

XX XXXX 2025

Our Ref: MDA-2025/27
Contact: Michael Maloof - 9562 1666



Monterey Equity Pty Ltd
C/-Mecone Pty Ltd
Level 12, 179 Elizabeth St
SYDNEY NSW 2000

NOTICE OF DETERMINATION

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

Application Number:	MDA-2025/27 (Amends DA-2021/95)
Property:	119 Barton Street, MONTEREY (Lot 2 in DP 857520)
Proposal:	Demolition of existing structures and construction of a part 2 and part 3 storey residential aged care facility comprising of 112 rooms (128 445 beds), basement level parking, front fencing and signage
Authority:	Sydney Eastern City Planning Panel

Determination:	- DRAFT CONSENT -
Date of determination:	21 December 2021
Date consent commences:	21 December 2021
Date consent lapses:	21 December 2026
Date of Section 4.55	
Modification Approved:	- DRAFT CONSENT -

Your application was considered under the Environmental Planning and Assessment Act 1979. The application modifies the following previous consents:

- DA-2021/95 – Approved on 21 December 2021
- Land And Environment Court of NSW – Approved on 23 November 2023

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 119 Barton Street, Monterey, NSW 2217 (Lot 2 in DP 857520).
- (d) Any reference to the "Council", is a reference to Bayside Council.

SCHEDULE 1 – CONDITIONS OF CONSENT

The above development has been approved pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the following conditions:

General Conditions

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is completed.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Architectural Plans			
Plan/Dwg No. (25/162226)	Drawn by	Dated	Received by Council
Drawing No. DA000, Revision A, Cover Sheet	Jackson Teece	27/05/2025	20/05/2025
Drawing No. DA03, Revision E, Site Plan	Jackson Teece	08/05/2025	20/05/2025
Drawing No. DA03c, Revision D, Ground Floor Plan – Planning Considerations	Jackson Teece	08/05/2025	20/05/2025
Drawing No. DA04, Revision E, Basement Floor Plan (25/226660)	Jackson Teece	18/07/2025	18/07/2025

Architectural Plans			
Plan/Dwg No. (25/162226)	Drawn by	Dated	Received by Council
Drawing No. DA05 Ground Floor Plan, Revision E	Jackson Teece	08/11/2021	20/05/2025
Drawing No. DA06, First Floor Plan, Revision D	Jackson Teece	27/05/2025	20/05/2025
Drawing No. DA07, Second Floor Plan, Revision E	Jackson Teece	27/05/2025	20/05/2025
Drawing No. DA08, Roof Plan, Revision D	Jackson Teece	27/05/2025	20/05/2025
Drawing No. DA09, Elevations Plan, Revision E	Jackson Teece	08/05/2025	20/05/2025
Drawing No. DA10, Elevations Plan, Revision D	Jackson Teece	27/05/2025	20/05/2025
Drawing No. DA11, Sections Plan, Revision D	Jackson Teece	27/05/2025	20/05/2025
Drawing No. DA18b, Part Ground Floor Plan & Front Fence Elevation, Revision C	Jackson Teece	08/05/2025	20/05/2025
Drawing No. DA18c, Typical Detail of Window Plan & Treatment for Privacy, Revision B	Jackson Teece	27/05/2025	20/05/2025

Landscape Plans			
Plan/Dwg No. (25/162223) Revision E	Drawn by	Dated	Received by Council
Cover Sheet	LANDFX	14/05/2025	20/05/2025
Contents, Page 2	LANDFX	14/05/2025	20/05/2025
Local Character, Page 3	LANDFX	14/05/2025	20/05/2025
Vision Character and Design, Page 4	LANDFX	14/05/2025	20/05/2025
Landscape Plan, Pages 5 to 11	LANDFX	14/05/2025	20/05/2025
Stormwater Sewer Coordination, Page 12	LANDFX	14/05/2025	20/05/2025
Proposed Levels, Page 13	LANDFX	14/05/2025	20/05/2025

Landscape Plans			
Plan/Dwg No. (25/162223) Revision E	Drawn by	Dated	Received by Council
Deep soil and Planting on Podium, Page 14	LANDFX	14/05/2025	20/05/2025
Materials Plan, Page 15	LANDFX	14/05/2025	20/05/2025
Planting Schedule, Page 16	LANDFX	14/05/2025	20/05/2025
S455 Conditions Checklist, Page 17	LANDFX	14/05/2025	20/05/2025

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

Reference Documents			
Document Title.	Version No.	Prepared By.	Date of Document
Statement of Environmental Effects	Rev3	Mecone	February 2025
Traffic and Parking Assessment Report	Rev0	Transport Planning Pty Ltd	27 February 2025
Operational Waste Management Plan	Rev E	Elephants Foot Consulting	18 July 2025
Section J Report	Rev02	ATP Consulting	27 February 2025
Acid Sulphate Soil Assessment	Rev 2	Martens Consulting Engineers	24 February 2025
Plan of Management	Rev 3	Census Advisory Pty Ltd	24 February 2025
Acoustic Report	Rev 1	Pulse White Noise Acoustics Pty Ltd PWNA	19 February 2025
BCA Assessment Report	R1.3	AI Consultancy	24 February 2025
Remedial Action Plan	Rev 2	Martens Consulting Engineers	24 February 2025
Geotechnical Investigation	85348.01 Rev1	Douglas Partners	21 October 2024

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes the fitting of any form of

doors and/or walls.

6. The balconies shall not be enclosed at any future time without prior development consent.
7. The proposal does not include replacement of any side or rear boundary fencing, and this approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown on the approved plans and authorised by a subsequent construction certificate.
9. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S4.55 application and approval under the EP&A Act.
- 9A. A voluntary planning agreement between Council, Monterey Equity Pty Ltd and Sydney Eastern City Planning Panel was entered into in connection with the development application which is the subject of this development consent (VPA). All obligations imposed by the VPA on the applicant/ developer must be complied with at all times in accordance with the terms of the VPA, including in particular the payment of the monetary contribution of **\$586,800** prior to the issue of any Occupation Certificate in relation to the development consent in accordance with clause 6 and Schedule 3 of the VPA (including as increased at the time of payment as referred to in Column 3 of Schedule 3 of the VPA).

[Inserted in Land and Environment Court Proceedings No. 2022/00360916]

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

Development specific conditions

The following conditions are specific to the Development Application proposal.

10. Key Operational Requirements

The facility shall operate in accordance with the following key operational requirements:

- (a) The facility shall only be used as a Residential Care Facility as defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. No alternate use of the building is permitted without the prior consent of the Council.
- (b) The maximum number of beds within the facility is limited to **128 445** and the maximum number of rooms within the facility shall be limited to 112.
- (c) The cafe shall be available for use by residents, staff and their guests only. The cafe is not to be open to the general public.
- (d) Any signage must not use:
 - (i) flashing lights,
 - (ii) electronically changeable messages,
 - (iii) animated display, moving parts or simulated movements,

- (iv) a method of level of illumination that distracts or dazzles;
- (e) The terrace at Level 2 shall not be used between the hours of 8pm to 9am the following day. The terrace shall be restricted to a maximum of 25 persons at any one time.
- (f) All deliveries and waste collection (i.e. all loading and unloading) must:
 - i. Must be carried out wholly within the site;
 - ii. must be restricted to between the hours of 8.00am to 5.00pm Monday to Saturday, with no deliveries or waste collection on Sundays or public holidays;
 - iii. shall be limited to a medium rigid vehicle (MRV) as defined in AS2890;
 - iv. Note: Loading areas are to be used only for the loading and unloading of goods, materials, waste etc. and no other purpose.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

11. Community Liaison Committee

A Community Liaison Committee shall be created and convened by the operator of the subject site to allow neighbours a forum to discuss any issues that may arise from time to time relating to the operation of the residential aged care facility. The committee is to meet a minimum of three (3) times per year and maintain minutes of meetings and a record of complaints. The Plan of Management shall be amended to include the provisions in relation to the setting up and operation of the Community Liaison Committee. Details are to be submitted to Council with the Construction Certificate.

12. Plan of Management

- (a) Prior to commencement of operations, and before issue of any Occupation Certificate, an amended Plan of Management (PoM) must be submitted to, and approved by, Council's Director City Futures (or delegate). The amended PoM shall address all approved changes to the facility, (e.g. reduced bed and room numbers), and include all relevant requirements contained within the conditions of this consent.
- (b) The submitted PoM shall be amended to address / include (but not be limited to) the following, in addition to (a) above:
 - (i) Use of the cafe shall be for residents, staff and guests of the premises only and shall not be available for use by the general public.
 - (ii) Noise minimisation and management measures in accordance with the acoustic report submitted in accordance with Condition 14.
 - (iii) Odour minimisation and management measures in accordance with the odour report submitted in accordance with Condition 38.
 - (iv) All relevant Crime Prevention Through Environmental Design (CPTED) requirements contained within other conditions in this consent (e.g. management of CCTV, etc.)
 - (v) Details of all deliveries, waste collection, community bus movements to & from the facility being carried out wholly within the subject site.
 - (vi) Community Liaison Committee (see Condition 11) .
 - (vii) A review process.
- (c) The PoM shall be reviewed in accordance with the detailed contained within

the Plan. A copy of any amended PoM must be submitted to Council within 14 days of changes being recorded. Any concerns addressed by Council on receipt of the PoM must be addressed in an amended PoM within 14 days.

Any amended PoM may not conflict with requirements of any conditions of consent including approved plans and documentation.

- (d) The aged care facility shall operate in accordance with the Plan of Management approved in accordance with (a), (b) and (c) above at all times.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

13. Safer by Design

To maximise security in and around the development the following shall be incorporated into the development in accordance with the recommendations from the NSW Police dated 11 May 2021, in accordance with the submitted CPTED Report. Details for the following are to be approved by the Certifier prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development.

- (a) Adopt and implement recommendations contained within the *Crime Prevention Through Environmental Design (CPTED) Report* prepared by Harris Crime Prevention Services dated 2 December 2020.
- (b) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development, garbage/storage areas and the footpath immediately adjacent to the premises. The system shall record continuously at all times, be in digital format with a minimum of ten frames per second (10 fps), specify the time and date of the recorded image and all publicly accessible areas within the premises (other than toilets). Recordings made by the CCTV must be kept for at least 30 days. A Closed Circuit Television Plan shall be provided to Council and kept on the premises along with the Plan of Management for the site.
- (c) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels. Lighting must be installed in and around the property to increase visibility during the hours of darkness.
- (d) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
- (e) Graffiti resistant materials shall be used to ground level external surfaces.
- (f) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.

14. Acoustic Report – Amended report/Operational Compliance

- (a) Prior to issue of **any the relevant** Construction Certificate:
 - (i) an amended acoustic assessment report shall be submitted to, and approved by, Council's Director City Futures (or delegate). The report shall be prepared by a suitably qualified and experienced acoustic consultant (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants). The acoustic report shall consider all potential noise impacts (from the garage roller-shutter door, residents, deliveries, waste collection, vehicle

movements, outdoor activities, use of outdoor terrace areas at ground and upper levels, mechanical plant, exhaust & ventilation systems and so on) onto neighbouring residences from the aged care premises at relevant times and particularly during the night time period*. The acoustic assessment / report must include at least the following information:

(* Night time = 10pm to 7am)

- A. The name and qualifications or experience of the person(s) preparing the report,
 - B. The project description, including proposed or approved hours of operation, all mechanical ventilation systems, (residents, deliveries, vehicle movements, overnight, outdoor terrace, outdoor activities) air conditioner systems,
 - C. Relevant guideline or policy that has been applied,
 - D. Results of background and any other noise measurements taken from most noise affected location at the boundary line,
 - E. Meteorological conditions and other relevant details at the time of the measurements,
 - F. Details of instruments and methodology used for noise measurements (including reasons for setting and descriptors used, calibration details),
 - G. A site map showing noise sources, measurement locations and potential noise receivers,
 - H. Noise criteria applied to the project,
 - I. Noise predictions for the proposed activity,
 - J. A comparison of noise predictions against noise criteria,
 - K. A discussion of proposed mitigation measures, the noise reduction likely and the feasibility and reasonableness of these measures and
 - L. How compliance can be determined practically.
- (ii) The plans and documentation submitted with the Construction Certificate shall include all recommendations contained in the approved acoustic report required by (a) above.
- (iii) The Plan of Management shall be amended to include all relevant noise minimisation and management measures contained in the acoustic report.
- (b) Prior to issue of any Occupation Certificate, all measures specified in the acoustic report approved in accordance with (a) above shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA). If Council is not the PCA, a copy shall be submitted to Council concurrently.
- (c) During Operations - The recommendations contained in the Acoustic Report approved in (a) above shall be complied with at all times during operations of the site.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

15. 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.

16. 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 NSW Industrial Noise Policy – 2000.
17. Residential air conditioners shall not cause ‘offensive noise’ as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
18. The operation and maintenance of the aged care premise shall not give rise to the emission of offensive odours in contravention of the Protection of the Environment Operations Act 1997.
19. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare or causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
20. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate, the Certifying Authority and Principal Certifying Authority must:
 - (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems (including installation) proposed for use or used in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the relevant requirements of the NCC; and;
 - (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

21. 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.

22. Hair Salon Requirements

The plans submitted with the Construction Certificate, construction of the Hair salon area and compliance with the following is required prior to, and during, operations:

- (a) The (hair, beauty, skin penetration) salon shall comply with the requirements of the

Local Government Act 1993, the Regulations there under, Public Health Act 2010 and Public Health Regulation 2012. (General).

- (b) The proprietor of the premise shall provide Council with occupier's details for Council's Environmental Health Unit register by completing the Registration form available on request from the customer service centre.
- (c) Trading shall not commence until a final inspection has been carried out by Council's Environmental Health Officer and all requirements have been complied with.

23. Operational Waste Management

Operational Waste shall be managed in accordance with the submitted Operational Waste Management Plan (OWMP) prepared by Elephants Foot, **Rev 2, dated 2/12/2020, Rev E, dated 18/07/2025**. In this regard:

- (a) The plans submitted with the Construction Certificate must demonstrate compliance with the design recommendations and other relevant requirements contained in the OWMP.
- (b) Waste shall be collected wholly within the site, being from within the loading bay.
- (c) Waste collection is restricted to between 7:30am and 5:00pm Mondays to Saturdays, with no waste collection permitted on Sundays or Public Holidays.
- (d) Waste shall be managed in accordance with the OWMP prepared by Elephants Foot, **Rev 2, dated 2/12/2020 Rev E, dated 18/07/2025**.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

24. Waste Management – Additional Environmental Health Requirements

The following additional requirements for Waste Management shall be complied with:

- (a) Liquid waste generated on the site that is not subject to a trade waste agreement shall be collected, transported and disposed of in accordance with the Protection of the Environment Operations Act 1997. Records shall be kept of all waste disposal from the site.
- (b) Contaminated, clinical or pathological wastes shall be stored, handled, transported and disposed of in accordance with the requirements of the NSW Environmental Protection Authority and the NSW Health Department.
- (c) 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 Certifier prior to issuing the Construction Certificate. A copy shall also be provided to Council if Council is not the PCA.
- (d) The garbage/recycling bin enclosure area shall be constructed of brick or other approved masonry material and shall be provided with sufficient screening of all bins contained therein. The storage area shall be constructed with a concrete floor, suitably graded to enable drainage of run-off into Council's stormwater drainage system and shall be at-grade with any proposed pedestrian accessway. The final design details of the proposed storage area shall be shown on the Construction Certificate plans.

25. Landscaping – General Requirements

Site landscaping shall comply with the following general requirements during design, construction and ongoing operations / maintenance:

- (a) Lawn areas are to be natural turf with sufficient soil depth, drainage, and

irrigation. Proposed lawn areas are not to be replaced with synthetic grass of any kind for environmental reasons.

- (b) All proposed Built up planter beds above slabs are not to be replaced with individual removable pots.
- (c) Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements.
- (d) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
- (e) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
- (f) Planters are to be fully waterproofed and sealed internally with an proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's direction prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
- (g) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with a compacted lightweight soil suitable for planter boxes compliant with AS 4419 and AS 2743. Install drip irrigation including to lawns.
- (h) Finish externally with a suitable paint or render or tile to co-ordinate with the colour schemes and finishes of the building.
- (i) Soil depths of all planters on slabs shall be in accordance with the requirements of Table 5 of Part 4P of the Apartment Design Guide.
- (j) Irrigation. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- (k) The landscaping shall be maintained for the life of the development. All soft landscape areas are to be maintained in accordance with the approved Maintenance Schedule provided as part of the landscape documentation. Where vegetation approved as part of this consent dies, it must be replaced with new landscaping that achieves a similar height and form to that approved under the landscape plan.
- (l) New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of twelve (12) months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, biannual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.

26. Tree Protection/Removal/Management

- (a) Tree numbers 8 to 13 located within the site are to be retained protected within a Tree Protection Zone (TPZ). The appointment of a project Arborist to supervise and certify works throughout the construction process as specified in Appendix 7 of the Naturally Trees Arborist Report is recommended.
- (b) Consent is granted for the removal of the following three (3) trees:- Tree no. 14 – Cinnamomum camphora (Camphour Laurel), Tree no. 15 – Cinnamomum camphora (Camphour Laurel), and Tree no. 16 – Syzygium sp. (Lilli Pilli).
- (c) 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".
- (d) 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.
- (e) 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.
- (f) The protective fence shall consist of para-webbing or chain wire mesh mounted on star pickets or similar metal posts, shall be erected 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 jesson or carpet underlay to a height of 2.5 meters or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).

- (g) The following activities shall not be carried out within any Tree Protection Zone unless under the supervision of the Project Arborist:
 - (i) increasing or decreasing soil levels (including cut and fill); soil
 - (ii) cultivation, excavation or trenching
 - (iii) placing of fences or sheds;
 - (iv) erection of scaffolding or hoardings; and/or
 - (v) any other act that may adversely affect the vitality or structural condition of the tree,
- (h) The following activities shall not be carried out within any Tree Protection Zone:
 - (i) disposal of chemicals and liquids (including concrete and mortar slurry, solvents, paint, fuel or oil;
 - (ii) stockpiling, storage or mixing of materials;
 - (iii) refuelling, parking, storing, washing and repairing tools, equipment, machinery and vehicles;
 - (iv) disposal of building materials and waste;
 - (i) 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.

PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

The following conditions must be completed prior to the issue of the Construction Certificate.

27. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- (a) A Footpath Reserve Restoration Deposit of \$111,888.80. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed, and all damage is restored and all specified works are completed by Council.
 - (b) A Soil and Water Management Sign of \$21.50
28. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Commission on their Helpline 13 1441.
29. Section 7.11 Contributions
- Deleted
- Notes:
- (a) Deleted in Land and Environment Court Proceedings No. 2022/00360916 in lieu of the entering into of the VPA.
 - (b) See condition 9A inserted in Land and Environment Court Proceedings No. 2022/00360916;
 - (c) See also clause 9.5 of the VPA, which deals with contributions under the VPA in the event that an application is made to modify this consent that changes the number of lots in the development.

[Inserted in Land and Environment Court Proceedings No. 2022/00360916]

30. Public Domain Frontage Design

Prior to the issue of **any the relevant** Construction Certificate, an application for Frontage Works (Public Domain Construction – Frontage / Civil Works Application) shall be made to Bayside Council's Customer Service Centre for assessment of all required works within the road reserve. A fee is payable to Bayside Council in accordance with Council's adopted fees and charges.

The Public Domain Frontage Application / Design shall comply with the following:

- (a) A Public Domain Frontage Design package must be prepared by suitably qualified professionals for all frontage works that are required to be constructed within the public domain that are subject to assessment and approval pursuant to Section 138 of the Roads Act 1993. Public domain frontage works shall include, but not be limited to, civil, drainage, landscaping, undergrounding of services, lighting, traffic signage, line marking, parking and traffic devices to address and satisfy relevant development consent conditions. All frontage works shall be in accordance with Bayside Council technical manuals, specifications, master plans,

town centre plans, Australian standards and standard design drawings.

- (b) In addition to standard vehicular crossing, footpath, kerb and gutter the following works will be required to be undertaken in the road reserve in accordance with the Clause 26 Report submitted with the application (prepared by Judith Stubbs and Associates, dated 2 December 2020). All works shall be at the applicant's expense:
 - (i) Construction of a complying access pathway between the site and busstops in The Grand Parade and construction of a ramp at the Post Office entrance.
 - (ii) Construction of a complying access pathway between the site and busstops in The Grand Parade.
 - (iii) Construction of a ramp at the Queens Road entrance to 279 Bay Street.
- (c) Public domain landscape improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan. Landscape specifications shall be as follow unless otherwise is specified by Council Landscape Officer in Frontage Works Brief:
 - (i) New street trees are to be planted a minimum 200 litres. Verge of Barton Street will be planted with three (3) *Eucalyptus haemastoma*;
 - (ii) Street tree pit shall include irrigation: 50mm diameter slotted watering pipe (200-300mm below ground level) with vertical piece of pipe with enough length to ensure that the inlet is flush or slightly (25mm) proud of the finish pit level. (RootRain Urban or approved equivalent)

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

31. The proposed development shall be constructed in accordance with the access requirements set out in the Access Report prepared by Accessible Building Solutions dated 1 December 2020. Details are to be submitted with the **any relevant** Construction Certificate.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

32. Swept Paths – Medium Rigid Vehicle & Community Bus

Prior to issue of **any the relevant** Construction Certificate, plans and documentation prepared by a suitably qualified traffic engineer shall be submitted to, and approved by, Bayside Council's Director City Futures demonstrating compliance with the following:

- (a) The longitudinal profile(s) of the access driveway and any ramps within the parking facilities must comply with the Ground Clearance (including for an MRV and for the community bus used by the facility), Gradient (%) and Length requirements of the 2890 Australian Standards Series. Bayside Council Flood control (physical protection via a crest) and gutter flow analysis shall be incorporated in the design of the driveway profile, and
- (b) All driveways/access ramps/vehicular crossings shall conform with Australian

- Standards AS2890.2:2018 along the travel path of the service vehicles, and
- (c) All service vehicles and the community bus shall enter the property front in front out, and
 - (d) The design of the entire car parking facility is to be certified by a civil engineer registered with the National Engineering Register (NER) as being strictly in accordance with the abovementioned requirements and the Australian Standard 2890 parking facilities series.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

33. Sydney Water – Tap In

Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM 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 inTM online service is available at:

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

34. Driveway Width at Boundary

The driveway width at the property boundary shall comply with the following, with details shown on the Construction Certificate Plans

- Width of the combined driveway shall be maximum of 6.5m at the boundary.

35. Privacy – Amended plans prior to issue of Construction Certificate

The plans shall be amended to minimise privacy impacts to adjoining residents. The amended plans must address the following and be submitted to, and approved by, Bayside Council's Director City Futures (or delegate) prior to issue of **any the relevant** Construction Certificate.

- (a) Window screen treatment shown in the approved plan "Typical Detail of Window Treatment for Privacy" with Job **Project No. 2016149, Drawing No. 2014/DA18c** (refer to Condition 2) shall be applied **to all windows identified within this plan for Rooms 7, 8, 25, 26 & 4043 at Level 1.**
- (b) Privacy screening / obscure glazing or other appropriate treatment being provided to the following common room spaces located at Level 1:
 - (i) **Dining Lounge** room – located to rear of No. 115 Barton St;
 - (ii) **Dining Room – located to rear of 121 Barton St;**
 - (iii) Sitting Room - located to rear of No. 109 Barton St;
 - (iv) Sitting Room - located to rear of No. 6 Jones Ave; and,
 - (v) **Lounge Quiet** Room - east facing windows located adjacent to No. 121 Barton Street.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

36. Landscape Plan – Amended Plan prior to Construction Certificate

The Final Landscape Plan shall be generally in accordance with the landscape plan prepared by LANDFX Landscape Architecture (**dated 19 November 2021, Rev D dated 28 February 2025, Rev D**) and comprise detailed landscape construction documentation (plans and specifications) to be submitted to, and approved by, the

Director City Futures of Bayside Council (or delegate) prior to the issue of the Construction Certificate. The landscape documentation shall demonstrate consistency between all architectural and stormwater plans and include, but not be limited to;

- (a) Include all CC Architectural drawings, basement layout, with all relevant levels, including top of walls, and planting areas level.
- (b) Include all stormwater structures, including OSD tanks, infiltration trenches, pits, pipes and any other structure related to the planting areas.
- (c) Retention (absorption) tanks shall ~~be relocated from setback areas to allow tree and landscape planting within setback areas that will minimise adverse impacts on adjoining properties~~ **located at least 2m from all property boundaries in accordance with the Bayside Technical Specification – Stormwater Management (2023).**
- (d) Any reference to proposed replacement of side / rear boundary fencing shall be deleted.
- (e) The following tree planting shall be included:
 - (i) Front setback will maximise the deep soil area, and include at least three (3) large canopy trees capable to reach a minimum mature height of ten to twelve meters in local conditions. If sun access for the terrace facing north is required, these can be deciduous trees. A minimum of six (6) trees is to be included in the front setback, and all trees are to be planted at minimum **200 400** litre pot size.
 - (ii) A minimum of six (6) large canopy trees capable to reach at least 12 meters in local conditions, and in a tree pit of minimum 5 meter measurement shall be included in the proposal. Other medium and small trees shall also be included with enough deep soil to allow fully development.
 - (iii) Trees within the front setback shall be supplied and planted at advanced form not less than **200 400** litres root ball. All other new tree planting shall be supplied and planted at minimum **200 400** litres pot size.
 - (iv) **Magnolia grandiflora is not to be planted in deep soil areas, this tree is to be swapped with an equivalent native tree species.**
 - (v) **Tree planting shall be maximised on site to the satisfaction of Council's landscape architect.**
- (f) Clearly indicate deep soil planting areas, and planting areas above slabs. Indicate soil depths of all planting areas above slabs, or indicate relative levels to assess soil depth.
- (g) A dense screen of shrubs and trees shall be planted along rear and side boundaries, to establish an appropriate level of privacy in relation to adjoining properties resulting from this development. The screen shrubs shall be planted at minimum container size of 27 litres/400mm and obtain a minimum growth height of between 3 to 4 meters in local conditions. Trees shall be capable of screening the development.
- (h) A minimum landscape (deep soil) area of 25% of the site is required as per Rockdale DCP 2011 for medium density residential areas (i.e. minimum area of 1,805m²). Landscape areas are to be free of any structures below or above, and with a minimum width of 1 meter. The setback areas include an accessible circulation resulting in insufficient deep soil provision to include screening shrubs or trees along the side setbacks. A three (3) meter setback is to be fully landscaped. The circulation layout is to be redesigned to allow for the required landscape setback and maximise the landscape area.

- (i) Water Sensitive Urban Design (WSUD) - The stormwater proposal includes several infiltration trenches which are in conflict with the proposed planting. Review all infiltration trenches in relation to the proposed planting and ensure that the stormwater and landscape proposals do not create any conflict.

Setback areas area to be maximise the canopy trees, any other tree or tree palm is not to be located within these setback areas, and shall be planted in adequate location to avoid any impact on the stormwater system. Infiltration trenches in setbacks where canopy trees are required are not to be included. A bio swale 2 meters away from the periphery boundaries is recommended in this site. Elements such as raingardens, bioswales and others are to be integrated with the landscape and the stormwater management proposals.

- (j) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictions, tree pits, tree grates, tree guards, tree pit treat, areas of paving, schedule of materials, edge treatments, tactile and sectional construction details where required. Provide sectional construction details and elevations where landscape is proposed above structures. Provide all relevant levels to assess soil supply.
- (k) Details of all fencing, privacy screening, arbors and the like elevations and materials, impacting or visible to public domain areas.
- (l) Raised planter beds built on slabs in areas where privacy is to be addressed, shall be at least 1 meter wide, with at least 900mm soil depth, and planted with small leaves screening shrubs capable to reach at least 1 meter high in local conditions.
- (m) A Landscape Maintenance Schedule to cover a 12 month period to provide a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and 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).

[MDA-2025/27 – S 155(2) – Amended on XX/XX/25]

37. Stormwater Plans Amended prior to issue of Construction Certificate

Prior to the issue of the relevant Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to the Bayside Council Director of City Futures (or delegate) for assessment and approval. Engineering design certification and drainage design calculations are to be submitted with the plans. Bayside Technical Specification Stormwater Management 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 Bayside Technical Specification Stormwater Management.

The detailed drainage design plans shall incorporate the provisions detailed below:

- (a) The development requires the use of a Water Sensitive Urban Design Approach (WSUD) to the design of the drainage system. Bayside Technical Specification Stormwater Management Section 7 requires the development to confirm the targets for the stormwater pollution reduction and to justify the target by an analysis using MUSIC. MUSIC Model to be provided to Council for assessment.
- (b) The absorption system must be modelled as the receiving node and use other

proprietary stormwater treatment products to meet the WSUD targets prior to stormwater entering the absorption system. All catchment nodes to be connected to a receiving node via a propriety treatment node.

- (c) A minimum 10,000L rainwater tank to be provided and is to drain only non-trafficable roof areas. The rainwater tank is to be connected to internal non-potable stormwater re-use (all ground floor toilets, and landscape irrigation). The rainwater tank must be modelled in MUSIC. Only non-trafficable roof areas allowed to drain into the rainwater tank. Planter boxes must drain into the stormwater treatment devices prior to draining into the absorption system.
- (d) A WSUD catchment plan is to be provided to show the architectural plan including the non-trafficable roof area draining into the rainwater tank and trafficable area. The catchment areas in the catchment plan are to be accurately reflected in the MUSIC Model.
- (e) A catchment plan is to be provided showing the impervious (roof and hardstand) and pervious area draining into the absorption system including individual calculations for the absorption system.
- (f) The absorption system shall not conflict with the required tree planting and must be coordinated with the landscape plans.
- (g) The stormwater basement plan must show the basement as a fully "tanked" system (full structural tanking and waterproofing) with adequate provision for future fluctuation of the water table. If subsoil drainage is provided around the subsurface structure, the subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure but must not be connected to the internal drainage system. No groundwater is permitted to enter the subsurface structures and, no pump-out system is permitted to be used to drain and discharge groundwater from the subsurface structures. The note on the basement drainage plan to state the above-mentioned wording regarding fully tanked system.
- (h) A cover of 0.3m in pits and 20mm drop is to be provided in pits (both surface and junction) between the inlet pipe and outlet pipe in the basement stormwater plans.
- (i) The pump out pit section to show the surface level, base levels, top water level (TWL), and minimum 1% fall towards the pumps. Sizing and volume for the pump out pit must be provided on the plans including the catchment area draining into the pump out pit.
- (j) The pump out pit section to be provided to show the surface level, base levels, top water level (TWL), and minimum 1% fall towards the pumps. The top water level (TWL) is to be 100mm lower than the invert level of the inlet pipe.
- (k) The rising main from the basement pump out pit to be connected to a silt arrestor pit and must not connect to the absorption system. The silt arrestor pit is to have gravity discharge to the kerb and gutter. A non-return flap valve is to be provided to prevent backflow. A detail of the silt arrestor pit to be provided showing the surface level and sump level.

REASON

To ensure compliance with Council's Stormwater Management Technical Guidelines/Specifications.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

38. Air Quality/Odour Report

Prior to issue of **any the relevant** Construction Certificate, an Air Quality / Odour Report prepared by a consultant suitably qualified and experienced in odour control for commercial activities, shall be submitted to, and approved by, Bayside Council's Director City Futures (or delegate). The report shall have regard to the NSW Environment Protection Authority's Policy for the Assessment and Management of Odour from Stationary Sources in NSW 2006. The report shall be submitted detailing:

- (a) the assessed odour impact of the entire facility were relevant, including the commercial kitchen in the basement level;
- (b) any mitigation measures required to achieve the relevant performance criteria;
- (c) the practical limit for air quality / odour control; and,
- (d) what monitoring, if any, will be required, after occupation of the premises.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

39. Architectural Plans - Amended to be Consistent with Approved Landscape & Stormwater Plans

- (a) Prior to issue of **any the relevant** Construction Certificate, the final Architectural plans shall be amended to be consistent with the approved Level 2 Floor Plan **submitted to the Regional Panel on 8 December 2024** (refer to Condition 2), the approved landscape plans (see Condition 36) and the approved stormwater plans (see Condition 37). In this regard, the elevation plan(s) shall be amended to be consistent with the approved Level 2 Floor Plan (see Condition 2), the proposal shall comply with all requirements of conditions 36 & 37. **including (but not limited to) no paths / structures / stormwater systems shall be located within the 3m setback zone and all retention / absorption tanks shall be located outside of the 6m setback areas.** The front setback area, soil areas and other relevant matters shall also be consistent between the plans. The final plans shall be submitted to, and approved by, Bayside Council's Director City Futures prior to issue of the Construction Certificate.
- (b) The plans submitted with the Construction Certificate shall be consistent with the plans approved in accordance with this condition.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

40. Detailed Traffic and Parking Design Requirements and Certification

Prior to the issue of **any the relevant** Construction Certificate, the construction certificate plans and supporting documentation shall demonstrate compliance with the following:

- (a) Compliance with the plans submitted and approved in accordance with Condition 32 (swept paths & clearance heights for the community bus and MRV).
- (b) Compliance with AS2890 Car, Bicycle and Motorcycle Parking:
 - (i) An ambulance Bay - The required ambulance bay shall be 3.5m wide and shall be signposted and appropriately line- marked to state that this space shall be used as an ambulance bay, and
 - (ii) The longitudinal profile(s) of the access driveway and any ramps within the parking facilities must comply with the Ground Clearance, Gradient (%) and Length requirements of the 2890 Australian Standards Series. Bayside Council Flood control (physical protection via a crest) and gutter flow analysis shall be incorporated in the design of the driveway profile, and

- (iii) The provision of accessible car parking spaces shall be in accordance with the relevant disability legislation. Accessible car parking spaces shall be designed and located having regard to the means of access from the parking spaces to adjacent buildings, to other areas within the building and to footpaths and roads. All accessible parking spaces shall be located within close proximity and easy access to the lift systems proposed for the building.
- (iv) The design and construction of accessible car parking spaces shall be in accordance with the Building Code of Australia, Australian Standard 2890.6: Parking facilities – Off-street parking for people with disabilities and Australian Standard 1428.1: Design for access and mobility – General requirements for access – New building work, and
- (v) The gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage. Details shall be provided prior to the issue of the Construction Certificate
- (vi) Parking facilities (including parking spaces, ramps, aisles, vehicular crossings etc.) designed to facilitate vehicular access only to passenger vehicles smaller than a SRV vehicle (as denoted by AS2890.2) must comply in full with AS/NZS 2890.1, and
- (vii) Sightlines are to comply with AS2890.1 and convex mirrors and/or splays shall be provided at blind corners within, and leading to, the carparking levels to provide increased sight distance for vehicles, and
- (viii) All vehicles are to enter and exit the site in a forward direction, and
- (c) Compliance with AS2890.2 Commercial (Service) Vehicle Parking (including community bus);
- (i) Loading and unloading within the site shall be designed and be restricted to commercial vehicles not exceeding the size and mass description of the MRV from AS2890.2:2018. Commercial vehicles greater in size and mass than the MRV are not permitted to enter the site (details of proposed community bus to be provided), and
- (ii) All driveways, access ramps/vehicular crossings shall conform with Australian Standard AS2890.2:2018 along the travel path of the service vehicles (including community bus), and
- (iii) All service vehicles shall enter the property front in front out, and
- (iv) A longitudinal section plotting headroom clearance along the travel path is to be provided for assessment, and
- (v) Demonstrate safe headroom clearance of 4.2 m is achieved along the entire travel path, parking and manoeuvring areas of the MRV & community bus within the development, and
- (vi) Swept path analysis shall be provided for manoeuvring of MRV commercial vehicles (including community bus), depicting a forward entry and forward exit manoeuvre to/from the loading bay proposed within the development, and
- (vii) The waste shall be collected by a private waste contractor,
- (viii) Sight distances throughout the development must be in accordance with Australian standards, and
- (ix) The design of the entire car parking facility is to be certified by a civil engineer

registered with the National Engineering Register (NER) as being strictly in accordance with the abovementioned requirements and the Australian Standard 2890 parking facilities series.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

41. The subsurface structure shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and “flotation” (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.

42. Geotechnical Certification

Prior to the issue of **and the relevant** Construction Certificate, a Geotechnical Engineer registered with the National Engineering Register (NER) must:

- (a) Provide detailed recommendations to allow the satisfactory implementation of the works:
- (b) Conduct a thorough geotechnical investigation of the site in line with geotechnical industry standards. The type and extent of subsurface formations on the site shall be determined via the provision of a minimum of two (2) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum, and
- (c) Provide detailed recommendations to allow the satisfactory implementation of the works:
 - (i) The appropriate means of any excavation/shoring in light of proximity to adjacent property and structures is to be determined and detailed,
 - (ii) Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be assessed and ameliorated,
 - (iii) Review the proposed method to temporarily and permanently support any excavation adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site),
 - (iv) An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable holdpoints at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages, and
 - (v) Certify the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site), and
- (d) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built

structures) will have no adverse impact on any surrounding property and infrastructure, and certify that the construction certificate plans and supporting documentation are satisfactory from a geotechnical perspective, and

- (e) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer and be outlined in an inspection schedule.

The professional recommendations of the report shall be implemented in full during the relevant stages of excavation and construction.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

43. Protection of Basement and Building Structures Below Gutter Level

All proposed habitable floor levels and basement car park entrances within the development site shall be set a minimum 100mm above the 1% AEP gutter flow. The underground basement and substructures, access stair wells, lift wells, windows, pedestrian entry / exit points etc. shall be physically protected to a minimum of 100mm above the 1% AEP gutter flow. A design certification report for floor levels of buildings and structures prepared by a suitably qualified engineer shall be submitted to the Principal Certifier prior to the issue of the relevant Construction Certificate.

REASON

To ensure the development meets engineering requirements.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

44. Dilapidation Report – Public Domain – Major

A professional engineer specialising in civil, structural or geotechnical engineering shall prepare a Dilapidation Report detailing the current condition of Bayside Council's infrastructure adjoining and within 50m of the development site, including the condition of the road reserve (including footpath, nature strip, landscaping, trees, kerb and gutter, pits, pipes, traffic devices, signs and road pavement) and other adjacent Bayside Council property prior to commencement of any work.

The report must include, but not be limited to, the following:

- (a) Photographs showing the condition of the road pavement fronting the site, and
- (b) Photographs showing the condition of the kerb and gutter fronting the site, and
- (c) Photographs showing the condition of the footway including footpath pavement fronting the site, and
- (d) Photographs showing the condition of retaining walls within the footway or road, and
- (e) The full name, accreditation, professional registration and signature of the professional engineer.
- (f) Road carriageway assessment.

The reports are to be supplied in electronic format in Word. Photographs are to be in colour, digital and date stamped.

The liability for any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition, will be borne by the applicant. The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development.

45. Use of Neighbouring Properties and Roadways for Support

Prior to the issue of the Construction Certificate, if neighbouring properties or roadway are to be utilised for excavation support, the legal rights of any adjoining properties must be respected including for permanent and temporary excavation supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for excavation support or other material in adjacent lands must be lodged to the Principal Certifier.

Where excavation support materials are proposed to be used in public land, an application must be made to Council for approval under Section 138 of the Roads Act 1993, via a permit application. The submission would need to be supported by an engineering report prepared by an Engineer registered with the National Engineering Register (NER), with supporting details addressing the following issues:

- (a) Demonstrate that any structures will not adversely affect public infrastructure, and the proposed supports within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.

The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.

46. Provision of an ambulance Bay

The Construction Certificate plans must show the provision of a dedicated ambulance bay. The ambulance shall be in accordance with Rockdale Technical Specification - Traffic, Parking and Access, section 4.3.3. Further information may be obtained from the published website of the Ambulance Services of NSW.

47. 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.

48. Food Premises Requirements

The Certifier shall not issue **any the relevant** Construction Certificate until all structural or equipment requirements for food premises specified in the conditions of development consent, the structural requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 “Design, Construction and Fit-out of Food Premises” have been incorporated in the plans and specifications for the Construction Certificate, including (but not limited to) the following:

- (a) The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 “Design, Construction and Fit out of Food Premises”
- (b) The mechanical exhaust ventilation system shall be installed in the kitchen and food preparation areas where cooking and heat producing processes are conducted. All equipment producing heat or steam shall be placed wholly under the ventilation

canopy. The ventilation system shall be designed and installed by an appropriate qualified person in accordance with Australian Standards AS1668.1-1998 & 1668.2-2002.

- (c) An extraction system shall be provided where there is any dishwasher and other washing and sanitising equipment that vents steam into the area to the extent that there is or is likely to be condensation collecting on the walls and ceiling.
- (d) All walls within the kitchen, food preparation, storage and display areas shall be of solid construction. Walls in food preparation areas shall be finished with one or a combination of glazed tiles, stainless steel, aluminium sheeting, laminated thermosetting plastic sheeting, polyvinyl sheeting with welded seams or similar impervious material which is adhered directly to the wall. The finishing materials of the wall surfaces shall provide a smooth even surface free from buckles, ledges, fixing screws, picture rails, open joint spaces, cracks or crevices.
- (e) The intersection of walls and plinths with floors in the kitchen, food preparation, storage and display areas shall be coved with a minimal 25mm radius.
- (f) The floors within the (kitchen, food preparation, storage and display areas) shall be constructed of a suitable material which is non-slip, durable, resistant to corrosion, non-toxic, non-absorbent and impervious to moisture. Floors which drain to a floor waste shall be evenly graded (at least 1:100) so that water falls to the floor waste.
- (g) Plinths shall be of solid construction, at least 75 mm high, have an impervious finish, be rounded at all exposed edges, coved at the intersection of the floor and wall to a minimum radius of 25mm.
- (h) There shall be no surfaces constructed which permit the accumulation of dirt, dust or grease or the harbourage of pests.
- (i) All openings in the walls, floors and ceiling through which service pipes and electrical conduits pass through shall be designed and constructed so as to prevent the access of vermin.
- (j) All shelving being provided for the storage of food, equipment and containers shall have the lowest shelf at least 150 mm above the floor level.
- (k) Where toilets are provided on food premises, toilet cubicles shall be separated from areas where open food is handled, displayed or stored by an intervening ventilated space fitted with self closing doors or provided with self closing doors and a mechanical exhaust system that operate when the sanitary compartment is in use and for at least 30 seconds after the cubicle is vacated.
- (l) All surfaces of counters, bars, food display units, window display, self-service display and bain-maries shall be smooth, durable, impervious and free from cracks, crevices and cavities. The underside shall have an impervious finish. Window displays for wet foods shall be coved at all intersections and installed in accordance with AS/NZS 3500.2.- 2003.
- (m) Cupboards and cabinets shall be constructed on materials with a smooth, washable, impervious surface. No backing board shall be provided to cupboards which abut the wall, although the wall shall be finished with a smooth washable surface.
- (n) A temperature gauge shall be provided to each cool room, chiller, freezer, refrigeration unit, hot and cold food storage/display units. The temperature gauge shall be accurate to one (1) degree Celsius and be visible from the outside of such units.
- (o) A commercial kitchen shall be provided with a kitchen exhaust hood in compliance with Australian Standard AS1668 Parts 1 & 2 where any cooking apparatus having a total maximum electrical output exceeding 8 kW, or a total gas

power input exceeding 29 MJ/h.

- (p) Cavities, false bottoms and similar hollow spaces capable of providing access and harbourage for vermin are not permitted to be formed in the construction of the food preparation or storage areas, or in the installation of fixtures, fittings and equipment.
- (q) Cleaning chemicals, cleaning equipment, pest control chemicals and equipment shall be located in a room designated for that use and enclosed in cupboards dedicated for that use which is located away from food preparation storage and display areas and not able to contaminate personal effects and clothing.
- (r) A floor waste fitted with a basket arrestor shall be located outside the coolroom adjacent to the door.
- (s) A double bowl sink or two compartment tub which is of a size capable of fully immersing the largest piece of equipment shall be provided with hot and cold water supplied through a single spout in the kitchen/food preparation area.

Double bowl sink or tubs shall be supplied with water of at least 50 °C in one bowl for washing purposes; and 80 °C in the other bowl for sanitising purposes if hot water sanitising occurs at the sink.
- (t) Hand wash basins shall be located so that they are not obstructed, are at bench height either permanently fixed to a wall, supporting frame or sunk into the bench top, accessible and no further than 5 metres (excluding toilets and basins) from any place where food handlers are handling open food, in the parts of the premises where open food is handled, in utensil/equipment washing areas, in staff entrance to areas where open food is handled and in staff cubicles or immediately adjacent to toilets. Hand basins shall have a permanent supply of warm running potable water delivered through a single outlet and taps which operate hands free shall be provided at all hand basins with sufficient space between the spout and base of basin for the washing of hands and arms.
- (u) Dishwashers and glass washers used to sanitise food contact surfaces, eating and drinking utensils shall be designed to operate so that the temperature of water used in the sanitising/rinse cycles, combined with the time that the utensils are rinsed in water at that temperature (or in combination) shall be sufficient to ensure that the utensils are sanitised.
- (v) All hand basins shall be provided with soap and a towel dispenser for dispensing single use towels or other means of drying hands and arms which prevents the transfer of pathogenic micro-organisms to the hands or arms (air dryers as the only means of drying hands shall not be permitted). A receptacle for used towels shall be provided at the hand wash basin.
- (w) Grease arrestors shall not be located in areas where food, equipment or packaging material are handled or stored. Access to grease arrestors for emptying shall not be through areas where open food is handled or stored or where food contact equipment and packaging materials are handled or stored.
- (x) Rooms and areas designated for the storage and washing of garbage receptacles shall be designed and constructed in accordance with the following requirements;
 - (i) The floors and walls shall be constructed of a suitable material which is durable, smooth, resistant to corrosion, impervious to moisture and coved with a minimum radius of 25mm at the intersection of walls with floors.
 - (ii) The floor shall be graded and drained to a floor waste gully connected to the sewerage system and traps of the premises in accordance with all Sydney Water requirements.

- (iii) Provide a hose tap connected to the water supply. Water used for cleaning garbage receptacles may be either potable or non potable water.
- (iv) The room shall be ventilated with either natural ventilation or alternatively mechanically ventilated in accordance with the requirements of Australian Standards AS 1668.
- (y) Should a thermostatic mixing valve be installed in the premises, the following requirements shall be met:
 - (i) The thermostatic mixing valves shall be set at a predetermined temperature of no lower than 37 °C and no higher than 43 °C. The “fail safe” mixing valves shall be installed.
 - (ii) A copy of the commissioning report for the thermostatic mixing valve shall be submitted to Council with an additional copy kept on the premises. The thermostatic mixing valves are to be serviced annually by a suitably qualified and registered plumber who has completed a TAFE course in mixing valves.
 - (iii) The thermostatic mixing valve shall be registered with Council as a warm water system in accordance with the provisions of the Public Health Act 2010 and Public Health Regulation 2012.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

- 49. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.
- 50. 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 vehicle 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 on site (i.e. 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). 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.

51. Photovoltaic cells/EV Charging System

Plans submitted with the Construction Certificate shall demonstrate compliance with the following;

- (1) Provision of photovoltaic cell systems on the rooftops as shown in the approved plans. Detailed design for the photovoltaic cells systems is to be provided, the provision of photovoltaic cells is to be at a rate that maximises the use of available non-trafficable space on all rooftops of the development.
- (2) Provision of Electric Vehicle (EV) charging car parking spaces. A minimum of one (1) off-street car parking space shall be equipped with EV charging facilities. The EV charging facilities shall be provided as 'Level 3' fast charging infrastructure with a power range of 50kW, as defined by NSW Electric and Hybrid Vehicle Plan, Future Transport 2056.

51A. Acid Sulfate Soils Management Plan (ASSMP)

An Acid Sulfate Soils (ASS) Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, must be submitted to the Council and Principal Certifying Authority (if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate for any excavation or construction works.

Whilst ASS have not yet been identified in shallow soils at the site, this plan must provide management and mitigation details to address, but not limited to the following:

- (a) Unexpected finds protocol during excavations;
- (b) Management of deeper excavations (below 0m AHD), including identification and treatment of Potential ASS from spoils generated from building foundation and footing works (such as piling spoils);
- (c) Dewatering management and mitigation measures to minimise the disturbance of Potential ASS in surrounding areas due to groundwater drawdown;
- (d) Measures required to neutralise the acidity of any acid sulfate-affected material including groundwater; and
- (e) Run-off control measures for the acid sulfate-affected soil.

This report must be provided prior to the issue of any Construction Certificate for any excavation or construction works and all recommendations of the report must be implemented during works on site.

Reason: *To protect the nature and built environment.*

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

51B. Contamination – Remedial Action Plan

An Amended Remedial Action Plan (RAP) must be prepared by a suitably qualified and experienced contaminated land consultant and in accordance with:

- (a) NSW EPA 'Consultants reporting on contaminated land' 2020;
- (b) NSW EPA approved guidelines under the 'Contaminated Land Management Act 1997'; and
- (c) Chapter 4 of the 'State Environmental Planning Policy (Resilience and Hazards) 2021;

The Amended RAP must incorporate all findings and recommendations 'Contamination Assessment' (Martens 2018) (report P1706332JR01V01) and

'Supplementary Site Investigation' (Martens 2021) (report P1706332JR04V01) for the site. In addition, the Amended RAP must also include additional assessments or justifications to specifically address, but not limited to, the following data gaps:

1. The extent and nature of fill have not yet been adequately characterised against health and ecological based criteria. Additional testing or justifications must be included
2. The supplementary report did not present survey details of the monitoring wells and groundwater flow directions. In addition, no monitoring wells were located in the western portion of the site. Further details and/or justifications must be presented, and
3. SafeWork NSW's dangerous goods search to confirm the absence of underground storage tanks, or justifications for not undertaking the search.

The Amended RAP must clearly state proposed clean-up objectives and demonstrate how the site will be made suitable for the proposed use.

The Amended RAP must be provided to the Site Auditor (Contaminated Land), the Council and the Principal Certifying Authority (if the Council is not the Principal Certifying Authority) for written concurrence, prior to the issue of any Construction Certificate for any excavation or construction works.

Reason: *To ensure that the Amended RAP proposed for the site is sufficient, and remediation of land is in accordance with legislative requirements.*

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

51C. 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.

Reason: *To ensure that the Amended RAP proposed for the site is sufficient, and remediation of land is in accordance with legislative requirements.*

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

51D. 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 development, 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.

Reason: *To ensure that the Amended RAP proposed for the site is sufficient, and remediation of land is in accordance with legislative requirements.*

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

Prior to commencement of works

The following conditions must be completed prior to the commencement of works.

52. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.

53. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

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.

54. 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.

55. 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. Any such sign is to be removed when the work has been completed. This condition does not apply to:
- (c) building work carried out inside an existing building or
- (d) 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.

56. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.

57. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.

58. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
- (a) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - (b) where the erection of gates or fences has restricted access to metering equipment.

During demolition / excavation / construction

The following conditions must be complied with during demolition, excavation and or construction.

59. 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.
60. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
61. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) 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
 - (b) Provision of perimeter fences or hoarding for public safety and restricted access to building sites.
 - (c) Maintenance of public place free from unauthorised materials, waste containers or other obstructions.
62. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.
- Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality, including a non-filterable residue not exceeding 50 milligrams/litre or small quantities may be removed by the services of a Licenced Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.
63. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
64. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
65. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority 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.

- (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.
- (c) Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
- (d) 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.
- (e) 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.

66. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- (a) preserve and protect the building from damage and
- (b) underpin and support the building in an approved manner, if necessary and
- (c) give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: 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 conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

67. When soil responses require it:

- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
- (b) adequate provision shall be made for drainage.

68. 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 Works 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 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's stormwater drainage system including gutter, pits and pipes. A dewatering management plan and water quality plan are required for this application. ***This permit is required only when temporary dewatering is required and is in addition to the permit form Water NSW.***
- 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.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

69. Temporary Dewatering Permit – Water Quality Requirements

To ensure that relevant engineering and water quality provisions are met during the period of temporary dewatering for construction, a permit must be obtained from Council to permit discharge to the stormwater system. Temporary dewatering shall not commence until this permit is issued by Council. The permit must be current and valid at all times during dewatering operations.

The water quality must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and 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 shall be provided in this report.

Reports shall be provided to Council prior to discharge of any groundwater to the stormwater system.

70. 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.

71. Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event. Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional Engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional

engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land, the Engineer registered with the National Engineering Register (NER), Principal Contractor and any Sub-Contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the Engineer registered with the National Engineering Register (NER) to prevent any further damage and restore support to the supported land.

72. 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 Section 2.8 of Council's Stormwater Pollution Control Code 1993. 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.
- (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.
- (c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- (d) Building and demolition operations such as brickcutting, 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.
- (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.
- (f) Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - (i) Cover water in dry windy weather
 - (ii) Cover stockpiles
 - (iii) Fabric fences
- (g) 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 2 metres to remove mud from the tyres of construction vehicles.

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.

In addition builders / demolishers are required to erect a 1.5m high fence along the whole of the street alignment other than at the two openings. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifying Authority, prior to the demolition of the existing structures and commencement of building operations.

- (h) Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
73. 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 must be displayed throughout construction. A copy of the sign is available from Council.
74. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.

74A. Acid Sulfate Soil Management – General

The management of Potential and Actual Acid Sulfate Soils (ASS) must be conducted in accordance with all recommendations within the ASS Management Plan required to be submitted prior to any construction certificate, and must include groundwater controls to address potential dewatering impacts on ASS at neighbouring sites during construction.

Reason: To ensure compliance with relevant guidelines and legislation.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

74B. 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 10m² 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'; and
- (d) NSW Environment Protection Authority Waste Classification Guidelines 2014.

Reason: To ensure compliance with relevant guidelines and legislation.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

74C. Remediation Works – Specific RAP/Plan

All remediation work must be carried out in accordance with:

- (a) NSW EPA 'Consultants reporting on contaminated land' 2020;
- (b) NSW EPA approved guidelines under the 'Contaminated Land Management Act 1997';
- (c) Chapter 4 of the 'State Environmental Planning Policy (Resilience and Hazards) 2021'; and

- (d) The Amended Remedial Action Plan (RAP) required to be submitted prior to the issue of the Construction Certificate.

Reason: *To protect human health and the environment and ensure remediation of land is in accordance with legislative requirements.*

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

74D. Dewatering Water Quality Requirements

For any water from temporary site dewatering to be permitted to go to the stormwater system, the water must meet the relevant Default Guideline Values (DGVs) in 'Australian & New Zealand Guidelines for Fresh & Marine Water Quality' (ANZG 2018). 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

Reason: *To ensure that any groundwater encountered during works is appropriated treated and disposed of.*

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

74E. Dewatering – Permit to Discharge to Stormwater

To ensure that relevant engineering and water quality provisions are met during the period of temporary 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. Temporary dewatering must not commence until this is issued by Council. Permanent dewatering is not permitted.

Reason: *To ensure that relevant engineering and water quality provisions are met.*

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

74F. Waste Classification – Excavated Materials

All materials excavated from the site (fill or natural) must be classified in accordance with the NSW 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.

Reason: *To ensure that materials are properly disposed of to protect human health and the environment in accordance with legislative requirements.*

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

74G. 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 EPA approved guidelines;
- (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.

Reason: *To protect human health and the environment in accordance with legislative requirements.*

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

74H. Monitoring

Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements must be made available to Council Officers on request throughout the construction works.

Reason: *To ensure that results are available upon request.*

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

Prior to issue of occupation certificate or commencement of use

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

75. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
76. Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory, or where other directional signage such as lifts or building directories or information is provided to those buildings where access and facilities for people with disabilities has been provided. Such signage shall have regard to the provisions of AS1428.1 and AS1428.2.
77. Bayside Council's Reserve Damaged During Construction

Where Bayside Council's land or 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. Private Waste Collection

Waste and recycling must be collected by a private waste contractor within the site. A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate and the maximum size of the waste collection vehicle shall be equal to or smaller than a MRV vehicle (as denoted by AS2890.2). The company engaged must ensure that all recycling is collected separately from waste. Council must be advised in writing within seven (7) days of a private contractor being engaged for waste collection services

79. Roads Act / Public Domain Works – S138

Prior to the issue of any Occupation Certificate, the following works will be required to be undertaken in the road reserve at the applicant's expense:

- (a) Construction of a new footpath and landscaping (grass verge/street tree planting as required) along all frontages of the development site;
- (b) Construction of a new fully constructed concrete vehicular entrance/s;
- (c) Removal of the existing concrete vehicular entrance/s, and/or kerb laybacks and other damaged public domain improvements which will no longer be required;
- (d) Reconstruction of selected areas of the existing concrete footpath/vehicular entrances and/or kerb and gutter;
- (e) Construction of new kerb and gutter along the frontage of the development site;
- (f) Any brick/sandstone kerb and gutter shall be retained and protected as part of the development. Any damaged sections shall be repaired using brick/sandstone kerb and gutter of a similar type and equal dimensions;
- (g) In addition to standard vehicular crossing, footpath, kerb and gutter the following works will be required to be undertaken in the road reserve in accordance with the Clause 26 Report submitted with the application prepared by Judith Stubbs and Associates, dated 2 December 2020). All works shall be at the applicant's expense;
 - (i) Construction of a complying access pathway between the site and busstops in The Grand Parade and construction of a ramp at the Post Office entrance.
 - (ii) Construction of a complying access pathway between the site and busstops in The Grand Parade.
 - (iii) Construction of a ramp at the Queens Road entrance to 279 Bay Street.

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.

- 80. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
- 81. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
- 82. A convex mirror is to be installed at the Barton Street property boundary to provide increased sight distance for vehicles.
- 83. **Forty (40)** ~~Thirty nine (39)~~ off-street car spaces and one (1) loading bay, one bus bay and ambulance bay shall be provided in accordance with the submitted plan and shall

be sealed and linemarked to the registered Certifiers satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

84. Prior to the issue of the Final 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 > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
85. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profiles shall be provided to Council if Council is not the Principal Certifying Authority.
86. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation. The certificate shall be provided prior to issue of any Occupation Certificate.
87. On completion of the installation of the mechanical ventilation systems and prior to the issue of the Occupation Certificate, a certificate of completion and performance from the design engineer shall be submitted to Council certifying that the system has been installed, inspected, commissioned, tested and performs in accordance with Australian Standards AS1668.
88. Certification of Tanking and Waterproofing
- Prior to the issue of any Occupation Certificate, an Engineer registered with the National Engineering Register (NER) shall certify that the tanking and waterproofing of all subsurface structures has been constructed in accordance with the approved design and specification. The certification is to include an inspection and evaluation of the works.
89. Parking Facility Certification
- Prior to the issue of any Occupation Certificate, documentation from an Engineer registered with the National Engineering Register (NER) must be submitted to the Principal Accredited Certifier certifying that the vehicle access and off street parking facilities have been constructed in accordance with the approved construction plans, AS/NZS 2890.1, AS2890.2 and AS/NZS 2890.6, line marked, all signage relating to car parking erected and that the car parking area is clearly and appropriately marked/signposted indicating all the vehicular movements on the site. The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of an Occupation Certificate. Signage and line marking shall comply with AS1742 - *Manual of*

(e) drainage plan shall be prepared by a registered surveyor based on a site inspection of the completed works. The WAE plan must clearly illustrate dimension lines and details of site drainage including aspects such as the On Site Detention System, Overland Flow Path, Flow through Fence, Retention Tank, Stormwater Quality Improvement Device etc. The certification and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority and Building Council.

(f) absorption trenches must be inspected, and a compliance certificate under the EP&A Act issued prior to back filling and proceeding to subsequent stages of construction. Copies of the certificate are to be maintained by the principal certifying authority and be made available to Council officers upon request.

(g) premises shall be registered with the NSW Food Authority by the proprietor of the business by completing the registration form available online at www.foodnotify.nsw.gov.au/notify/notify/notify and providing documentary evidence to the Principal Certifying Authority of the completion of this notification with the Food Authority.

Positive Covenant Application

(h) prior to the issue of any Occupation Certificate, 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:

- Stormwater Retention System.

Management plan for Garbage collection - private waste collection and disposal

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 Rockdale Technical Specification Stormwater Management. 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 dimension and details of all site drainage including aspects such as the On Site Detention System, Infiltration System, Overland Flow Path, Flow through Fence, Retention 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.

- All absorption trenches must be inspected, and a compliance certificate under Part 60f of the EP&A Act issued prior to back filling and proceeding to subsequent stages of construction. Copies of the certificate are to be maintained by the principal certifying authority and be made available to Council officers upon request.
- The premises shall be registered with the NSW Food Authority by the proprietor of the food business by completing the registration form available online at www.foodnotify.nsw.gov.au/ncsis/ and providing documentary evidence to the Principal Certifying Authority of the completion of this notification with the Food Authority.

Prior to the issue of my Occupation Certificate, 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) Stormwater Retention System.
- (b) *Management plan for Garbage collection - private waste collection and Ambulance bay.*

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.

Landscape – Compliance

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

- (a) All landscape works have been carried out in accordance with the final landscape plans approved by Bayside Council prior to issue of any Construction Certificate (refer to condition 36 in the "Prior to issue of Construction Certificate section").
- (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. The certificate shall, amongst other matters included in approved plans, confirm compliance with the following requirements.
 - (i) A minimum of six (6) large canopy trees capable to reach at least 12 meters in local conditions, and in a tree pit of minimum 5 meter measurement shall be included within the site. Other medium and small trees shall also be included with enough deep soil to allow fully development.
 - (ii) Front setback includes at least six (6) trees planted at 100 litres. Trees at time of inspection shall have a minimum height of 2.4 meters, calliper at 300mm greater than 50mm, installed with stakes and ties within a mulch bed or equivalent.
 - (iii) All other trees within the site are planted at least at 75 litres pot size. Trees at time of inspection shall have a height of 2.2 to 2.5 meters, calliper at 300mm greater than 40mm, installed with stakes and ties within a mulch bed or equivalent.
 - (iv) Three (3) street trees have been planted in the verge of Barton Street. Street trees at time of final inspection have a minimum height of 3.5 meters, a calliper at 300mm greater than 60mm, with a clear trunk height of 1.5 meters, and installed with stakes and ties, within hard timber tree pits with 100mm deep mulch.
- (c) 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.
- (d) Landscape Maintenance Specifications, Landscape Maintenance Schedule and all relevant manuals (irrigation manuals, green walls and any other specific to the development) shall be submitted to the landowner/ Strata prior to the relevant Occupation Certificate.

95. Photovoltaic cell/EV Charing spaces/Rainwater Harvesting

Prior to issue of any Occupation Certificate, the photovoltaic cell systems on the rooftops, EV Charging parking space(s) and the rainwater harvesting shall be implemented as shown on the approved architectural plans listed in Condition 2 and in accordance with approved plans, documentation and other relevant conditions of this consent.

96. Compliance with All Relevant Conditions

Prior to issue of any Occupation Certificate, compliance shall be achieved with all relevant conditions of this consent including (but not limited to):

- (a) Condition 11 - Community Consultative Committee
- (b) Condition 12 - Plan of Management
- (c) Condition 13 - Safer by Design
- (d) Condition 14 - Acoustic compliance
- (e) Condition 22 - Hair Salon
- (f) Condition 26(a) - Trees 8-13 being retained

96A. Contaminated Land – Site Validation Report

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

- (a) NSW EPA 'Consultants reporting on contaminated land' 2020;
- (b) NSW EPA approved guidelines under the 'Contaminated Land Management Act 1997'; and
- (c) Chapter 4 of the 'State Environmental Planning Policy (Resilience and Hazards) 2021'.

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.

Reason: *To ensure that land is remediated in accordance with legislative requirements and that the site is suitable for the proposed use.*

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

96B. 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 the 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.

Reason: *To ensure that land is remediated in accordance with legislative requirements and that the site is suitable for the proposed use.*

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

Integrated development/external authorities

The following conditions have been imposed in accordance with Section 91A of the

Environmental Planning and Assessment Act, 1979.

97. Water NSW

WaterNSW has issued General Terms of Approval (GTA) for the proposed development (refer below and to the letter from WaterNSW dated 23 April 2025).

The General Terms of Approval (GTA) issued by WaterNSW below do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to WaterNSW for a Water Supply Work approval and any other relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

A completed application form must be submitted to WaterNSW together with any required plans, documents, application fee, and proof of Council's development consent.

General Terms of Approval

Dewatering

GT0115-00001

Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.

~~GT0116-00001 deleted by Water NSW~~

GT0117-00001

A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.

GT0118-00001

If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@watnsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.

GT0119-00001

All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste

agreement.

GT0120-00001

The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.

GT0121-00001 deleted by Water NSW

GT0122-00001

Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)

GT0123-00001

(a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW.

(b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW):

- 1) All results from the Approved Monitoring Programme; and
- 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website.

- (c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website
www.waternsw.com.au/customer-service/water-licensing/dewatering

GT0150-00001 – Added by Water NSW

The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation- Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)). Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.

GT0151-00001

Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of expiry of Term.

GT0152-00001

This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

GT0155-00001 - Added by Water NSW

The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

GT0174-00001 - Added by Water NSW

Construction phase monitoring bore requirements GTA: a) Monitoring bores are required to be installed and collecting data prior for at least 3 months prior to submitting a water supply work approval b) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. c) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW and should be submitted prior to the application for a water supply work approval. d) The monitoring bores should be used to develop a water table map for the site and its near environs. e) The monitoring bores must be protected from construction damage. Advisory note: no

approval under the Water Management Act 2000 is required for these monitoring bores provided that they extract less than 3ML/water year.

[MDA-2025/27 – S.4.55(2) – Amended on XX/XX/25]

Roads Act

98. Construction related activities must not take place on the roadway without Council approval.

Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit. Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Works Zone signs by Council's Traffic and Road Safety Section.

Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

99. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
100. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).

Development consent advice

a. Sydney Water - Response to Proposal

Sydney Water has reviewed the application and provided the following comments by letter dated 6 April 2021 to assist in planning the servicing needs of the proposed development.

(a) Watering Services:

- (i) Potable water servicing should be available via a 100mm CICL watermain (laid in 1921) on Barton Street
- (ii) Amplifications, adjustments, and/or minor extensions may be required.

(b) Waste Water Services

- (i) Wastewater servicing should be available via a 150mm SGW wastewater main (laid in 1954) to the rear of the property.
- (ii) Adjustments to the 225mm SGW wastewater main within the property boundary may be required. Detailed requirements will be provided at the Section 73 stage.

This advice is not formal approval of their servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided by Sydney Water once the development is referred to Sydney Water for a Section 73

application. More information about the Section 73 application process is available on Sydney Water's web page in the Land Development Manual.

- b. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- c. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.

d. *Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at www.1100.com.au or telephone 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.

- e. If Council is appointed as the Principal Certifying Authority (PCA), a fee shall be paid before a Construction Certificate is issued. If the fee is paid after the end of the financial year, it will be adjusted in accordance with Council's adopted fees and charges. The fees charged encompass all matters related to ensuring that the proposed development is carried out in accordance with the approved plans and any post inspection issues that may arise.
- f. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:

- Work Health and Safety Act 2011
- Work Health and Safety Regulation 2011
- Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)] Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
- Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- g. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- h. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

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 (5) 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.
- Under Division 8.3 of the Act, applicants who are dissatisfied with the outcome of a 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. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

Should you have any further queries please contact Michael Male for 9562 1666

DRAFT

Christopher Mackey
Coordinator Development Assessment