provided in good faith as a guide to assist applicants understand the broad process and will not detail every step or every requirement for demolition, building construction works or subdivision required or business operating requirements under New South Wales or Commonwealth Legislation. If you require clarification or have any questions, please contact your Certifier or Council's Planning and Development Enquiries Team.*

The attached Notice of Determination includes conditions of consent which must be complied with.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action.)

**Building Certification**

The Environmental Planning and Assessment Act 1979 provides that:

- Building work cannot occur unless a construction certificate has been issued;
- Occupation of building works cannot occur unless an occupation certificate has been issued
- Subdivision cannot be registered until a subdivision certificate has been issued
- Mandatory Inspection for building work must be completed

Please refer to process chart for more detail.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action.)

**Certification Services**

Construction Certificates / Occupation Certificates / Subdivision Certificates / Strata Certificates, can be issued by Council or an accredited private certifier (Note Council must be the Principal Certifying Authority (PCA) for subdivisions).

Council is well placed to provide Certification Services. Council can issue Construction Certificates and act as your Principle Certifying Authority at competitive rates. Please visit our web site [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au) or speak to our Customer Service Officers if you have any further questions about our Certification Services or if you wish to use Council as your certifier.

**Charges Associated with the Development Consent**

All bonds, fees, Development Contributions or the Long Service Levy detailed within the Notice of Determination are required to be paid prior to the issuing of any Construction Certificate.

**Bonds are released after:**

1. 'Final Occupation Certificate' has been received by Council; and
2. Final inspection by a Council Officer where:
  - i the development is complete
  - i damage has not been caused to council assets during the works
  - i conditions of development consent have been met.

The bond will be released to the person or business who paid the bond to Council (The name that appears on the original receipt)

**Acceptable Form of Security Bonds**

Council will accept bank guarantee (in a form acceptable to Council) in lieu of cash and is required prior to the issue of a construction certificate.

**Modifications to the consent**

If you seek to make any changes to the development (which may include internal / external configuration of the building, variation to facades, site layout or any changes to the proposed operation or use), the modifications may require the submission and approval of an application to modify the development consent prior to the issuing of a Construction Certificate and prior to the works being

carried out. The proposed changes should be discussed with the PCA.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action.)

#### **Other Matters not detailed within the Notice of Determination**

The Notice of Determination does not stipulate every requirement that must be completed to satisfy New South Wales and Commonwealth legislation.

You should check, as may be relevant, with other authorities including but not limited to:

- Workcover NSW for work safety and asbestos requirements
- Sydney Water – Quick Check Agent for the provision of water and sewer services
- Energy & Gas suppliers for utility services
- Department of Fair Trading for advice about builders and licensing
- Building Professionals Board for advice about private certifiers
- NSW Roads and Maritime Services for works on state roads only
- Human Rights and Equal Opportunity Commission for access issues
- NSW Land and Property Information for Land Title matters
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;

#### **Dial Before You Dig**

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

#### **Telecommunications Act 1997 (Commonwealth)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact :Telstra's Network Integrity Team on Phone Number 1800810443.

(1) if the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted



to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and

(2) The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

**Model**

If you submitted a model with the application it must be collected from the Council offices within fourteen (14) days of the date of this determination. Models not collected will be disposed of by Council.

**Trade waste agreement**

A Trade Waste Agreement must be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Trade wastewater is defined as 'discharge water containing any substance produced through industrial or commercial activities or operation on the premises'.

**Waste collection**

Liquid and solid wastes generated on the site must be collected, transported and disposed of in accordance with the requirements of the Protection of the Environment Operations Act 1997. Records must be kept of all waste disposal from the site.

Material to be removed from the site must be source separated on site to maximise recycling, and the material disposed of to an appropriate disposal and recycling facility in accordance with the approved Waste Management Plan.

**Aboriginal Heritage**

If in undertaking excavation or works and any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Warringah Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

**On-Site Sewage Management System**

This approval does not authorise the installation or operation of a new or modification of an existing on-site wastewater management system. An On-Site Sewage Management System must not be installed or operated unless an 'Approval to Install an On Site Sewage Management System' is obtained from Warringah Council.

**Cost of Works**

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

**Relocation of stormwater drainage**

Council is not responsible for the cost of relocating Council's stormwater drainage pipes through the subject property.

**Tree preservation**

Where tree work has not been approved by this Development Consent the developer is notified that a general Tree Preservation Order applies to all trees in the Northern Beaches Local Government Area. This order prohibits the ringbarking, cutting down, topping, lopping, pruning, transplanting, injuring, or wilful destruction of such trees except without the prior written consent of Council.

**Storage bins on footpath and roadway**

Approval is required from Council prior to the placement of any storage bin on Council's footpath and/or roadway.

**Protection of Public Places**

- (1) If the work involved in the erection or demolition of a building:
- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - (b) building involves the enclosure of a public place,

a hoarding and site fencing must be erected between the work site and the public place.

- (2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- (5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained.

**Road Opening Permit**

The developer/applicant is to obtain a "Road Opening Permit" from Council and pay all appropriate charges prior to commencement of any work on Council property. The developer/applicant shall be responsible for all public utilities and services in the area of the work, and as such shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

**Special Permits**

Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely on the property. The applicant, owner or builder must apply for specific permits available from Council. A minimum of forty-eight (48) hours notice is required for all permits except work zones, which may require additional assessment time.

- Permit for on-street mobile plant

Restrictions apply to the hours of operation and the area of operation for on street mobile plant equipment (for example cranes, concrete pumps, cherry pickers). Separate permits are required for each occasion and each piece of equipment. It is the responsibility of the applicant, owner and builder to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

- Hoarding Permit

Permits are required to erect Class A, Class B and Class C hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

- Storage of building materials and building waste containers (skips) on Council's property

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given.

- Kerbside restrictions, work zones

Existing kerbside restrictions apply. An application must be made to Council for the alteration of existing kerbside restrictions or the provision of a construction zone. Other permits may include out of construction hours permits.

### **Licensing requirements for removal of bonded asbestos**

Anyone who removes, repairs or disturbs bonded asbestos must hold a bonded or a friable asbestos licence, or a demolition licence in accordance with Workcover requirements and the Occupational Health and Safety Act 2000.

### **Pool Access**

Access to pools are required to be restricted by a child resistant barrier in accordance with the regulations prescribed in all relevant Acts, Regulations and Australian Standards including:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2012;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

It is your responsibility as a land owner to ensure any fencing is maintained.

### **Dewatering**

Where dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Department of Water and Energy. The bore license must be obtained prior to commencement of dewatering works.

### **Requirement to Notify about New Contamination Evidence**

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

### **Flood Evacuation Plan**

If your site is on flood prone land you may wish to consider the preparation of a flood evacuation plan.

Generally a Flood Evacuation Plan would be prepared by suitably qualified Engineer (e.g. Hydraulic) with a number of years experience in flood management and who is eligible for Membership to the Australian Institute of Engineers.

Some matters that you may wish to consider (but not limited to) include:

- (i) a route of evacuation to higher ground and / or point of shelter
- (ii) depth of water for a Possible Maximum Flood event surrounding the building
- (iii) details of 'last chance' evacuation water levels / times for evacuation prior to floodwaters surrounding the building
- (iv) provide details of flood warning systems and protocols
- (v) details of how this information will be distributed and people educated for users of the site.

You may seek to discuss this with the State Emergency Service of NSW.



**Utility Service Requirements**

Where development requires the installation of, or the relocation of utility services being (but not limited to) gas, water, electricity and telecommunications, the installation of, or the relocation of utility services shall be conducted in accordance with the requirements of the relevant service provider / authority (unless stipulated by any other condition of the consent or will result in damage to threatened or endangered species defined under the Threatened Species Conservation Act 1995).

**Plant & Equipment Kept Within Site**

All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries. This does not prevent any requirement to comply with the Protection of the Environment Operations Act.

**Lighting**

Illumination of the site is to be arranged in accordance with the requirements of Australian Standard 4282 - 1997 Control of the obtrusive effects of outdoor lighting so as not to impact upon the amenity of the occupants of adjoining and nearby residential premises.

**Silt and Sediment Control**

During any onsite demolition, excavation and construction works, the site should be maintained in accordance with "The Blue Book - Managing Urban Stormwater (MUS): Soils and Construction".

In managing the site provision shall be made throughout the period of works to prevent transmission of soil to the public road, drainage system, any riparian lands or off site in any manner. Upon completion of the development, any measures to prevent the transition of soil off site to remain in place until the site is stabilised.

A failure to prevent the transmission of silt and sediment and / or causing, water pollution, air pollution, noise pollution or land pollution may result in a breach of the Protection of the Environment Operations Act and orders, penalties and prosecutions may occur.

**Maintenance of Sediment and Erosion Control** Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain.

Reason: To avoid erosion and sedimentation impacts that will result in an adverse change in watercourse or riparian land condition

**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

**Dividing Fences Act 1991**

The construction and maintenance of side boundary fences is to be agreed upon by all adjoining property owners of the fence. Works are to be in accordance with the Dividing Fences Act 1991.

## **OTHER MATTERS**

### **Child Care Centres**

A license to operate a child care centre must be obtained from the NSW Department of Community Services prior to the commencement of the use of the child care centre.

### **Disability Access**

This decision does not ensure compliance with the Commonwealth Disability Discrimination Act 1992. Applicants are strongly advised to investigate their requirements under that Act

### **Food Premises**

Food premises are required to comply with the requirements of the Food Act 2003, the Food Standards Code and Australian Standards.

The proprietor of a food business must notify the NSW Food Authority of the details of the business. Notification may be done either online at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) or by lodging a completed NSW Food Authority notification form to the NSW Food Authority or Council.

### **Wheel washing facility**

All trucks leaving the site, having had access to unpaved or contaminated areas, shall depart via a wheel wash facility in order to prevent mud, dust or debris from being deposited on Council's roads. The wheel wash facility shall be constructed prior to any truck movements occurring. Water from the wheel wash facility must not cause pollution. Any direction of Council with regard to cleaning trucks or the clean up of road pavements adjoining the site shall be complied with immediately.

### **Monitoring State of Roadways**

The applicant shall monitor the state of roadways leading to and from the site and shall take all necessary steps to clean up any adversely impacted road pavements as directed by Council.

### **Storage of Dangerous Goods**

Prior to the storage of any "dangerous goods" on the premises, a copy of a license obtained from the Chemical Safety Branch of Work Cover Authority must be submitted to Council.

### **Storage of Flammable and Combustible Liquids**

Flammable and combustible liquids must be stored in accordance with Australian Standard 1940 The Storage and Handling of Flammable and Combustible Liquids.

### **Noise and Vibration**

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

### **Hairdressing/Beauty Treatment/ Skin penetration Requirements**

The premises must comply with the following requirements before the commencement of business:

- i) A hand wash basin with warm water delivered through a common spout must be provided in the treatment area. The hand wash basin must be provided with liquid soap and paper towel.
- ii) The wall behind the hand wash basin from the floor to a height of 450mm above the top of the washbasin and from the centre of the washbasin to a distance of 140mm beyond each side of the wash basin, must be finished with a material that is durable, smooth, impervious to moisture and capable of being easily cleaned (eg tiles).
- iii) The premises must be provided with washing, drainage, ventilation and lighting that are adequate for the carrying out of hairdressing/beauty treatment/skin penetration procedures.
- iv) The floor coverings must be smooth and impervious.

- v) All furniture, shelves and fittings must be constructed of, or covered with a material that is smooth, impervious to moisture and capable of being easily cleaned.
- vi) Adequate lockers must be provided for the storage of employees clothing and personal effects.
- vii) The premises must be provided with facilities that are adequate for the purpose of storing of hairdressing/beauty treatment/skin penetration appliance and utensils.
- viii) The premises must be provided with a sink supplied with hot and cold water for washing equipment.

### **Food Premises Construction Requirements**

The food premises must comply with the following specific construction requirements:

Solid walls must be provided in all food handling areas (solid includes brick, cement and foam filled preformed panels);

- ix) Walls in food preparation and wash up areas must be finished with a smooth and impervious surface to a height of at least 2 metres.
- x) Hand wash basins must be provided with warm water delivered through a common spout with taps that are hands free operation;
- xi) Coving with a radius of 25mm must be provided between all floor and wall joints in food handling areas;
- xii) The open space between the top of the coolroom and the ceiling must be fully enclosed and kept insect and pest proof;
- xiii) The coolroom must be able to be opened from the inside with out a key and fitted with an alarm that can only be operated from within the coolroom;
- xiv) The doors to the toilet air lock and toilet compartment must be tight fitting and self closing;
- xv) The rear external door must be self closing or be provided with a fly screen that is self closing;
- xvi) Where cooking or extensive heating processes or such other processes as may be specified are carried out in food preparation areas, an approved mechanical ventilation system shall be installed and operated in accordance with AS 1668 part 1 & 2.

### **Legionella Control**

Cooling towers, warm water systems, water cooling systems must be registered with the Council. Details of registration are to be provided to the Council prior to operation.

### **Pool/Spa Safety**

Owners of properties with swimming pools and spa's must meet safety compliance and registration requirements. Provisions also apply when renting/selling properties. Details are available from the Division of Local Government.

### **Grease Trap**

Contact Sydney Water to determine what trade waste provisions you are required to provide to your food premises. Should a grease trap be required by Sydney Water, it must be located in an area that is easily accessible for the removal of waste water and must not be installed in any kitchen, food preparation or food stage area. The design and location of the grease trap should also not impede on any commercial right of way or pedestrian access.

### **Bandicoot/Penguin**

Long-nosed Bandicoots & Little Penguins – Best Practices for Residents Residents are encouraged to follow a number of *Best Practices* to assist with the protection and management of the endangered populations of Long-nosed Bandicoots and Little Penguins:

- Long-nosed Bandicoots, Little Penguins and other native animals should never be fed as it may cause them nutritional problems, hardship if supplementary feeding is stopped, and it may increase predation.
- Feral cats or foxes should never be fed or food left out where they can access it, such as rubbish bins without lids or pet food bowls, as these animals present a significant threat to Long-nosed Bandicoots, Little Penguins and other wildlife.
- The use of insecticides, fertilisers, poisons and/or baits should be avoided on the property.

Garden insects will be kept in low numbers if Long-nosed Bandicoots are present.

- When the North Head Long-nosed Bandicoot Recovery Plan is released it should be implemented where relevant.
- Dead Long-nosed Bandicoots or Little Penguins should be reported by phoning Manly Council on 9976 1500 or Department of Environment and Conservation on 9960 6266.
- Please drive carefully as vehicle related injuries and deaths of Long-nosed Bandicoots and Little Penguins have occurred in the area. Care should also be taken at night in the drive way when moving cars as bandicoots will seek shelter beneath vehicles.
- Cat/s and or dog/s that currently live on the property should be kept indoors at night to avoid disturbance/death of native animals. Ideally, when the current cat/s and/or dog/s that live on the property no longer reside on the property it is recommended that they not be replaced by new dogs or cats.
- Report all sightings of feral rabbits, feral or stray cats and/or foxes to N B Council.