

November 2021

Our Ref: DA-2021/187

Contact: Pascal van de Walle

Urbis  
Angel Place, Level 8,  
123 Pitt Street  
Sydney NSW 2000

## NOTICE OF DETERMINATION

Issued in accordance with section 4.16 of the *Environmental Planning and Assessment Act, 1979*

**Application No:** DA-2021/187

**Property:** 2 Myrtle Street, BOTANY BAY NSW 1445  
(Lot 1 DP 1148910)

**Proposal:** Demolition of the existing children's pool and shelter; removal of seven (7) trees and construction of three (3) water slides, an outdoor aqua play area; associated building for mechanical servicing and change rooms. The water slides and aqua play area are to operate between the following hours:

- Monday to Friday 3:00pm to 7:00pm; and
- Saturdays/Sundays & School Holidays 10:00am to 7:00pm

**Authority:** Sydney Eastern City Planning Panel

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### Determination

<b>Date of determination:</b>	December 2021
<b>Date consent commences:</b>	December 2021
<b>Date consent lapses:</b>	December 2026

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The above development is approved subject to the following conditions:

### GENERAL CONDITIONS

#### 1. Limited Consent Period

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, the period during which development may be carried out in accordance with this

consent is limited to a period of five (5) years from the date of the Notice of Determination.

## 2. Approved Plans and Documentation

The development must be implemented in accordance with the approved plans, specifications and supporting documentation listed below which have been endorsed by Council's approved stamp, except where amended by conditions of this consent:

### Architectural plans:

Plan Title	Drawing No	Revision	Prepared by	Date
Cover Page	DA000	A	CO-OP Studio	n.d.
Existing and Demolition – Site Plan	DA111	A	CO-OP Studio	31/03/2021
Site Plan – Stage 1	DA112	B	CO-OP Studio	5/10/2021
General Arrangement Plan – Ground Floor	DA201	C	CO-OP Studio	5/10/2021;
General Arrangement Plan – Roof Plan	DA202	B	CO-OP Studio	5/10/2021;
Elevations	DA401	A	CO-OP Studio	31/03/2021;
Sections	DA501	B	CO-OP Studio	22/07/2021
3D views	DA971	A	CO-OP Studio	31/03/2021

### Landscape plans:

Plan Title	Drawing No	Revision	Prepared by	Date
Context Page	DA-2027-01	G	Sturt Noble Associates	27/09/2021
Stage 1 Landscape Plan	DA-2027-02	F	Sturt Noble Associates	27/09/2021
Stage 1 Plant Schedule	DA-2027-03	D	Sturt Noble Associates	27/09/2021
Detailed Landscape Plan and Planting Plan 01	DA-2027-101	A	Sturt Noble Associates	27/09/2021
Detailed Landscape Plan and Planting Plan 02	DA-2027-102	A	Sturt Noble Associates	27/09/2021
Landscape Details	DA-2027-901	A	Sturt Noble Associates	27/09/2021

### Civil plans:

Plan Title	Drawing No	Revision	Prepared by	Date
Locality Plan and Drawing Index	C001	P3	Cracker Jack Consulting Engineers	5/10/2021

Civil Notes – Sheet 1 of 2	C002	P3	Cracker Jack Consulting Engineers	5/10/2021
Civil Notes – Sheet 2 of 2	C003	P3	Cracker Jack Consulting Engineers	5/10/2021
Stage 1 Demolition and Existing Services Layout Plan	C005	P3	Cracker Jack Consulting Engineers	5/10/2021
Detailed Landscape Plan and Planting Plan 01	C001	P3	Cracker Jack Consulting Engineers	5/10/2021
Stage 1 – Pre- Development Flood Catchment Layout Plan	C006	P3	Cracker Jack Consulting Engineers	5/10/2021
Stage 1 Earthworks Plan	C010	P3	Cracker Jack Consulting Engineers	5/10/2021
Stage 1 – Pavement Layout Plan	C015	P3	Cracker Jack Consulting Engineers	5/10/2021
Stage 1 – Stormwater Layout Plan Sheet 1 of 2	C020	P3	Cracker Jack Consulting Engineers	5/10/2021
Stage 1 – Stormwater Layout Plan Sheet 2 of 2	C021	P3	Cracker Jack Consulting Engineers	5/10/2021
Stage 1 Civil Details Sheet 1 of 3	C030	P3	Cracker Jack Consulting Engineers	5/10/2021
Stage 1 Civil Details Sheet 2 of 3	C031	P2	Cracker Jack Consulting Engineers	5/10/2021
Civil Details Sheet 3 of 3	C032	P3	Cracker Jack Consulting Engineers	5/10/2021

## Reports and Documents

Document Title	Reference No	Prepared by	Date
Arboricultural Impact Assessment Report	2027	Sturt Noble Associates	26 March 2021
Acoustic Report	S200100RP3	Resonate	Wednesday, 21 July 2021 Revision C
BCA and Access Capability Statement	P220_056	Design Confidence	18 February 2021
Geotechnical Desktop Study	201489.00	Douglas Partners	April 2021
Remediation Action Plan	201489.01	Douglas Partners	20 July 2021 Revision 1

Waste Management Plan	-	Bayside Council	31/03/2021
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In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, the conditions prevail.

**3. Compliance with the Building Code of Australia (BCA)**

All building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

**4. Construction Certificate Required**

A Construction Certificate must be obtained from Council or a Principal Certifier prior to any building work commencing.

**5. General Landscape Condition**

An experienced Landscape Contractor shall be engaged to undertake all landscaping public domain work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

**6. Control of Nuisance**

The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.

**7. Compliance with Acoustic Report**

Adopt and implement all applicable measures and recommendations to adhere to the noise criteria as specified in the acoustic report prepared by Resonate Consultants 'Botany Aquatic Centre - Acoustic Report for Development Application' (Ref: S200100RP3 Revision C) dated 21 July 2021.

**8. Complaints**

Handling of complaints to be in accordance with Bayside Council's Complaints Management Policy (Ref: F14/311 - 19/198011 & F16/951 - PP19/20) dated 13 November 2019. Complaints handling register to be provided onsite and procedures will include:

- The installation of a contact phone number at the front of the premises so that any complaints regarding the premises operation can be made
- A permanent register of complaints is to be held on the premises which shall be reviewed monthly by staff to ensure any complaints are responded to. All

complaints received shall be reported to management with initial action/investigation commencing within 7 days. The complainant should also be notified of the results and actions arising from the investigation. Records should be made available to Council's Officers when required.

## **9. Control of Nuisance - Noise**

- a) The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997, and
- b) The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the Noise Policy for Industry (NSW EPA 2017).

## **10. Spillages**

Sufficient supplies of appropriate absorbent materials shall be kept on site to recover any liquid spillage. Liquid spills shall be cleaned up using dry methods, by placing absorbent material on the spill and transferring the material into a secure bin. Absorbent materials used to clean up spills shall be disposed of to a licensed waste facility.

## **11. Emergency Spill Response Management Plan**

An Emergency Spill Response Management Plan shall be prepared by a suitably qualified person prior to the issuing of the Construction Certificate. The Plan shall include the following:

- i) list of chemicals and maximum quantities to be stored at the site;
- ii) identification of potentially hazardous situations;
- iii) procedure for incident reporting;
- iv) details of spill stations and signage;
- v) containment and cleanup facilities and procedures; and
- vi) the roles of all staff in the Plan and details of staff training.

## **12. Bunding**

The area used for the storage of chemicals shall be bunded. The bund (walls and floor) shall be constructed of impervious materials. The bund walls shall be a minimum of 100mm high, and be of a sufficient volume to contain 25% of the maximum volume of liquids likely to be stored within the bund. The bund shall be designed and installed in accordance with AS 1940-2004 The storage and handling of flammable and combustible liquids.

## **13. Booralee Park**

Booralee Park shall not be used for rear access or storage of materials throughout construction or operation.

## **14. Tree Removal**

Consent is granted for the removal of the following trees with the respective numbering sequence Trees numbered 36, 41, 48, 49, 50, 60 & 65, in the Arboricultural Report prepared Stuart Nobel Arboriculture, dated 26/3/2021.

#### 15. **Tree Retention**

Trees numbered 35, 40, 47, 52, 61, 62 & 63 in the Arboricultural Report prepared Stuart Nobel Arboriculture, dated 26/3/2021, are to be retained and protected with a Tree Protection Zone (TPZ). The specimens of *Eucalyptus microcorys* (Tallowwood Gum) located adjacent to the toddlers pool (to be demolished) shall also be protected with a TPZ.

#### 16. **Tree Maintenance**

Maintenance works around TPZ of Tree 35, *Angophora costata* (Smooth-barked Apple) located between the proposed water pump building and northern boundary. To ensure survival of tree number 35, due to incursion into the TPZ, the site superintendent shall ensure replenishment of 75 mm depth native mulch every 3 months and that enough irrigation is provided for a minimum period of 18 months after works around tree root zones of tree 35 have been completed.

#### 17. **Carrying out of Works Wholly Within the Site**

All approved works shall be carried out inside the confines of the building and not in adjacent forecourts, yards, access ways, car parking areas, or on Council's footpath.

### **REQUIREMENTS OF CONCURRENCE, INTEGRATED AND OTHER AUTHORITIES**

#### 18. **NSW Police**

The following recommendations are made by NSW Police:

- a) Consider motion sensor activated lighting for perimeters and new areas such as the water slides/aqua area when closed.
- b) CCTV cameras should be installed with the ability to remotely monitor/access 24/7.
- c) Consider perimeter alarms and 24/7 security monitoring connected to a remote access 24/7 CCTV system.
- d) Regular maintenance of the site such as checking access points, locks, gaps in fences/barriers, CCTV system/security system etc.
- e) Make sure no items (Bins/large rubbish) that can be used by offenders, to get a boost over any perimeter fences, are present near the boundaries.
- f) Address potential hiding places near the waterslides/aqua area. i.e. cut back shrubs/trees etc.
- g) Report to police promptly any graffiti incidents and remove once police have investigated.
- h) Conduct regular white level inspections of the site and report suspicious activity/findings to police promptly.
- i) Any mailbox/delivery area should be internal and or covered by lighting and CCTV.
- j) Any lockers installed should be in an area covered by CCTV or in an open area inside the vicinity where natural surveillance is present.
- k) Signage should be present throughout warning of CCTV in use.

- l) Car park should be well lit at night and signage reminding users not to leave valuables in cars.
- m) Consider motion sensor activated lighting for perimeters and new areas such as the water slides/aqua area when closed.
- n) CCTV cameras should be installed with the ability to remotely monitor/access 24/7.
- o) Consider perimeter alarms and 24/7 security monitoring connected to a remote access 24/7 CCTV system.
- p) Regular maintenance of the site such as checking access points, locks, gaps in fences/barriers, CCTV system/security system etc.
- q) Make sure no items (Bins/large rubbish) that can be used by offenders, to get a boost over any perimeter fences, are present near the boundaries.
- r) Address potential hiding places near the waterslides/aqua area. i.e. cut back shrubs/trees etc.
- s) Report to police promptly any graffiti incidents and remove once police have investigated.
- t) Conduct regular white level inspections of the site and report suspicious activity/findings to police promptly.
- u) Any mailbox/delivery area should be internal and or covered by lighting and CCTV.
- v) Any lockers installed should be in an area covered by CCTV or in an open area inside the vicinity where natural surveillance is present.
- w) Signage should be present throughout warning of CCTV in use.
- x) Car park should be well lit at night and signage reminding users not to leave valuables in cars.
- y) Sufficient high perimeter fencing should be installed if not already and or adjusted to suit the new waterslides/upgrades of the site.
- z) Little or no cash should be kept on premises.
- aa) Consider installing a high quality safe to store any small amounts of cash kept on site and any staff/business records if not already implemented.
- bb) Comply with all Occupational Health and Safety legislation and requirements.
- cc) The site should have a comprehensive first aid kit and automatic defibrillator in not already installed.
- dd) All staff should be trained in CPR, automatic defibrillator use, first aid and be proficient at rescue swimming.
- ee) During business hours staff should regularly monitor (Lifeguards) all people using the pools, water slides and aqua area.
- ff) CCTV should be available to police promptly when requested and should be retained for a period of 1 month or more if not already implemented.
- gg) Access passes/keys, for general/site entry, should be issued to police in case of emergency or if immediate access is required after hours.
- hh) After hours emergency/security number/s should also be provided to police.
- ii) Take all reasonable measures to ensure you operate a safe business environment and take all reasonable measures to ensure you minimise the risk of crime occurring on site.

## 19. **ARTC**

The following conditions are imposed by ARTC

- a) Further consultation with ARTC should occur if construction will involve the use of cranes that could have the potential to affect the rail corridor, or involve any access onto ARTC's land or air space. For these works, a Third Party Access application needs to be submitted to ARTC.

The Third Party access application can be found at:  
<https://www.artc.com.au/work/external-parties/>

- b) Mitigation measures should ensure that stormwater and dust during construction cannot affect the rail corridor.

## 20. **Sydney Airport**

The following conditions are imposed by Sydney Airport:

- a) Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- b) Pursuant to s. 183 of the *Airports Act 1996* and Reg 7 of the *Airports (Protection of Airspace) Regulations 1996*, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("*controlled activity*") set out in the Schedule.
- c) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
- d) The operation must not commence without approval and must only proceed in compliance with any conditions imposed on such approval.
- e) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
- f) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
- g) The Secretary and the Airport, as applicable, may request further information before determining an application.
- h) The "**Important Notes**" must be read and accepted.
- i) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

## 21. **Aquifer Interference Activity**

The approved works will require penetration of the water table, and an aquifer interference approval is therefore required, pursuant to section 91 of the *Water Management Act 2000*. This application must be approved prior to the commencement of any excavation works.

## **PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

## 22. **Fees, Securities, Deposits and Bonds to be paid**

The following fees and bonds shall be paid to Bayside Council prior to the issue of any Construction Certificate or the commencement of any works on site, whichever occurs first. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Bayside Council's adopted fees and charges.

- a) Environmental Enforcement Fee of 0.26% of the cost of the works (with estimated cost of works capped at \$10 million).
- b) Soil and Water Management Sign: \$21.50
- c) Builders Damage Deposit Bond: \$70,000.00 (See Condition 25)

### 23. Long Service Levy Fee

For work costing \$25,000 or more, a Long Service Levy shall be paid to the Long Service Corporation or Council, with evidence of payment submitted to the Principal Certifier prior to the issue of any Construction Certificate.

### 24. Securities, Deposits and Bonds – Major

Prior to the issue of any Construction Certificate, the person acting on the consent must provide security to Bayside Council against any damage that may be caused to any council property assets and/or the environment during the course of the building works as a consequence of the implementation of the development consent. This security shall be in the form of the following Deposits and Bonds that must be paid to Bayside Council:

- a) Builders Damage Deposit - \$70,000.00.

A Builder's Damage Deposit of \$70,000.00 (GST Exempt) shall be lodged by the applicant by way of cash deposit or unconditional bank guarantee (any proposed bank guarantee must not have an expiry date) in favour of Bayside Council as security for repairing any damage to the public domain and councils assets in the vicinity of the site, including defective public domain works. This includes construction, removal, or repair as required to all aspects of the public domain and council owned land such as: kerb and guttering, driveways, paved areas and footpaths, road pavement, stormwater infrastructure, signage, landscaping etc.

This security will be retained in full until the Final Occupation Certificate has been issued and all works relating to the development consent, such as Public Domain works and rectification of damage to the public domain, are completed to Bayside Council inspection and approval.

A request for refund of securities/deposits/bonds can be made once the above requirements are satisfied through Bayside Councils "Request for Refund" Application Form. A non-refundable inspection/administration fee is included in the bond value.

### 25. Landscaping Plan

The Final Landscape Plan shall be generally in accordance with the approved Landscape Plan (Refer to Condition 1) and comprise detailed landscape construction documentation (plans and specifications) to be submitted to, and approved by Director City Futures of Bayside Council prior to the issue of the Construction Certificate. The landscape documentation shall include, but not be limited to:

- a) Details of WSUD elements integrated to the landscape design in natural ground areas.
- b) Construction details of all proposed pavement surfaces, edges and interfaces with soft landscape proposed and existing.
- c) A Landscape Maintenance Schedule shall be submitted that covers a 12 month period providing clear and comprehensive maintenance guide to the landowner or occupier to achieve optimum landscape growth. The schedule must include the following information: shrub pruning/trimming (frequency, plant requirements); fertilising and pest control (soil testing, types, rate, frequency); mulching, weeding and soil improvement (frequency, materials); Irrigation

- (checks, adjustments); tree maintenance (fertilising, mulching, tree stakes adjustments, special tree requirements); maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, and planter box walls); and planter boxes/roof gardens/green wall (specialised maintenance requirements).
- d) Location and details of water bottle refill stations/bubblers with inclusive access, park furniture, equipment, pavement treatment and other elements in the open space are to be of strong lasting materials. Nominated products shall be reviewed and approved by council prior to installation. Refer to Council Open Spaces Catalogue and contact Council for further assistance in selection of furniture.
  - e) All areas and furniture shall be fully accessible.
  - f) Irrigation plans: Separate irrigation system shall be installed for all new landscape areas that are associated with this application. Details of irrigation system for all different areas, include irrigation for tree pits, meter location, backflow and subsurface.

**26. Retaining Walls Over 600mm**

Retaining walls over 600mm in height shall be designed and specified by a structural engineer registered with the National Engineering Register (NER).

**27. Determination of Infiltration / Absorption Rate**

Prior to the issue of any Construction Certificate, a Geotechnical Engineer registered with the National Engineering Register (NER) shall determine the soil absorption rate (in litres / m<sup>2</sup> / second) and the depth of the groundwater table for the site prior to the design of the drainage system. The reporting requirements and site investigations are to be undertaken as described in Bayside Council's Stormwater Management Technical Guidelines / Specifications. The geotechnical engineer shall provide a report to the Principal Certifier and stormwater engineer which includes the details required above. A copy of the report shall be forwarded to Bayside Council prior to the issue of the Construction Certificate.

**28. Detailed Design Stormwater Management Plan**

Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to the Principal Accredited Certifier for assessment and approval. Design certification and drainage design calculations are to be submitted with the plans. Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the site, including the final discharge/end connection point, must comply with Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines.

The detailed plans shall incorporate the provisions made in the stormwater concept plans prepared by Cracker Jack Consulting Engineers along with the documentation/measures detailed below:

- a) Swale / retention basin.
- b) Rainwater tank for re-use.

**29. Structural Certification for Flood Prone Land**

Prior to the issue of the Construction Certificate, an engineer registered with the National Engineering Register (NER) is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy up to 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood event, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood level.

**30. Detailed Flood Risk Management Plan**

Prior to the issue of the Construction Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer registered with the National Engineering Register (NER), must be provided for the development. The flood impacts on the site shall be assessed for the 1% AEP and PMF storm events. The management plan must make provision for, but not be limited to, the following:

- a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development, and
- b) Flood warning signs / depth indicators for areas that may be inundated, and
- c) A flood evacuation strategy, and
- d) A flood awareness strategy, and
- e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.

**31. Flooding Requirements**

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

a) **Storage of Materials Damaged by Flood**

Materials which may be damaged by flood waters shall be stored, or able to be stored, at or above 500mm above the 1% Annual Exceedance Probability (AEP) Flood Level.

b) **Pool Pump / Filter Flood Proofed**

The pool pump / filter and all electrical connections are to be flood proofed, or sealed to a minimum of 500mm above the 1% AEP Flood Level, and shall not be placed in the overland flow path.

c) **Side Passage to Remain Clear**

d) Any side passages between a building and the property boundaries shall remain clear of obstructions up to the 1% AEP flood level. Air conditioning units, electrical connections to hot water tanks, and other items that may be damaged by flood waters, shall be set at or above 500mm above the 1% AEP flood level.

**32. Utility Services Adjustments**

The approved elements including driveways, stormwater connections, (etc.) prevail over the location of existing utility services and power poles. All services shall be

adjusted at the applicants cost to suit the construction of approved design elements. Applicants must seek approval from the relevant public utility, state authority or service provider prior to issue of the Construction Certificate.

**33. Trade Waste**

A copy of Permission to Discharge Trade Waste Water shall be obtained from Sydney Water prior to the discharge of trade waste water to the sewer system. A copy shall be provided to Principal Certifying Authority (PCA) prior to issuing the Construction Certificate. A copy shall also be provided to Council if Council is not the PCA.

**34. Acoustic Report**

The Principal Certifying Authority (PCA) shall not issue a Construction Certificate until a detailed acoustic assessment /report of all mechanical plants (ventilation systems, exhaust fans, ventilation fans, pool pumps and other units) meet the Noise Policy for Industry (NSW EPA 2017) as specified in the acoustic report prepared by Resonate Consultants 'Botany Aquatic Centre - Acoustic Report for Development Application' (Ref: S200100RP3 Revision C) dated 21 July 2021 has been carried out.

The acoustic assessment / report shall include at least the following information:

- the name and qualifications or experience of the person(s) preparing the report
- the project description, including proposed or approved hours of operation
- relevant guideline or policy that has been applied
- results of background and any other noise measurements taken from most noise affected location at the boundary line
- meteorological conditions and other relevant details at the time of the measurements
- details of instruments and methodology used for noise measurements (including reasons for settings and descriptors used, calibration details)
- a site map showing noise sources, measurement locations and potential noise receivers
- noise criteria applied to the project
- noise predictions for the proposed activity
- a comparison of noise predictions against noise criteria
- a discussion of proposed mitigation measures, the noise reduction likely and the feasibility and reasonableness of these measures
- how compliance can be determined practically.

The report shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australia Acoustical Consultants). It shall be submitted to the Principal

Certifying Authority. All recommendations and/or noise mitigation measures (if applicable) shall be complied with.

**35. Appointment of Site Auditor**

A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed, a NSW Environment Authority (EPA) Accredited Site Auditor must be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor must review and endorse any additional investigation and remediation proposed prior to the commencement of any works.

Written evidence of this appointment must be provided to council prior to the issue of any construction certificate.

**36. Interim Site Audit Advice**

To ensure that the soil and groundwater investigations and any remedial action plan (RAP) proposed for the site are sufficient to enable the land to be made suitable for the proposed public recreation uses, an Interim Site Audit Advice must be completed by the accredited site auditor under the Contaminated Land Management Act 1997 and must be submitted to Council and the Principal Certifying Authority (if the Council is not the Principal Certifying Authority) clearly demonstrating that the land can be made suitable for the proposed use. All measures to be undertaken to enable this must be outlined. This must be provided prior to the issue of any construction certificate.

**37. Encroachment of Structures not Permitted**

No part of any structure, including gutters and eaves and front fences (including footings), may encroach or overhang any property boundary and/or public footway.

**38. Lighting**

All existing and proposed lights shall comply with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting. In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.

**39. Sydney Water Tap-in**

Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in<sup>TM</sup> online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in<sup>TM</sup> online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-buildingdeveloping/building/sydney-water-tap-in/index.htm>

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**PRIOR TO THE COMMENCEMENT OF ANY WORK (INCLUDING DEMOLITION AND EXCAVATION)****40. Dilapidation Report – Public Domain**

At the proposed point of construction site entry, a full photographic survey showing the existing conditions of Bayside Council's infrastructure shall be submitted to Bayside Council and the Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the road, kerb, gutter, footpath, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so will result in the applicant being liable for any construction related damages to these assets. Any damage to Bayside Council's infrastructure during the course of this development shall be restored at the applicant's cost.

**41. Construction Details Sign (Prescribed)**

A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.

**42. Construction Works Signage**

A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- a) stating that unauthorised entry to the work site is prohibited, and
- b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
- c) Any such sign is to be removed when the work has been completed.
- d) This condition does not apply to:
  - i. building work carried out inside an existing building or
  - ii. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

**43. Construction Environment Management Plan**

Prior to commencement of any works, the applicant must prepare and submit a Construction Environment Management Plan (CEMP). The CEMP must include, but not be limited to, the following:

- a) A plan view of the entire development site and frontage roadways along with a construction management report addressing the following:

- i) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access 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. Access across public parks and open space reserves is prohibited. All loading and unloading associated with construction activity must be accommodated on site. and
  - ii) Details of: hours of work; 24-hour contact details of site manager; management of dust and odour to protect the amenity of the neighbourhood; stormwater control and discharge; measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site; groundwater management plan including measures to prevent groundwater contamination; external lighting in compliance with AS 4282-2019 Control of the obtrusive effects of outdoor lighting; community consultation and complaints, and
  - iii) The proposed phases of construction works on the site and the expected duration of each construction phase, and
  - iv) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, plant/machinery, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site. The storage location on the property during construction shall also be shown, and
  - v) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period, and
  - vi) 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, and
  - vii) 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 a Accredited Certifier (Structural Engineering), or equivalent, and
  - viii) Proposed protection for Council and adjoining properties, and
  - ix) The location and operation of any on site crane including a copy of Sydney Airport approval (if required), and
  - x) The location of any Work Zone (if required) approved by Council's Traffic Engineering Section, including a copy of that approval.
- b) A Construction Traffic and Pedestrian Management Plan for pedestrian and traffic management of the site during construction prepared by a TfNSW accredited consultant in accordance with the 'Traffic Control at Worksites Manual'. The plan shall include construction vehicle routes, anticipated number of trucks per day, hours of construction, access arrangements and proposed traffic measures to minimise impacts of construction vehicles. The plan shall detail the measures that are to be implemented to ensure road safety and network efficiency during construction in consideration of potential impacts on general traffic, cyclists and

pedestrians, bus services and detail heavy vehicle routes, access and parking arrangements.

- c) A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004) to provide adequate erosion and sediment control measures during demolition, excavation and construction on the site. A sufficient area shall be provided onsite (Soil Stockpile Area) to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site.
- d) A Noise and Vibration Management Plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction works. The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and Assessing Vibration: A technical guideline (available [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)). The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.
- e) A Construction Worker Transportation Strategy for the construction stages to the satisfaction of the Certifier. The Strategy must detail the provision of sufficient parking facilities or other travel arrangements for construction workers in order to minimise demand for parking in nearby public and residential streets or public parking facilities. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority. A copy of the approved documents are to be submitted to Bayside Council.

#### 44. **Root Mapping**

Prior to the issue of Construction Certificate, root mapping investigations should be carried out along the proposed building alignments for Tree 38 & 51 to confirm the presence and location of existing tree roots and determine whether tree retention is possible. Root mapping investigations must be carried out by an AQF 5 Arborist utilising minimally destructive techniques (e.g. hand digging or Airspade) or non-destructive techniques (e.g. sonic tomograph). Machinery or tools such as mattocks and crow bars must not be used. The conclusions of the Arborist are to be submitted to Council, and trees are to be retained and protected, or removed, as agreed to by Council.

#### 45. **Tree Protection Signage**

A sign is to be erected on the tree protection fences of the trees to be retained that the trees are covered by Council's tree preservation orders and that "No Access" is permitted into the tree protection zone; a minimum of two signs that include the words "Tree Protection Zone – Keep Out".

Each sign shall be a minimum size of 600mm x 500mm. Signs shall be attached facing outwards in prominent positions at 10 metre intervals or closer where the fence changes direction. The signs shall be visible within the site.

#### 46. **Tree Protection Fencing**

In accordance with AS4970-2009 protective fences consisting of chain wire mesh temporary fence panels with a height 1.8m shall be erected outside the drip line. The fence panels must be securely mounted and braced to prevent movement;

The protective fence shall consist of para-webbing or chain wire mesh mounted on star pickets or similar metal posts, shall be placed prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction.

Or alternatively, if there is insufficient space to erect fencing, then the trees are to be physically protected by wrapping the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).

### **DURING ANY WORKS (INCLUDING EXCAVATION AND CONSTRUCTION)**

#### **47. Construction Certificate – Copy available at all times**

A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.

#### **48. Arborist Supervision**

The following activities shall not be carried out within any Tree Protection Zone unless under the supervision of the Project Arborist:

- a) increasing or decreasing soil levels (including cut and fill);
- b) soil cultivation, excavation or trenching;
- c) placing offices or sheds;
- d) erection of scaffolding or hoardings; and/or
- e) any other act that may adversely affect the vitality or structural condition of the tree.

#### **49. Prohibited Works within Tree Protection Zone**

The following activities shall not be carried out within any Tree Protection Zone:

- a) disposal of chemicals and liquids (including concrete and mortar slurry, solvents, paint, fuel or oil);
- b) stockpiling, storage or mixing of materials;
- c) refuelling, parking, storing, washing and repairing tools, equipment, machinery and vehicles;
- d) disposal of building materials and waste;

Where unavoidable foot access is required in the TPZ, the ground surface within the Tree Protection Zone shall be protected by placing geotextile fabric on the ground surface, covering this with a layer of mulch to a depth of 75mm and then placing boarding (scaffolding board, plywood sheeting or similar material) on top. The geotextile fabric and mulch shall be kept clear of tree stems by at least 50mm.

#### **50. Inspection of Stormwater Connections**

The stormwater connection to Council drainage system shall be inspected by Council public domain and referrals team prior to backfill. A minimum of five (5) working days' notice shall be given to Council prior to inspection. An inspection fee is required to be paid prior to inspection.

#### 51. **Approval and Permits under Roads Act and Local Government Act for Work Activities on Public Land**

During all stages of demolition and construction, application(s) shall be made to Bayside Council (upon payment of a fee in accordance with Bayside Council's adopted fees and charges) to obtain the necessary approvals and permits for any and all works/activities on Bayside Council land or road reserve pursuant to the Roads Act 1993 and Local Government Act 1993. All applications associated with works and activities on Bayside Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Bayside Council. Refer to Bayside Council "Work Activities on Council Sites Application Form" and "Road Opening Application" to obtain permits/approvals for the following:

- Road, Footpath and Road Related Area Closure – To temporarily close any part of the road, footpath or car park to vehicle or pedestrian traffic. This permit is required to allow the applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.
- Stand and Operate Registered Vehicle or Plant – To occupy any part of the road, footpath or car park to work from a vehicle parked on the street. This permit is required when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump or other similar vehicles.
- Occupy Road with Unregistered Item – To place a waste container or other item within the roadway which is not a registered vehicle. This permit is required to allow the applicant to place unregistered items within the roadway including waste containers and skip bins.
- Erection of a Works Zone – To implement a statutory Work Zone for activities adjacent to the development site. These applications are assessed by Bayside Council officers and are referred to the Traffic Committee for approval.
- Placement of Scaffolding, Hoarding and Fencing – To erect a temporary structure in a public place to enclose a work area. This permit is required for all temporary structures to enclose a work area within the public domain. These include site fencing, types A & B hoarding, type A & B hoarding with scaffolding and type B hoarding plus site sheds.
- Temporary Shoring/Support using Ground Anchors in Council Land – To install temporary ground anchors in public road to support excavation below the existing road surface level. This permit is required to allow the applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.
- Tower Crane – To swing or hoist over and across council property (including roadway). This permit is required when tower crane(s) are used inside the work site and will swing, slew or hoist over Council property or asset.
- Public Land Access – To access through or occupy Council land. This permit is required by applicants in order to access over or occupy Council land. Temporary Dewatering – To pump out groundwater from the site and discharge into council's drainage system including road gutter. This permit is required when temporary

dewatering is required to pump out water from the construction site into Council stormwater drainage system including gutter, pits and pipes. Dewatering management plan and water quality plan are required for this application.

- Road Opening Application - Permit to open road reserve area including roads, footpaths or nature strip for any purpose whatsoever, such as relocation / re-adjustments of utility services. This does not apply to public domain works that are approved through Bayside Council's permit for Driveway Works (Public Domain Construction – Vehicle Entrance / Driveway Application) / Frontage Works (Public Domain Construction – Frontage / Civil Works Application) under section 138 of the Roads Act.

A valid permit/approval to occupy Bayside Council land or road reserve to carry out any works or activities within the public domain must be obtained, and permit conditions complied with, during all stages of demolition and construction. Fines apply if an activity commences without a valid permit being issued. It shall be noted that any works/activities shown within Bayside Council land or road on the DA consent plans are indicative only and no approval of this is given until this condition is satisfied.

**52. Additional Information – Contamination – Cease work addition (with SAS auditor)**

Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council, the appointed Site Auditor (Contaminated Land) and the accredited certifier immediately. All work on site must cease until the Council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant and reviewed and approved by the Site Auditor (Contaminated Land).

**53. Remediation Works – Specific RAP/Plan**

All remediation work, if required, must be carried out in accordance with:

- a) NSW EPA (2020) 'Consultants reporting on contaminated land';
- b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
- d) The Remediation Action Plan (RAP) (prepared by Douglas Partners, Ref: 201489.01.R.002.Rev1, 21 July 2021) (and any amendments).

**54. Asbestos**

Any material containing asbestos found on site during the demolition process must be removed and disposed of in accordance with:

- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.
- b) Protection of the Environment Operations Act 1997.
- c) Protection of the Environment Operations (Waste) Regulation 2014.

- d) NSW Environment Protection Authority Waste Classification Guidelines 2014.

**55. Acid Sulfate Soil Management – General**

The management of potential and actual acid sulfate soils must be conducted in accordance with all recommendations within the Acid Sulfate Soils Management Plan (and any amendments) (currently included as part of the Remediation Action Plan prepared by Douglas Partners. Ref: 201489.01.R.002.Rev1, 21 July 2021).

**56. Dewatering Water Quality Requirements**

For any water from site dewatering to be permitted to go to the stormwater system, the water must meet the relevant default guideline values (DGVs) under the Australian & New Zealand Guidelines for Fresh & Marine Water Quality. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater must be provided in this report. Reports must be provided to council prior to discharge of any groundwater to the stormwater system.

**57. Dewatering – Permit to Discharge to Stormwater**

To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater must be obtained from Council. Dewatering must not commence until this is issued by Council.

**58. Waste Classification – Excavated Materials**

All materials excavated from the site (fill or natural) must be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site. Appropriate records must be retained to support this.

**59. Importation of Fill (General)**

To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill must be appropriately certified material and must be validated in accordance with the:

- a) NSW Environment Protection Authority (EPA) approved guidelines; and
- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2014.

All imported fill must be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

**60. Approved Plans Kept on Site**

A copy of the Construction Certificate, the Development Consent and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.

**61. Construction Hours and Noise**

The following shall be complied with during construction and demolition:

**a) Construction Noise**

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guidelines and the Protection of the Environment Operations Act 1997.

**b) Time Restrictions**

- i) Hours of construction shall be confined to between 7:00am and 5:00pm Mondays to Saturdays, with no work being carried out on Sundays or public holidays.
- ii) Notwithstanding (c)(i) above, a variation to the hours of work specified above is acceptable when approved in writing by Council's Director City Futures or his nominee in advance of the proposed out of hours works. Any request to alter these hours of construction shall be:
  - A. justified and considered on a case by case basis;
  - B. accompanied by details of the nature and need for activities to be undertaken during the varied construction hours; and
  - C. accompanied by any information necessary to evaluate the amenity of environmental impacts of the proposal; and,
  - D. accompanied by written confirmation from any relevant agency or stakeholder that:
    - consultation to vary the hours of construction has been undertaken;
    - acknowledgement of the necessity of the works to be undertaken;
    - agreement of the dates and times of extension to hours; and
  - E. Upon approval of a variation, the proponent must notify all occupants of the residential buildings fronting Myrtle Avenue and Jasmine Street prior to commencement of work. The notification letter is to provide details of the dates and times of the extended construction hours.

**c) Silencing**

All possible steps should be taken to silence construction site equipment

**62. Support of Adjoining Structures**

Where the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the building, structure or work from possible damage from the excavation, and
- b) where necessary, underpin the building, structure or work to prevent any such damage.

#### **63. Site Management - Principal Certifier Inspections**

Upon inspection of each stage of construction, the Principal Certifier (or other suitably qualified person on behalf of the Principal Certifier) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:

- a) Sediment control measures, and
- b) Provision of perimeter fences or hoardings for public safety and restricted access to building sites, and
- c) Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.

#### **64. Registered Surveyor Certificate**

A Registered Surveyor's Check Survey Certificate or Compliance Certificate shall be forwarded to the Principal Certifier detailing compliance with Council's approval at the following stage/s of construction:

- a) After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks, and
- b) Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level, and
- c) On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels, and
- d) On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.

#### **65. Implementation of Soil and Water Management Plan**

All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the project, where necessary. The plan is to be available to Council officers, on request.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

#### 66. Toilet facilities

- a) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- b) Each toilet must:
  - i. be a standard flushing toilet connected to a public sewer, or
  - ii. have an on-site effluent disposal system approved under the [Local Government Act 1993](#), or
  - iii. be a temporary chemical closet approved under the [Local Government Act 1993](#).

#### 67. Construction Activities – Minimise Pollution

The following conditions are necessary to ensure minimal impacts during construction:

- a) Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Council's stormwater pollution control requirements. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment, and
- b) Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area, and
- c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls, and
- d) Building and demolition operations such as brick cutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system, and

- e) Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition, stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface, and
- f) Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
  - i) spraying water in dry windy weather, and
  - ii) cover stockpiles, and
  - iii) fabric fences
- g) All vehicles transporting soil, sand or similar materials and demolition material to or from the site shall cover their loads at all times, and
- h) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site, and
- i) During the construction works, the Council nature strip shall be maintained in a clean and tidy state at all times and shall be suitably repaired and/or replaced in accordance with Council Specifications at the completion of construction works, and
- j) Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of two metres to remove mud from the tyres of construction vehicles, and
- k) An All-Weather Drive System or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

#### 68. **Site Fencing**

The site shall be secured by an 1800mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifier, prior to the demolition of the existing structures and commencement of building operations.

#### 69. **Site Fencing and Hoarding**

A hoarding or fence shall be erected between the work site and the public place when 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.

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.

Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:

- a) the vertical height above footpath level of the structure being demolished is less than 4m, or
- b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary, and
- b) have a clear height above the footpath of not less than 2.1m, and
- c) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The Principal Contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

## **70. Demolition Requirements During Works**

Demolition is to be carried out in the accordance with the following:

- a) The approved Safe Work Method Statement required by this consent, and
- b) Demolition is to be carried out in accordance with Australian Standard 2601:2001: Demolition of structures, Work Health & Safety Act 2011 (NSW), Work Health & Safety Regulation 2011 (NSW) and the requirements of the NSW WorkCover Authority, and

- c) The hours of demolition work are limited to between 7:00am and 6.00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays, and
- d) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority, and
- e) Dust control - dust emission must be minimised for the full height of the building. Compressed air must not be used to blow dust from the building site, and
- f) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal, and
- g) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition, and
- h) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site, and
- i) The burning of any demolished material on site is not permitted and offenders will be prosecuted. The demolition by induced collapse and the use of explosives is not permitted, and
- j) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial Before You Dig website: [www.1100.com.au](http://www.1100.com.au) should be contacted prior to works commencing, and
- k) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times, and
- l) Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with WorkCover NSW requirements. *Protection of the Environment Operations Act 1997*, *Protection of the Environment Operation (Waste) Regulation* and 'Waste Classification Guidelines 2014' prepared by the NSW Office of Environment and Heritage. Following completion, an Asbestos Clearance Certificate is to be provided to Council following the final asbestos clearance inspection.

## 71. Demolition Requirements

All demolition work shall be carried out in accordance with AS2601 – 2001. The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.

**72. Implementation of the Waste Management Plan**

The approved Waste Management Plan for the site shall be complied with at all times during demolition works and construction works.

**73. Disposal of Waste - Waste Management Facility**

All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management / Recycling Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifier.

**PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

**74. Occupation Certificate**

An Occupation Certificate must be obtained prior to any use or occupation of the building/development. The Principal Certifier must ensure that all works are completed in accordance with this consent, including all conditions.

**75. Landscaping**

Prior to issue of the relevant Occupation Certificate, the following must be complied with:

- a) All landscape works are to be carried out in accordance with the approved landscape plans by Bayside Council for the approved development.
- b) A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifier) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
- c) Landscape Maintenance Specifications, Landscape Maintenance Schedule and all relevant manuals (irrigation manuals, and any other specific to the development) shall be submitted to the Council prior to the relevant Occupation Certificate.

**76. Public Facilities Inspection**

An Independent Comprehensive Inspection of all new public use facilities shall be conducted for playgrounds and playground surfacing, water slides equipment, play zone, and playground surfacing (Including soft fall) to meet relevant Australian standards as applicable to all installations prior Occupation Certificate.

## **77. Bayside Council's Reserve Damaged During Construction**

Where Bayside Council's land / road reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Bayside Council or the applicant, at the applicant's expense. Any damage not shown in the photographic survey submitted to Bayside Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Bayside Council's satisfaction, prior to occupancy of the development and release of the damage deposit. Bayside Council's Director of City Futures (or delegate) must advise in writing that the works have been completed to their satisfaction, prior to the issue of the final Occupation Certificate. Further, Bayside Council will use this report to determine whether or not to refund the Damage Deposit.

## **78. Certification of New Stormwater System**

Prior to the issue of any Occupation Certificate, an Engineer registered with the National Engineering Register (NER) must certify that the stormwater system has been constructed in accordance with the approved plans and as required by Botany Bay DCP Part 10 – Stormwater Management Technical Guidelines. The constructed stormwater drainage system shall be inspected, evaluated and certified. The certification shall demonstrate compliance with the approved plans, relevant Australian Standards, Codes and Council Specifications. A works-as-executed (WAE) drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. The WAE plan must clearly illustrate dimensions and details of all site drainage including aspects such as the On-Site Detention System, Infiltration System, Overland Flow Path, Flow through Fence, Rainwater Tank, Stormwater Quality Improvement Device etc. The certification and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority and Bayside Council.

## **79. Section 73 Certificate - Sydney Water**

Prior to the issue of the Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the Certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

## **80. Absorption/Infiltration Systems Inspection**

All absorption systems must be inspected prior to back filling and proceeding to subsequent stages of construction to the satisfaction of principal Certifying Authority. Supporting evidence shall be issued by a professional Civil Engineer experienced in stormwater system design and construction. The maximesh screens and removable geotextile are to be installed in the absorption system prior to connection of the

downpipes, to ensure the effective performance of the system during construction, and the long term viability of the system.

#### 81. **Positive Covenant Application**

Prior to the issue of any Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) pursuant to the Conveyancing Act 1919 are to be registered on the title of the lots on which the following systems are present:

(a) Swale / retention basin

The terms of the instruments to be in favour of Bayside Council and are to be submitted to Bayside Council for review and approval. An application must be lodged with, and approved by, Bayside Council prior to issue of the Occupation Certificate. Bayside Council must be provided with the relevant fees and all supporting information required (such as works-as-executed drainage plans and certification) prior to Bayside Council endorsing the Instrument. Bayside Council and the Principal Certifying Authority are to be provided with proof of registration of the covenants prior to occupation.

#### 82. **Rainwater Tank - Plumbing Certification**

Prior to the issue of any Occupation Certificate, a registered plumber's certification that the Rainwater Tank Re-use system(s) has been connected for non-potable stormwater re-uses including all toilet flushing, laundry and external taps/landscape irrigations must be provided.

#### 83. **Erection of Signage**

Prior to the issue of any Occupation Certificate, the following signage shall be erected:

a) Flooding:

A flooding benchmark-depth indicator and a flood sign plaque shall be fixed to a prominent place within the flood area, approved by the Principal Certifier, in such a way that it cannot be removed. The flood sign shall contain the wording "The site is subject to flooding in heavy storms. Keep clear of the area when flooding occurs".

b) Above Ground Stormwater System (swale / retention basin):

The above ground stormwater storage systems shall be marked by the permanent fixing of a marker plate of minimum size 200mm by 150mm to the nearest permanent surface. The plate shall be noncorrosive metal, or 4mm thick laminated plastic that contains the following wording "This is an onsite stormwater system that will pond water during heavy storms. The outlet must be cleared of debris regularly".

The owners shall preserve the plaque(s) in a good condition and keep it visible.

#### 84. **Surveyor's Certificate for Finished Floor Level (Flooding)**

Prior to the issue of any Occupation Certificate, a certificate from a registered surveyor shall be provided to the Principal Certifying Authority, certifying that the habitable / commercial floor levels are constructed a minimum of 500 mm above the 1% Annual Exceedance Probability (AEP) Flood Level and that the non-habitable/garage floor level is either constructed at or above 1% AEP Flood Level OR [in the case of the garage floor / basement parking level being below the 1% AEP Flood Level], the garage floor / basement parking level is protected from inundation to a minimum of 500mm above the 1% AEP Flood Level.

**85. Flood Risk Management Plan - Major**

The approved flood risk management plan and all recommendations from the flood awareness & evacuation strategy are to be implemented within the development prior to the issue of the Occupation Certificate. A paper or electronic copy of the flood risk management plan is to be kept in the lobby in each tenancy/dwelling in the kitchenette. Details & evidence are to be provided to the satisfaction of the principal certifier prior to the issue of any Occupation Certificate.

**86. Roads Act / Public Domain Works – S138 - Major Development**

Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:

- a) Connecting to existing stormwater infrastructure in Myrtle Street to Bayside Council infrastructure specifications.

All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed to the satisfaction of Bayside Council at the applicant's expense. Inspection reports for the works on the road reserve shall be obtained from Bayside Council's authorised officer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied prior to the issue of any Occupation Certificate.

**87. Contaminated Land – Site Validation Report**

A Stage 4 – Site Validation Report (SVR) must be prepared by a suitably qualified contaminated land consultant and must be in accordance with:

- a) NSW EPA (2020) 'Consultants reporting on contaminated land';
- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report must provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report must be submitted to the Site Auditor (Contaminated Land), the Council or the Principal Certifying Authority (if the Council is not the Principal Certifying Authority) after completion of remediation works and prior to the issue of any occupation certificate.

**88. Site Audit Statement – Site Suitability**

To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* must be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This must be provided prior to the release of any Occupation Certificate.

Any conditions imposed on the SAS must form part of this consent. The accredited site auditor must provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, an application pursuant to the *Environmental Planning & Assessment Act 1979* must be submitted to ensure that they form part of the consent conditions.

**89. Flood Risk Management Plan - Major**

The approved flood risk management plan and all recommendations from the flood awareness & evacuation strategy are to be implemented within the development prior to the issue of the Occupation Certificate. A paper or electronic copy of the flood risk management plan is to be kept in the lobby in each tenancy/dwelling in the kitchenette. Details & evidence are to be provided to the satisfaction of the principal certifier prior to the issue of any Occupation Certificate.

**OPERATIONAL CONDITIONS**

**90. Hours of Operation**

The water slides and aqua play area are to operate between the following hours:

- a. Monday to Friday 3:00pm to 7:00pm; and
- b. Saturdays / Sundays & School Holidays 10:00am to 7:00pm

**91. Maintenance of Stormwater Drainage System**

The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking. Rainwater tanks shall be routinely de-sludged and all contents from the de-sludging process disposed: Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.

**92. Graffiti Removal**

Where the external walls of the building, landscaped structures and / or other facilities within the property / site are vandalised by graffiti, the graffiti shall be removed with the affected areas returned to its former state within seven (7) days of the occurrence.

**DEVELOPMENT CONSENT ADVICE**  
**ADDITIONAL INFORMATION**

- To confirm the date upon which this consent becomes effective, refer to Section 4.20 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However, if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 4.53 of the Act. Generally, consent lapses if the development is not commenced within five years of the date of approval. However, if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Division 8.2 of the Environmental Planning and Assessment Act 1979 allows Council to review this Determination. Should you wish to have the Determination reviewed, an application should be made in accordance with legislative requirements. An applicant may request that Council review the Determination in accordance with Division 8.2 of the Act.
- Under Section 8.7 of the Environmental Planning and Assessment Act, applicants who are dissatisfied with the decision of the consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within the timeframe specified by Clause 8.10 (1) of the Environmental Planning and Assessment Act 1979, from the date of this notice.

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Should you have any queries please contact