

Kim Holt

From: Lashta Haidari <Lashta.Haidari@northernbeaches.nsw.gov.au>
Sent: Thursday, 3 December 2020 1:37 PM
To: Kim Holt
Cc: Steven Findlay; peter.robinson; Carly Sawyer
Subject: FW: PPSSNH-91 - DA2020/0272 - panel request
Attachments: DO NOT SCAN Licence Deed.pdf; OPERATIONAL PLAN OF MANAGEMENT PDF 691 PRD.pdf; Draft conditions (Revised).PDF

Hi Kim,

Please see the response from Council in relation to the points raised by the panel:

- 1. Council to review and assess amended ground floor plan noted as Revision G. The Panel notes that the basement plan needs to be revised to accord with revision G and the complete set of plans would need to be updated accordingly, which the panel considers could be conditioned. If so, please provide a new draft condition of consent.***

Comment:

Amended set of plans provided including the following amendments:

1. New drawing DA099 Basement Plan, Rev A, showing basement with 12 car stacker parking system.
2. Amended drawing DA100 Ground Floor & L1 Plan, Rev H, reflecting what will be the permanent uses of the ground floor including: 13 motorcycle parking spaces, service bay and 12 car stacker parking system. Note added regarding interim use as temporary additional bicycle parking to be provided within motorcycle parking area until rear lane construction.
3. Amended drawing DA110 Ground Floor Plan - Extended Rear Lane, Rev H, with note added regarding interim use as temporary additional bicycle parking to be provided within motorcycle parking area until rear lane construction.
4. Amended drawing DA000 Cover Page, Rev D, showing updated drawing list and removing redundant drawings not part of this approval (e.g. drawings related to 687 Pittwater Rd, feasibility studies, etc).
5. Amended drawing DA735 691 Pittwater Rd Car Stackers Detail, Rev H, showing additional information and additional transversal section for clarity.

- 2. Applicant to provide to council, if not already provided, a full set of plans including the amended plans submitted 24 November 2020.***

Comment:

The attached a Dropbox link provides a complete set of Architectural Plans addressing all points requested. (Please note one set has revision clouds and another clean set without revision clouds), also a Schedule of Amendments summary from the Architect. These plans have also been uploaded to the Planning Portal.

<https://www.dropbox.com/sh/p4g1js5t1z7vxqd/AAABwjOfEZXwFk7qabMFwUra?dl=0>

- 3. Applicant to provide documentary evidence of the licence agreement with the Salvation Army re construction access;***

Comment:

Attached is a copy of the executed Licence Access Deed dated 2nd October 2020, between ACN 605 170 358 Pty Ltd (Applicant) and the Salvation Army for construction access.

4. Applicant to confirm number of motorbike parking spaces which will be provided at 5 Mooramba Road.

Comment:

The applicant has indicated that they can provide 1 car share (reduced from two) and two motorbike parking spaces within 5 Mooramba Road. Condition 15 has been amended to reflect this arrangement.

5. Council to advise any additional requirements for the Plan of Management which should be added to Condition 67.

Comment:

The plan of Management has been included as document to be complied with in Condition No. 2.

6. Council to advise any further change to the draft conditions of consent, particularly noting the deferred commencement conditions.

Comment:

Attached is the draft set of revised conditions, which includes the amended set of drawings in condition 2. Plan of Management have been added to Condition No. 2. The revised set have been amended to reflect the amended plans and revised scheme in relation to the motorcycle parking in 5 Mooramba.

Additional e-mail response from the Panel

- ***We want the approved plans to reflect what will be the permanent uses on the ground floor (i.e. especially for the motorcycle parking).***

Comment:

Drawings DA100 Ground Floor amended Revision H provided reflecting what will be the permanent uses of the ground floor including: 13 motorcycle parking spaces, service bay and 12 car stacker parking system.

- ***In the short/medium term (until the rear access is formalised), the motorcycle parking area won't be used for that purpose (i.e. in the same way that the area for the car stacker won't have any cars in it).***

Comment:

Note added to amended drawing DA100 Ground Floor & L1 Plan Revision H regarding interim use as temporary additional bicycle parking to be provided within motorcycle parking area until rear lane construction.

Please contact me, should you or the panel have any further questions in relation to this matter.

Regards

Lashta Haidari

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Development Assessment

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Northern Beaches Council

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CONDITIONS OF APPROVAL

Application Number:	DA2020/0272
Land to be developed (Address):	Lot 1 DP 166322, 691 Pittwater Road DEE WHY NSW 2099
Proposed Development:	Demolition and construction of a mixed use building (shop-top boarding house)

DEFERRED COMMENCEMENT CONDITIONS

1. **Parking provision within the site**

The Applicant is to provide parking within the site for 12 vehicles allocated to the boarding house use, which is classified additional to the existing approved use. Plans showing the provision of parking for twelve (12) B85 design vehicles shall be submitted to and approved by Council prior to activation of this Consent.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA 000, Rev D; DA 001, Rev C; DA 002, Rev G; DA 004, Rev C; DA 005, Rev C; DA 010, Rev C; DA 011, Rev C; DA 099, Rev A; DA 100, Rev H; DA 101, Rev C; DA 102, Rev C; DA 103, Rev C; DA 104, Rev C; DA 110, Rev H; DA 200, Rev G; DA 201, Rev C; DA 202, Rev C; DA 300, Rev G; DA 301, Rev G; DA 302, Rev C; DA 303, Rev G; DA 400, Rev C; DA 620, Rev C; and DA 735, Rev H.	27/11/2020	BKA Architecture

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Management Plan - Sheet 1	05/03/2020	Taylor Consulting
Erosion and Sediment Control Plan - Sheet 2 and 4	10/08/2020	Taylor Consulting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Access Report	15/03/2020	Design Right Consulting
National Construction Code Report	15/03/2020	Design Right Consulting
Flood Risk Management Plan	11/03/2020	Taylor Consulting
Statement of Heritage Impact	March 2020	Heritage 21
Green Travel Plan - Ref. 19091 - Rep. 02	17/09/2020	TEF Consulting
Parking Demand and Trip Generation	21/09/2020	TEF Consulting
Traffic Engineering Assessment	17/03/2020	TEF Consulting
Waste Collection Requirements	22/09/2020	TEF Consulting
Operational Plan of Management	Undated	Unknown
Operational Waste Management	March 2020	Waste Audit
Preliminary Geotechnical Assessment	17/02/2020	Ascent
Noise Impact Assessment - Rev. 2	16/03/2020	Acoustic Logic
Section J Report - Rev. B	13/03/2020	Outsource Ideas Pty. Ltd.

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
LPDA 20 - 152 / 1, 2, 3, 4, and 5 - All Rev. A	06/02/2020	Conzept

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	06/03/2020	Gannet Developments

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

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	23/04/2020
Transport for NSW	TfNSW response - DA2020/0272 691 Pittwater Road Dee Why - Transport For NSW	15/05/2020

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

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

4. **No Approval for any Signage**

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2011 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

5. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and

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

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

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

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

Reason: Legislative requirement.

6. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

7. **Security Bond**

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

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

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

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

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

8. **Dee Why Town Centre Contributions Plan 2019**

A monetary contribution of \$407,938.56 (subject to (a) below) is payable to Northern Beaches

Council for the provision of local infrastructure and services pursuant to section 7.11 of the Environmental Planning & Assessment Act 1979 and the Dee Why Town Centre Contributions Plan 2019.

The monetary contribution is based on:

- a residential contribution of \$407,938.56, and
- a non-residential contribution of \$0

a) Written evidence (receipt/s) from Council for the payment of the monetary contribution is to be provided to the Certifying Authority prior to the issue of the construction certificate or subdivision certificate (whichever occurs first), or prior to the issue of the subdivision certificate where no construction certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter in which the development consent is issued, the amount unpaid (whether it be the full monetary contribution or part thereof) will increase on a quarterly basis in accordance with the applicable Consumer Price Index.

b) The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land in lieu of the cash contribution above (or any portion of that cash contribution) or the deferral of payments through a Material Public Benefits Agreement between Council and the Applicant in accordance with the Contribution Plan. The Material Public Benefits Agreement between the Applicant and Northern Beaches Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.

The Dee Why Town Centre Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan that enables the provision of public infrastructure and services commensurate with the increased demand resulting from development in the Dee Why Town Centre.

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

The applicant is to lodge a Bond of \$10,000 as security against any damage to or failure to complete the reconstruction of any damaged kerb and gutter and any footpath as part of this consent.

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

Reason: Protection of Council's infrastructure.

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

10. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

11. **Detailed Design of Stormwater Treatment Measures**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been

designed in accordance with the plans prepared by Taylor Consulting and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment

12. **Photographic Archival Record**

A photographic archival record of the site is to be made of all existing buildings and structures (including interiors and exteriors and their setting), in accordance with the NSW Heritage Council's guideline '*Photographic Recording of Heritage Items Using Film Or Digital Capture*' (2006).

This record must be submitted and approved by Council, prior to commencement of any demolition or works on-site and prior to the issue of a Construction Certificate.

The photographic record should be made using digital technology and should include:

- Location of property, date of survey and author of survey;
- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100;
- Photographs which document the site, cross-referenced in accordance with recognised archival recording practice to catalogue sheets. The extent of documentation will depend on the nature of the item.

Details demonstrating compliance with the condition are to be provided to the Principal Certifying Authority.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

13. **Heritage Interpretation Plan**

A Heritage Interpretation Plan is to be prepared for the site. The Interpretation Plan should be prepared by a suitably qualified consultant in accordance with the Heritage NSW guidelines "Interpreting Heritage Places and Items" and must be submitted to Council for approval prior to the issue of the Construction Certificate. The Plan must include strategies which are to be implemented as part of the approved development.

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

Reason: To ensure that the historical and cultural significance of the site is recognised and interpreted as part of the new development of the site.

14. **Construction Traffic Management Plan**

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

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 6.00-10.00am and 3.00-7.00pm. Truck movements must be agreed with Council's Transport Network team prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Seven (7) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- 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
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742

– “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

15. **Right of Way**

A 6.0m wide right of way (ROW) shall be established along the rear of the site as per condition 63. The proposed ROW shall comply with requirements of AS2890.2-2002 in regards to grade to accommodate a minimum length of 7.19m Council’s waste vehicle. A plan showing the grades along the ROW shall be submitted to and approved by Council’s Traffic Engineer prior to the issue of the Construction Certificate.

Until the ROW is provided as contemplated in condition 64 and 68, the applicant is to provide 1 car share and 2 (two) motor cycles spaces within 400m of the site for the sole use of the boarding house residents.

Reason: Where a right of way is required for Council Access and/or neighbouring properties.

16. **Waste and Service Vehicle Access**

Access to the on-site loading bay area including ramp grades, transitions and height clearance shall be designed to comply with forward in and forward out access of an 7.19m Medium Rigid Vehicle (MRV), as a minimum requirement as per condition 64. The height clearance required is 4.0m. Swept path diagrams must include details of the road including, kerb line, line marking, signs, traffic devices, power poles, other structures and neighbouring driveways. Plans showing the ramp grades, transitions and height clearance and swept path diagrams of 7.19m MRV shall be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate is room available for servicing the site.

17. **Vehicle Access & Parking**

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

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

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

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

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and

parking of vehicles.

18. On-Street Work Zone

The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Application forms for work zones are available on Council's website or at the Customer Service section at Council's administration building. Applications shall be lodged at least 4 weeks prior to work commencing.

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

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

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

19. Building Code of Australia Upgrade requirements and Fire Safety Upgrade

The Building Code of Australia works and fire upgrading measures to upgrade the building as detailed and recommended in the National Construction Code Report prepared by Design Right Consulting, dated 15 March 2020, Report Ref No. - are to be carried out in full to the building. Details being specifications and plans demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

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

20. On-site Stormwater Detention Details

The Applicant is to provide drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's 'Warringah Council's Water Management Policy PL850' and generally in accordance with the concept drainage plans prepared by Taylor Consulting, drawing number Sheet - 1 dated 5 March 2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering. Detailed drainage plans, including Engineering certification, are to be submitted to Roads and Maritime for approval in accordance with the requirements of the letter from Transport for NSW dated 14 May 2020, reference SYD20/00471/01. This approval is to be issued to the Certifying Authority prior to the issue of the Construction Certificate.

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

21. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any

property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

22. **Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

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

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

23. **Structural Engineering Report on the Heritage Facade**

A report, prepared by a suitably qualified and practicing structural engineer, is to be submitted to Council.

The report must undertake an assessment of the heritage listed façade of 691 Pittwater Road, Dee Why and outline their structural adequacy and methodology for retention and how they will be conserved, including any works that will be required to achieve this.

The report must be submitted to and approved by Council prior to the issuing of the construction certificate.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To understand the methods needed to protect and retain heritage significant fabric during demolition and construction.

24. **Flooding**

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

Building Components and Structural Soundness – C1

All new development up to the FPL of 19.9m AHD shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Flood Planning Level of 19.9m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 19.9m AHD.

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 19.9m AHD unless adequately protected from floodwaters in accordance with industry standards.

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

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

25. Compliance with Standards

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

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

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

26. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

27. Waste and Recycling Requirements

Details demonstrating compliance with Warringah Development Control Plan – Part C9 Waste Management, including the required Warringah Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Warringah Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.
(DACWTC01)

28. Work Zones and Permits

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

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

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

29. Pre-Construction Dilapidation Report

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties and public infrastructure (including roads, gutter, footpaths etc). Specifically, a dilapidation report for the following properties must be provided:

- 693 Pittwater Rd Dee Why
- 687 Pittwater Rd Dee Why

A copy of the report must be provided to Council and any other owners of public infrastructure and the owners of adjoining and affected private properties

Reason: Protection of Council's Infrastructure and private property during construction

30. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

31. Road Reserve

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

Reason: Public safety.

32. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

33. Ongoing Management

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

Reason: To ensure public safety.

34. Removing, Handling and Disposing of Asbestos

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

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

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

35. Survey Certificate

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

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

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

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

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

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

36. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls

must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

37. **Property Boundary Levels**

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

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

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

38. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

39. **Substitution of Stormwater Treatment Measure**

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must first be approved by the Principal Certifying Authority.

Details must be submitted to the Principal Certifying Authority for approval prior to installation.

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

40. **Engineering and Heritage**

The existing façade of 691 Pittwater Road, Dee Why is to be retained in accordance with the recommendations of the Structural Engineer referenced in the structural engineering report condition. A suitably qualified and practising structural engineer is to be appointed to oversee these works during demolition and construction works.

A suitably qualified and practising heritage architect is to be appointed to oversee the conservation and retention of the façade at 691 Pittwater Road, Dee Why during demolition and construction works.

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

Reason: To protect heritage significant fabric during demolition and construction.

41. **Installation and Maintenance of Sediment and Erosion Controls**

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

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

The discharge of sediment-laden waters from the site may result in clean-up orders and/or fines under Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Reason: Protection of the receiving environment

42. **Dewatering Management**

Council proactively regulates construction sites for sediment management.

Where a one-off instance of dewatering of groundwater or tailwater is required during works, Council's Catchment Team must be notified of your intention to discharge. Discharges should meet the water quality requirements below. Notification must be via the Team's email address - catchment@northernbeaches.nsw.gov.au.

If continuous dewatering or dewatering on multiple events is expected, a dewatering permit is required from Council's Catchment Team at catchment@northernbeaches.nsw.gov.au.

To obtain a permit, the following information must be contained in a dewatering management plan and provided to Council's Catchment Team. The dewatering management plan must be certified by a suitably qualified civil engineer who has membership of Engineers Australia and appears on the National Engineering Register (NER).

1. Preliminary testing of groundwater/tailwater must be conducted by a NATA accredited laboratory to establish a correlation between NTU and TSS. This will allow the use of grab sampling at short notice prior to planned discharges.
2. Grab samples must be collected within 1 hour before planned discharge that comply with the parameters in the table below.
3. The groundwater/tailwater to be discharged must be compliant with the water quality requirements below, the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Water Quality (<one hour of planned discharge)

Oil and grease, not visible

pH, 6.5-8.5

Total Suspended Solids (TSS), <50mg/L NTU from a meter/grab sample

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

5. Tailwater must be discharged to the nearest stormwater pit in accordance with Council's Auspec1 Design Manual and must not spread over any road, footpath and the like. Discharge to the kerb and gutter will not be accepted. Where there is no stormwater pit within 100 metres of the site, Council's Catchment Team must be contacted to discuss alternative arrangements.

On receipt of a satisfactory dewatering management plan, Council's Catchment Team will issue a permit that will allow dewatering for up to one year. This permit should be provided to WaterNSW for their permit. Once a permit has been received from WaterNSW, dewatering may commence.

Reason: Protection of the receiving environment

43. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling – timber – bricks – tiles – plasterboard – metal – concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.
(DACWTE02)

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

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

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

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

Reason: Protection of the receiving environment

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

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

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

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the

Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

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

46. **Stormwater Treatment Measure Operation and Maintenance Plan**

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

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

1. Detail on the stormwater treatment measures:

- a) Work as executed drawings
- b) Intent of the stormwater treatment measures including modelled pollutant removal rates
- c) Site detail showing catchment for each device
- d) Vegetation species list associated with each type of vegetated stormwater treatment measure
- e) Impervious area restrictions to maintain the water balance for the site
- f) Funding arrangements for the maintenance of all stormwater treatment measures
- g) Identification of maintenance and management responsibilities
- h) Maintenance and emergency contact information

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

a) Activity description, and duration and frequency of visits

Additionally for vegetated devices:

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

3. Maintenance schedule and procedure - ongoing

- a) Activity description, and duration and frequency of visits
- b) Routine maintenance requirements
- c) Work Health and Safety requirements
- d) Waste management and disposal
- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

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

Reason: Protection of the receiving environment.

47. **Works as Executed Drawings - Stormwater Treatment Measures**

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

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

Reason: Protection of the receiving environment

48. **Loading Dock Management Plan**

A Loading Dock Management Plan shall be prepared by the applicant and submitted to and approved by the Principal Certifying Authority prior to the issue of any Occupation Certificate.

The Plan will need to demonstrate how loading dock will be managed to ensure that there will be only one vehicle entering and exiting the loading dock access in any period and how safe servicing arrangements including waste collection will be undertaken without interrupting general traffic. Vehicle queuing on public road(s) is not permitted.

Reason: to ensure the loading dock is managed appropriately and that tenants are aware of the conditions of use.

49. **Operational Management Plan**

An Operational Management Plan (OMP) is required to be prepared and submitted to Council detailing the operation of the development. The OMP shall include, but not be limited to the following:

- Vehicle access and egress.
- Through-site circulation of vehicle movements.
- Management of car parking areas.
- The location and content of directional signage.
- Complaints management.
- Noise management.
- Truck delivery times and methods of control to manage the sequencing of the loading docks.
- Waste management.

The OMP is to contemplate the construction of the vehicle access, conversion of bicycle to motorcycle parking and installation of the car stacker as per plan DA 110 when the rear lane is able to be constructed, being the Activation Date as contemplated in condition 63. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure that the development operates with minimum disruption to the surrounding area.

50. **Mechanical Servicing**

The applicant is to include a Section 88E instrument on the title permitting Council to provide direction as to the repair/maintenance of any mechanical devices including the future car stacker contemplated in condition 63. In the instance where the registered proprietor does not comply with the direction of Council, or fails to address repair/maintenance requirements in a timely manner, Council reserves the right to undertake the repairs and all fees associated will be borne by the registered proprietor.

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

Reason: To ensure the mechanical services are maintained in a serviceable state at all times

51. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and Hydraulic Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction for the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be obtained.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

52. **Boarding House Management Statement**

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

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

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

53. **Approved Heritage Interpretation Plan**

The approved Heritage Interpretation Plan must be implemented to the satisfaction of Council prior to the issuing of the Occupation Certificate.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To ensure that the historical and cultural significance of the site is recognised and interpreted as part of the new development of the site.

54. **Garbage and Recycling Facilities**

All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

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

to the issue of any interim / final Occupation Certificate.

Reason: To prevent pollution of the environment and to protect the amenity of the area.
(DACPLF03)

55. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

56. Sydney Water

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

57. Waste and Recycling Facilities Certificate of Compliance

The proposal shall be constructed in accordance with Warringah Development Control Plan – Part C9 Waste Management except where shown in the approved plans.

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

Reason: To ensure waste and recycling facilities are provided. (DACWTF01)

58. Waste/Recycling Compliance Documentation

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

59. Positive Covenant for Waste Services

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation

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

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF03)

60. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land. (DACWTF04)

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

61. **Maintenance of Stormwater Treatment Measures**

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

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

Reason: Protection of the receiving environment

62. **Road Occupancy Licence (ROL) from Roads and Maritime Services**

The developer shall apply for a Road Occupancy Licence (ROL) from the RMS Transport Management Centre (TMC) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified with 'Prepare a Work Zone Traffic Management' accreditation or equivalent. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TMC.

Reason: To inform the relevant Roads Authority of proposed disruption to traffic flows.

63. **Right of carriageway and positive covenant**

A right of carriageway at the rear of the site that is 6m wide and limited in depth to ground but unlimited in height and a positive covenant in respect to construction of the right of carriageway, installation of the car stacker and conversion of bicycle to motorcycle parking (as shown in plan DA 110) shall be created on the title of the land prior to the issue of the occupation certificate. The instrument is to be prepared at the applicant's expense and endorsed by Council prior to lodgement with Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. The instrument must provide for:

1. A right of carriageway that burdens the rear 6m of 691 Pittwater Road to enable vehicles (except construction vehicles and vehicles greater than 7.19m, higher than 4.0m and a loaded weigh greater than 25 tonnes) to use the right of way for through site access from

St David Avenue to Fisher Road and the properties in between and for the grantor (being the owner of the lot burdened at 691 Pittwater Road) to construct (as per the conditions of this consent) and then maintain the carriageway over its land within 6 months of the Activation Date;

2. A positive covenant burdening 691 Pittwater Road and requiring the demolition of the temporary wall, construction of the right of carriageway surface, the car stacker and other variations shown in plans DA 110 and 735 within 6 months of the Activation Date; and
3. The Activation Date is the date when the grantee (being Council) notifies to the grantor that rights of carriageway over sufficient neighbouring lots has been granted for the benefit of the grantor or its land (being 691 Pittwater Road) and a trafficable surface has been constructed sufficient to authorize and enable vehicles up to 7.19m long to pass from the right of carriageway on the burdened land at 691 Pittwater to a public road.

Reason: To ensure ongoing access for servicing of waste facilities.

64. **Operational Waste Management Plan**

The development must comply with the Operational Waste Management Plan dated March 2020 by Waste Audit and Consultancy Services Pty Ltd

Reason: To ensure the ongoing responsible management of waste for the development (DACHPGOG5)

65. **Future use of Retail Premises**

A separate Development Application for any future use of the retail portion of the development must be submitted, if that future use involves the sale of food.

Reason: To ensure compliance with legislation (DACHPGOG5)

66. **Compliance with the Boarding House Plan of Management and occupation rates**

The requirements of the Boarding House Plan of Management required by this consent is to be fully implemented in perpetuity from the issue of any interim / final occupation certificate. The building is to contain a maximum of 63 rooms (excluding the Boarding House Manager unit), being no more than 1 persons per designated single bedroom or 2 persons per designated double bedroom. In order to maintain this occupancy rate, a sign is to be erected immediately adjacent to the doorway accessing the building detailing the maximum sleeping capacity of each room.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.

67. **Activation of rear lane access**

Within 6 months of the Activation Date as referenced in condition 63, the owner is to demolish the temporary wall at the boundary of the rear lane, construct a trafficable surface for the right of carriageway as per the plans approved in conditions 14, 15 and 16 and convert the motorcycle parking to bicycle parking as per DA 110 and install the car stacker as per DA 110 and DA 735. Certificates verifying compliance and functionality of the car stacker are to be provided to Council within 6 months of the Activation Date.

Reason: To ensure compliance with conditions relating to activation of rear lane access.

68. **Commercial Waste Collection (DACPLG18)**

Waste and recyclable material, generated by this premises, must not be collected between the

hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.(DACPLG18)

69. **Commercial Waste and Recycling Storage**

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

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed. (DACPLG19)

Licence Access Deed

PARTIES

THE SALVATION ARMY (NEW SOUTH WALES) PROPERTY TRUST (ABN 57 507 607 457) (*Grantor*)

AND

**ACN 605 170 358 Pty Ltd
(ACN 605 170 358)
(*Grantee*)**

DATED 2 October 2020

*HPL Law Group
1/17 Albert Street,
Freshwater NSW 2096
PO Box 705, Freshwater NSW 2096
P (02) 9905 9500
Ref: Anthony Mete*

THIS DEED dated

2020

PARTIES: **THE SALVATION ARMY (NEW SOUTH WALES) PROPERTY TRUST (ABN 57 507 607 457) (Grantor)**

AND **ACN 605 170 358 Pty Ltd (ACN 605 170 358)**
c/- Level 1, 17 Albert Street Freshwater NSW 2096 (*Grantee*)

Recitals

- A. **ACN 605 170 358 Pty Ltd (ACN 605 170 358)** (the **Grantee**) is the registered proprietor of the Property located at 691 Pittwater Road Dee Why in the state of New South Wales being Folio Identifier 1/166322 (the **Property**).
- B. The Grantee intends to obtain a development approval for a mixed use development (**the Approval**) at the Property, and has lodged a Development Application in this regard.
- C. **THE SALVATION ARMY (NEW SOUTH WALES) PROPERTY TRUST** (The **Grantor**) is the registered proprietor of the property located at:
- (a) Fisher Road Dee Why in the state of New South Wales being lot 2 in deposited plan 417528 (the **Grantor's Property**), being adjacent to the Property (to the rear).
- (b) 1 Fisher Road Dee Why in the state of New South Wales being lot 1 in deposited plan 417528 (**Grantor's Operating Property**).
- D. In order to proceed with the construction works at the Property in accordance with the Approval, the Grantee and the Grantee's Contractors require usage of the Grantor's Property, specifically to:
- (a) access the area as shown on the plan annexed hereto and marked "A";
- (b) demolish the house on the Grantor's Property and garage located partially on the Grantor's Property and partially on the Grantor's Operating Property as specified in the plan annexed hereto and Marked Annexure D;
- (c) temporarily occupy the airspace above the Grantor's Property insofar as necessary to operate a crane to be used by the Grantee and the Grantee's Contractors at the Property as shown on the plan annexed hereto and marked "B"; and
- (d) erect temporary scaffolding in the area designated on the plan annexed hereto and marked "A".
- E. In order for the Grantee and the Grantee's Contractors to operate the swing lift and associated crane and erect, use and dismantle the temporary scaffolding and gain access to the area for the construction works, and demolish the garage and house, the Grantee and the Grantee's Contractors will require access to the Grantor's Property and, where expressly specified, the Grantor's Operating Property.
- F. The Grantor has agreed to grant a licence to the Grantee and the Grantee's Contractors to access the Grantor's Property and, where expressly specified, the Grantor's Operating Property, in accordance with the terms of this Deed.

It is agreed

1. Definitions and Interpretation

1.1 Definitions

In this Deed:

- (a) **Authority** means any government or governmental, semi-government, local government, statutory, public, ministerial, administrative, fiscal or judicial body, department, commission, authority, Tribunal, agency or entity;
- (b) **Bank Guarantee** means an unconditional bank guarantee without an expiry date in the amount of \$1,000,000 in a form acceptable to the Grantor, acting reasonably, as security for the Grantee's performance of the Works and Demolition Works;
- (c) **Building** means the house on the Grantor's Property and garage partially on the Grantor's Property and partially on the Grantor's Operating Property, as further detailed in the plan attached to the Lease at Annexure B;
- (d) **Business Day** means any day which is not a Saturday, Sunday or public holiday in Sydney;
- (e) **Claims** means any form of claim including actions, costs, demands, proceedings, penalties and any claim for loss, expertise, negligence, death, injury or damage;
- (f) **Commencement Date** has the meaning given to it in clause 3A;
- (g) **Construction Area** means the area detailed as such in the Design Plan at Annexure "A";
- (h) **Consultant** means a suitably qualified, independent consultant with experience in surveying sites and preparing condition and dilapidation reports, as agreed between the parties;
- (i) **Council** means Northern Beaches Council;
- (j) **Demolition Works** means the works to be conducted by the Grantee and the Grantee's contractors on the Grantor's Property (and, in part, on the Grantor's Operating Property), for the purposes of demolition of the Building and includes the Garage Demolition Works;
- (k) **Garage Demolition Works** means the works to be conducted by the Grantee and the Grantee's Contractors on the Grantor's Property (and, in part, on the Grantor's Operating Property), for the purposes of demolition of the Garage as identified in Annexure "D";
- (l) **Design Plan** means the plans detailing and describing and identifying the location of the Scaffolding Area (if any) and Construction Area attached at Annexure "A" and the plans detailing the crane radius attached at Annexure "B" which may be amended from time to time by consent of the Grantor;
- (m) **Development Application** means DA2020/0272, and any modifications to it;
- (n) **Dollars or the \$** means Australian currency;
- (o) **Environmental Laws** means any statute, law, regulation, policy or guideline issued by a regulatory or governmental body, regulating, controlling or

otherwise relating to the environment or the protection of the environment;

- (p) **Expert** means an independent expert appointed to determine a dispute in accordance with clause 22;
- (q) **First Instalment** means : plus GST;
- (r) **Grantee** means **ACN 605 170 358 Pty Ltd (ACN 605 170 358)**;
- (s) **Grantee's Contractors** means such person or persons appointed from time to time by the Grantee to perform the Works or any part of them, and who will be notified to the Grantor in writing upon appointment;
- (t) **Grantor** means **The Salvation Army (New South Wales) Property Trust (ABN 57 507 607 457)**
- (u) **Grantor's Property** means the property located at Fisher Road Dee Why in the state of New South Wales being lot 2 in deposited plan 417528, forming part of Auto Consol 8423-247;
- (v) **Grantor's Operating Property** means the property located at 1 Fisher Road Dee Why in the state of New South Wales being lot 1 in deposited plan 417528, forming part of Auto Consol 8423-247, which the Grantor and its invitees utilise for the Grantor's ongoing operations;
- (w) **Lease** means the lease of the Grantor's Property from the Grantor (as landlord) to the Grantee (as tenant) dated on or about the date of this Agreement;
- (x) **Legal Requirements** means acts, ordinances, regulations, by-laws, orders, awards and proclamations in the relevant jurisdiction, certificates, licences, consents, permits, approvals and requirements of any Authority, including any obligations under the Approval;
- (y) **Licence Fee** means the First Instalment and the Second Instalment;
- (z) **Property** means the property located at 691 Pittwater Road Dee Why in the state of New South Wales being Folio Identifier 1/166322;
- (aa) **Representatives** means any officers, employees, agents, servants, consultants, contractors, subcontractors and invitees;
- (bb) **Scaffolding Area** means the temporary scaffolding area detailed as such in the Design Plan at Annexure "A";
- (cc) **Second Instalment** means :
- (dd) **Standards** means the *Building Code of Australia, Australian Standards and Codes by the Water Services Association of Australia* and any other documents published or adopted by any Governmental Authority setting out this requirements for design, construction, manufacture and supply of works or products that are directly relevant to this Deed;
- (ee) **Term** has the meaning given to it in clause 3B.2;
- (ff) **Termination Date** has the meaning given to it in the Lease; and
- (gg) **Works** means the works to be conducted by the Grantee and the Grantee's Contractors on the Grantor's Property, for the purposes of:

- (i) Demolition Works (and, in this regard, part of the works may also be conducted on the Grantor's Operating Property in accordance with this deed);
- (ii) access to the Construction Area for the purpose of loading and unloading building materials, storing building materials and any works associated with the Approval;
- (ii) operating the crane;
- (iii) tree removal (with separate Grantor and Authority approval);
- (iv) any other works on the Grantor's Property, for example, construction of a driveway, (with separate Grantor and Authority approval); and
- (v) erecting, using and dismantling of the scaffolding and any other work required to give effect to the Approval (subject to clause 3C).

2. Grantor's Licence

2.1 Subject to clause 3A, the Grantor grants the Grantee a non-exclusive licence to:

- (a) access and use the Construction Area;
- (b) access the airspace above the Grantor's Property so far as is required to undertake the Works;
- (c) operate the crane (or part thereof) within the crane radius; and
- (d) erect and maintain the scaffolding on the Scaffolding Area.

3. Consideration

3.1 In consideration for the access provided under clause 2 of this Deed, the Grantee agrees to pay the Licence Fee to the Grantor as follows:

- (a) the First Instalment is payable on the date of this Deed; and
- (b) the Second Instalment is payable within 10 Business Days after the Grantee receives the Approval.

3A Commencement Date

The rights under clause 2 commence on the day after the later of the date the Grantee:

- (a) obtains the Approval;
- (b) provides written notification to the Grantor of its having obtained the Approval (and provides a copy of the Approval to the Grantor);
- (c) without limiting paragraph (b) above, provides the Grantor with all stamped, approved documentation, development consent conditions and any other document submitted to Council as part of the Approval process;
- (d) pays the Second Instalment as cleared funds and the Grantor confirms receipt of the same in its account;
- (e) complies with the insurance requirements in clause 6;

- (f) provides the Grantor with the details of the Grantee's Contractors which require access, as reasonably required by the Grantor; and
- (g) provides the Grantor with the Bank Guarantee.

3B Term

- 3B.1 The right of access contemplated by this Deed must be commenced no later than two (2) years from the date of this Deed, failing which the right of access will be withdrawn.
- 3B.2 The right of access contemplated by this Deed once commenced by the Grantee and the Grantee's Contractors in accordance with clause 3A will end on the Lease Termination Date.

3C Development Application

- 3C.1 If the Grantee proposes to lodge a modification to the Development Application, the Development Application is amended substantially from the submitted Development Application or, alternatively, lodge a new development application for the Property, the Grantee must provide the Grantor with:
 - (a) 10 Business Days' prior written notice of the proposed modification or replacement development application, as applicable; and
 - (b) all documentation proposed to be submitted to Council as part of the Approval process.
- 3C.2 The parties acknowledge and agree that the Deed may require variation if such modifications or replacement will require an adjustment of the scope of the Works and/or access rights for the Grantee, in which case the parties must agree to negotiate in good faith any revised works or access requirements, and a variation to this Deed.

4. Conducting the Works

- 4.1 Subject to the Grantee providing the Grantor with reasonable notice, the Grantor must provide all access to the Grantor's Property as reasonably required by the Grantee and the Grantee's Contractors for the purposes of undertaking the Works.
- 4.2 The Grantee must provide the Grantor with at least fourteen (14) days' notice prior to accessing the Grantor's Property or the Grantor's Operating Property for the purpose of commencing the Works.
- 4.3 The Grantee must, and must procure that the Grantee's Contractors:
 - (a) (in respect of crane operation):
 - (i) only operate the crane within the crane radius specified in the Design Plan;
 - (ii) only swing the crane jib over airspace within the Grantor's Property or the Grantor's Operating Property:
 - (A) when the crane is in operation; and
 - (B) when reasonably required; and
 - (iii) weathervane the crane jib when the crane is not in operation;
 - (b) maintain the Works in a safe condition and state or repair and provide certification as to its compliance with all laws (including crane registration and engineers certification),

building codes and Standards as reasonably required and reasonably requested by the Grantor;

- (c) in carrying out any of the Works on the Grantor's Property or, where applicable, the Grantor's Operating Property, must comply with all applicable laws and must not damage the Grantor's Property or Grantor's Operating Property or injure any person in or on the Grantor's Property or on the Grantor's Operating Property. The Grantee, at its own cost, must otherwise immediately make good any damage caused to the Grantor's Operating Property;
- (d) in carrying out the Works, the Grantee and the Grantee's Contractors shall endeavor to not cause, or cause minimal, inconvenience or disruption to the Grantor or any occupiers of or invitees to the Grantor's Operating Property;
- (e) carry out the Works at its own risk and cost and in accordance with all laws, building codes and Standards and in a proper, workmanlike manner and using appropriate quality materials;
- (f) ensure that a high quality shade cloth is installed on and around the scaffolding to prevent any loose debris causing any damage to the Grantor's Property or Grantor's Operating Property;
- (g) ensure that access to and from the Grantor's Property is kept secure at all times;
- (h) ensure that there is no damage to or adverse impact on the Grantor's services (for example, water and sewer pipes and electricity cabling) for:
 - (i) on the Grantor's Property which service the Grantor's Operating Property;
 - (ii) on the Grantor's Operating Property,

and if the Grantor determines that there has been any impact or damage, the Grantee must promptly make good any impact or damage to the relevant services to the Grantor's satisfaction.

4A Demolition Works

- (a) The parties acknowledge that clause 21.4 of the Lease provides the Grantee (as tenant) with the right to demolish the Building, subject to the terms of this Deed.
- (b) If clause 3A has been satisfied, the Grantor permits the Grantee and the Grantee's Contractors to undertake the Demolition Works, in accordance with the following terms:
 - (i) the Grantee must provide the Grantor with at least fourteen (14) days' notice:
 - (A) prior to commencing the Demolition Works; and
 - (B) prior to its proposed access to the Grantor's Operating Property to undertake such works;
 - (ii) the Grantee must maintain the Demolition Works in a safe condition and state or repair and provide certification as to its compliance with all laws (including engineers certification), building codes and Standards as reasonably required and reasonably requested by the Grantor;
 - (iii) in carrying out the Demolition Works, the Grantee and the Grantee's Contractors shall endeavour to not cause, or cause minimal, inconvenience or disruption to the Grantor or any occupiers or invitees of the Grantor's Operating Property;
 - (iv) the Grantee and the Grantee's Contractors must carry out the Demolition Works:

- (A) at their own risk and cost;
 - (B) in accordance with all laws, building codes and Standards;
 - (C) in a proper workmanlike manner and using appropriate quality materials; and
 - (D) in accordance with all Authority requirements; and
- (v) in carrying out any of the Demolition Works, the Grantee must not damage the Grantor's Operating Property or injure any person in or on the Grantor's Property or Grantor's Operating Property. The Grantee, at its own cost, must otherwise immediately make good any damage caused to the Grantor's Operating Property.
- (c) The Grantor in its absolute discretion may permit the Grantee and the Grantee's Contractors to undertake the Demolition Works without satisfying the requirements of clause 3A(a) – (c).
- (d) The Grantor in its absolute discretion may permit the Grantee and the Grantee's Contractors to undertake the Garage Demolition Works without satisfying the requirements of clause 3A(a) – (c).
- (e) Despite any other provision of this Deed, the Grantee and the Grantee's Contractors are not permitted to access the Property from either the Grantor's Operating Property or the Grantor's Property prior to:
- (i) the satisfaction of clause 3A(d); and
 - (ii) the Grantee's commencement of physical works on the Property.

5. Dilapidation Survey

- 5.1 The Grantor shall permit the Grantee and the Consultant to access the Grantor's Property and Grantor's Operating Property for the purpose of preparing a dilapidation or condition report that records the physical condition of the Grantor's Property and the Grantor's Operating Property (including but not limited to any buildings or structures located within either property) prior to the commencement of the Works (**First Dilapidation Report**) and provide the Grantor with a copy of the First Dilapidation Report for their approval and acknowledgment.
- 5.2 Within 14 days after completion of the Works, the Grantor shall permit the Grantee and the Consultant to access the Grantor's Property for the purpose of preparing a further dilapidation or condition report that records the physical condition of the Grantor's Property and Grantor's Operating Property (including but not limited to any buildings or structures located within either property) as at the completion of the Works (**Final Dilapidation Report**) and provide the Grantor with a copy of the First Dilapidation Report for their approval and acknowledgment.
- 5.3 If the Final Dilapidation Report identifies any damage to the Grantor's Property or Grantor's Operating Property that has occurred as a result of the Works, the Grantee and its contractors must rectify at its cost, and to the reasonable satisfaction of the Grantor, any damage identified in the Final Dilapidation Report within fourteen (14) days.

5A Signage

- (a) The Grantee and the Grantee's Contractors are not permitted to display any signage in or on the Grantor's Property except with:
- (i) the Grantor's prior written approval and such approval shall not be unreasonably withheld (which can include the location, size and detail on the signage); and
 - (ii) approval from any relevant Authority.

- (b) At the end of the Term or sooner determination of this Deed, the Grantee must procure the removal of the signage from the Grantor's Property, as relevant, and make good any damage caused as a result of such removal.

6. Insurance

- 6.1 The Grantee must obtain and maintain, and must procure that the Grantee's Contractors obtain and maintain Public Liability insurance for an amount of not less than \$20 million which shall extend to cover the death or injury to any person and damage which may be caused to the Grantor's Property or Grantor's Operating Property as a result of or in connection with the Works.
- 6.2 Upon reasonable request, the Grantee and the Grantee's Contractors must produce a copy of the Certificate of Public Liability Insurance to the Grantor for inspection.
- 6.3 The Grantor must be noted as an interested party on the insurance policy and the insurance policy must include reference to the Grantor's Property and the Grantor's Operating Property.

7. Indemnity

- 7.1 The Grantee hereby indemnifies the Grantor for any Claims, liability, cost or expense arising from or in connection with the

- (a) Works;
- (b) the Demolition Works;
- (c) the Grantee exercising its rights in accordance with this Deed;
- (d) anything the Grantee's Contractor does, whether in accordance with this Deed or otherwise; or
- (e) any negligent act or omission, any willful misconduct or breach of this Deed by the Grantee, the Grantee's Contractors and the Grantee's Representatives,

except to the extent arising from any negligent act or omission or any willful misconduct of the Grantor.

7B Bank Guarantee

- (a) **Delivery of Bank Guarantee**

Prior to commencement of any works, the Grantee must deliver the Bank Guarantee to the Grantor.

- (b) **Grantor's right to call on the Bank Guarantee**

If the Grantee does not comply with any of its obligations under this Deed, the Grantor may call on the Bank Guarantee, provided it gives prior written notice to the Grantee.

- (c) **Rights in addition**

The Grantor's rights under this clause 7B are in addition to the other rights and remedies of the Grantor in relation to any default of the Grantee in connection with this Deed.

- (d) **Obligation to replace**

If the Grantor calls on the Bank Guarantee, then the Grantor may give the Grantee a notice asking it for a replacement or additional Bank Guarantee so that the amount

guaranteed equals the amount specified in or determined as set out in the definition at clause 1.1.

(e) Delivery of replacement Bank Guarantee

The Grantee must deliver the replacement or additional Bank Guarantee to the Grantor no later than fourteen days after the Grantor requests it.

(f) Call notwithstanding termination

The Grantor may call on the Bank Guarantee notwithstanding that this Deed has been terminated.

(g) Return of Bank Guarantee

Upon completion of the Works and the Grantee providing any evidence the Grantor reasonably requires that such Works have been completed in accordance with all relevant Legal Requirements, the Grantor must within fourteen (14) days, return the Bank Guarantee to the Grantee.

7C Completion of Works

Upon completion of the Works, the Grantee must promptly:

- (a) remove all plant and equipment brought onto Grantor's Property or the Grantor's Operating Property;
- (b) make good any damage caused to either the Grantor's Property or the Grantor's Operating Property; and
- (c) leave the areas of the Grantor's Property and Grantor's Operating Property accessed by the Grantee in a safe and tidy condition, with all debris removed,

and otherwise consistent with the condition in the First Dilapidation Report and requirements set out in Annexure A.

8. Not used

9. Deed Binds Successors In Title, Assignment

9.1 This Deed is binding on the heirs, successors, assigns and legal representatives of the parties.

9.2 This Deed may only be novated to a permitted assignee of the Lease.

9A Interdependency

This Deed and the Lease are interdependent, with the effect that:

- (a) if the Lease comes to an end, this Deed will come to an end; and
- (b) without limiting clause 9A(a), to the extent that a breach of this Deed gives rise to a right for the Grantor to terminate this Deed, it will be deemed to also be breach of the Lease, giving rise to the right for the Grantor to terminate the Deed and the Lease.

10. Risk

- 10.1 The parties acknowledge that the Grantee, the Grantee's Contractors and their agents, servants, contractors and employees shall access the Grantor's Property and, where permitted, the Grantor's Operating Property, at their own risk except to the extent of any negligence of the Grantor.
- 10.2 The Grantee releases the Grantor and its officers, directors, employees, contractors and agents from any actions, suits, Claims, demands, losses, damages, liabilities, costs, losses and expenses arising out of any accident, death, damage or injury to any person or property in or about the Grantor's Property or Grantor's Operating Property or otherwise in any way related to the Grantee's, the Grantee's Contractors and their Representatives' access to or use of the Grantor's Property, the Grantor's Operating Property or the Grantee exercising their rights in accordance with this Deed, except to the extent caused or contributed by the negligent act or omission or any wilful misconduct of the Grantor.

11. GST

- 11.1 If GST is payable by a supplier (or by the representative member for a GST group of which the supplier is a member) on any supply made under or in relation to this deed, the recipient will pay to the supplier an amount (**GST Amount**) equal to the GST payable on the supply. The GST Amount is payable by the recipient in addition to and at the same time as the net consideration for the supply.
- 11.2 If a party is required to make any payment or reimbursement, that payment or reimbursement will be reduced by the amount of any input tax credits or reduced input tax credits to which the other party (or the representative member for a GST group of which it is a member) is entitled for any acquisition relating to that payment or reimbursement.
- 11.3 This clause is subject to any other specific agreement regarding the payment of GST on supplies.

12. Grantor's right to Terminate

- 12.1 If the Grantee or the Grantee's Contractors default in the due observance and performance of any of the conditions expressed in this Deed and, subject to the Grantor providing reasonable notice to the Grantee to remedy such default, the Grantor may by written notice to the Grantee, terminate this Deed.

13 Grantee responsible for Grantee's Contractors

The Grantee is responsible under this Deed for anything its Representatives or the Grantee's Contractors do or not do on the Grantor's Property or the Grantor's Operating Property.

14. Dispute Process

14.1 No commencement

A party must not commence any court proceedings relating to a dispute in relation to this Deed unless it has first complied with this clause 14.

14.2 Written notice of dispute

A party claiming that a dispute has arisen under or in relation to this Deed must give written notice to the other party specifying the nature of the dispute (**Dispute Notice**).

14.3 Attempt to resolve

- (a) The parties must convene a meeting within 5 Business Days after the Dispute Notice is given, to attempt to resolve the dispute.

- (b) If the matter cannot be resolved at, or within ten Business Days after, the meeting, either party may refer the dispute to an Expert for determination.

14.4 Expert determination

- (a) Any Expert determination must be carried out in accordance with this clause 14.4.
- (b) The parties must attempt to agree on the identity of the Expert to be appointed to determine the dispute.
- (c) If the parties cannot agree on the person to be appointed as Expert (within the same 10 Business Days referred to in clause 14.3(b), either party may refer the selection of the Expert to the President of the Resolution Institute and who must be directed to choose an Expert within 10 Business Days of being requested to do so. The parties must use reasonable endeavours to appoint the selected Expert within 10 Business Days.
- (d) Both parties may, within 20 Business Days of the date of appointment of the Expert, make written submissions to the Expert on the matter the subject of the dispute. If a party makes a written submission to the Expert, it must give a copy of the submission to the other party at the same time as it gives the submission to the Expert. Submissions must include all particulars upon which a party seeks to rely in support of its position in relation to the dispute. The Expert will determine the procedure for determining the dispute.
- (e) The Expert will act as an expert, and not as an arbitrator.
- (f) The Expert's decision is final and binding on the parties (except in the case of fraud or manifest error). The cost of the Expert's decision is to be borne by the parties in the shares as the expert determines and in the absence of a determination equally between the parties.

14.5 No prejudice

This clause 14 does not prejudice the right of a party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this Deed.

14.6 Obligations pending determination

Each party must continue to perform its obligations whilst the dispute is being determined.

15 General

15.1 Notices

- (a) Any notice served or given under this Lease by either party:
 - (i) will be valid if signed by that party or any Officer of that party;
 - (ii) must be in writing and must be:
 - (A) delivered personally to the party to whom it is addressed; or
 - (B) emailed to the respective Party with acknowledgement of receipt confirmed electronically by the sender, when it will be treated as received on the day of sending;
 - (C) sent by post or facsimile to the addressee at the addresses specified in the Lease or as notified in writing by one party to the other from time to time for the purposes of this sub clause. The following provisions apply in relation to service by post or facsimile:

- (I) any notice sent by post must be sent by post capable of tracking delivery confirmation;
 - (II) any notice sent by post will be deemed as delivered on the second Business Day after the date of posting;
 - (III) any notice sent by facsimile will be deemed to have been delivered on receipt of a successful transmission confirmation report; and
- (b) notwithstanding sub-clause 15.1(a)(ii), if a notice is not sent on a Business Day or is sent after 4.00 pm on a Business Day it is deemed to have been delivered on the following Business Day.

15.2 No merger

None of the terms, conditions or any matter or thing done under or by virtue of or in connection with this Deed operates as a merger of any of the rights and remedies of the parties in or under this Deed but such rights and remedies will at all times continue in full force and effect.

15.3 No waiver

Any failure by any party to exercise any right under this Deed does not operate as a waiver and the single or partial exercise of any right by that party does not preclude any other or further exercise of that or any other right by that party.

15.4 Third parties

Subject to the terms of this Deed, this Deed will confer rights and benefits only on a person expressed to be a party, and not on any other person.

15.5 No partnership

Nothing contained in this Deed will be deemed or construed by the parties or by any other person as creating a relationship of partnership or of principal and agent or of joint venture between or amongst the parties.

15.6 No amendments

Any variations or amendment to this Deed have no force or effect, unless made in writing and signed by all parties.

15.7 Further actions

Each party must execute any document and perform any action necessary to give full effect to this Deed, whether before or after performance of this Deed.

15.8 Unconditional delivery

Unless otherwise expressly stated in this Deed, each party unconditionally signs, seals and delivers this Deed as a deed when executing this Deed and has an intention to be immediately legally bound by this Deed.

15.9 Entire agreement

This Deed and the Lease:

- (a) express and incorporate the entire agreement between the parties in relation to its subject-matter, and all the terms of these agreements; and
- (b) supersede and exclude any prior or collateral negotiation, understanding, communication or agreement by or between the parties in relation to that subject matter or any term of these agreements.

15.10. Headings

Headings are for the ease of reference only and do not affect the meaning of this Deed.

15.11. Counterparts

This Deed may be executed in any number of counterparts each of which will be an original but such counterparts together will constitute one and the same instrument will be on the date on which it is executed by the last party.

15.12 Warranties as to capacity

The Grantee represents and warrants that, as at the date of this Deed:

- (a) it has full legal capacity and power to enter into and perform its obligations under this Deed;
- (b) it has taken all action required, and obtained or been granted all consents, approvals, permissions and authorisations, whether internal or external, necessary to enable it to enter into, and perform its obligations under, this Deed; and
- (c) no representation, warranty or other information provided by it contains any untrue statement of material fact or omits to state a material fact necessary to ensure that the representation, warranty or information is not misleading.

15.13 Contra proferentum

No rule of construction will apply to the disadvantage of one party, on the basis that the party put forward this Deed or any relevant part of it.

15.14 Bodies and authorities

Where a reference is made to any person, body or Authority and the person, body or Authority has been renamed or replaced or has ceased to exist or its powers or functions have been transferred to or assumed by another person, body or Authority, the reference is deemed to be a reference to the person, body or Authority which serves substantially the same purpose as that person, body or Authority.

15.15 Severability

Any provision of this Deed which is void or invalid in any jurisdiction is void or invalid in that jurisdiction only to that extent, without invalidating or affecting the remaining provisions of this Deed or the validity of that provision in any other jurisdiction.

15.16 Governing Law and jurisdiction

This Deed will be construed in accordance with the laws of the State and each party agrees to submit to the jurisdiction of that State.

.....
Trustee

.....
Trustee

.....
Full Name

.....
Full Name

.....
Trustee

.....
Full Name

EXECUTED for and on behalf of ACN 605
170 358 Pty Ltd (ACN 605 170 358)
accordance with Section 127(1) of the
Corporations Act 2001:

.....
Signature of Director/Secretary

.....
Signature of Secretary

.....
Name of Director/Secretary (Sole)

.....
Name of Secretary

EXECUTED AS A DEED

Executed by **THE SALVATION ARMY (NEW SOUTH WALES) PROPERTY TRUST** under its common seal which is affixed pursuant to a resolution of the Trustees in the presence of:

.....
Trustee

Winsome May Mason

.....
Full Name

.....
Trustee

Kelvin Leslie Merrett

.....
Full Name



.....
Trustee

Lynette Ann Edge

.....
Full Name

EXECUTED for and on behalf of **ACN 605 170 358 Pty Ltd (ACN 605 170 358)** accordance with Section 127(1) of the *Corporations Act 2001*:

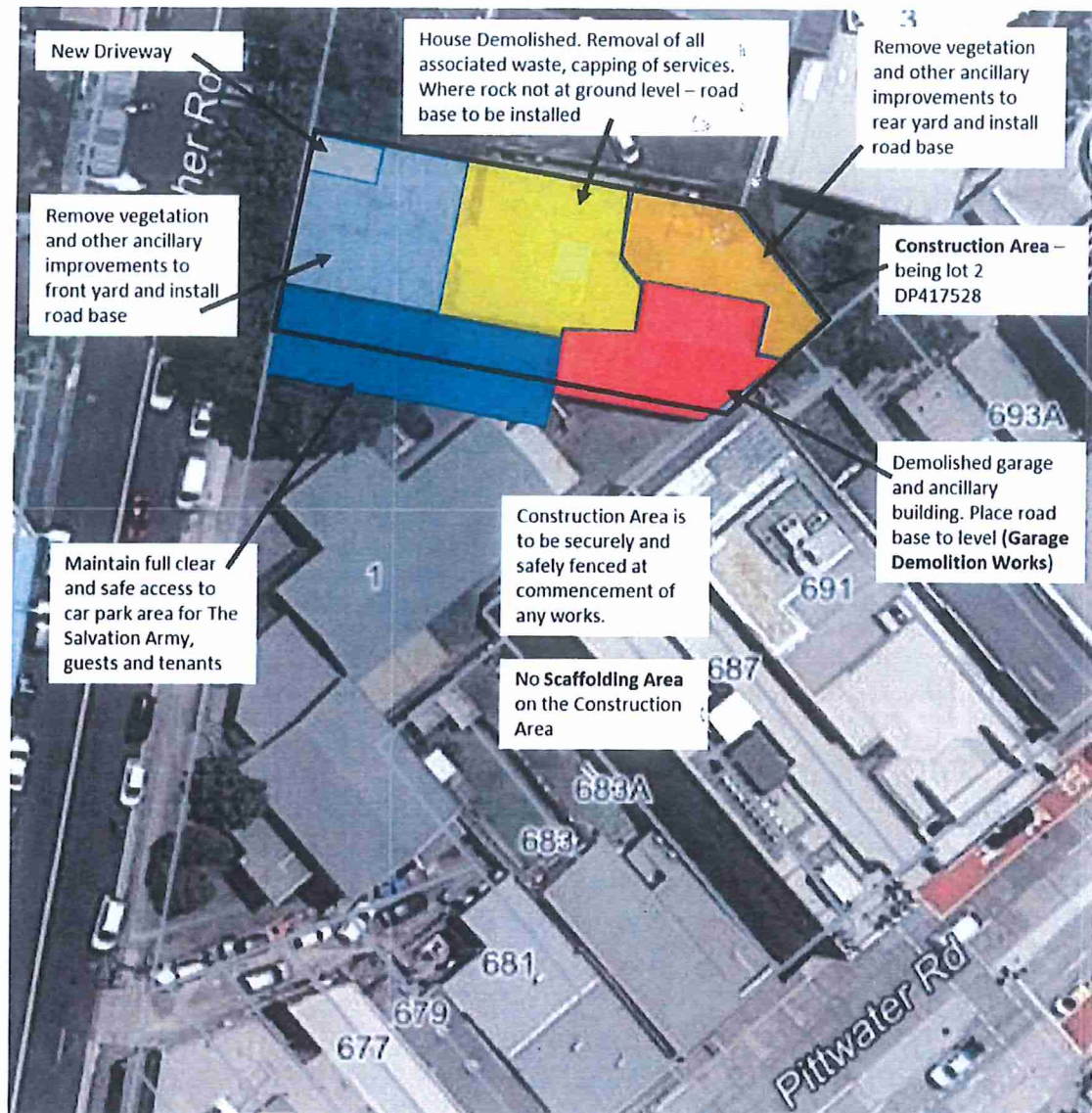
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Signature of Director/Secretary

.....
Name of Director

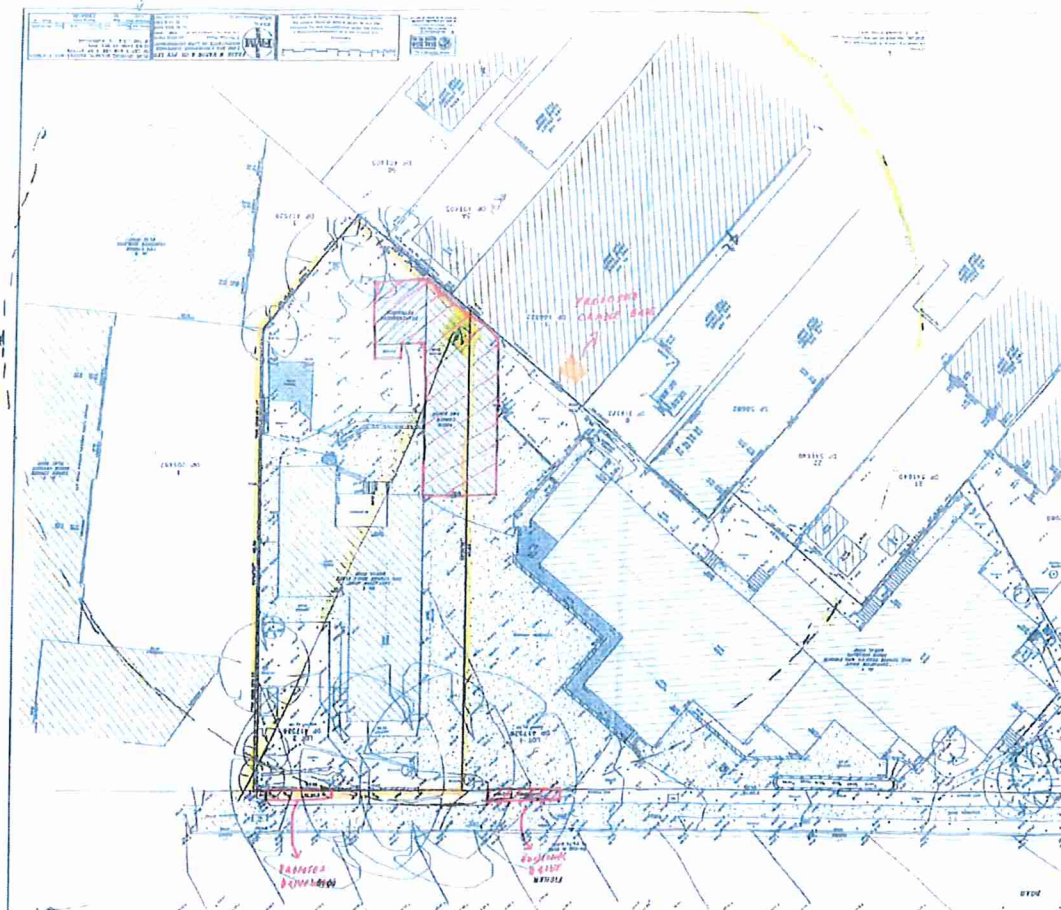
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Signature of Secretary

.....
Name of Secretary

ANNEXURE "A" – Construction Area

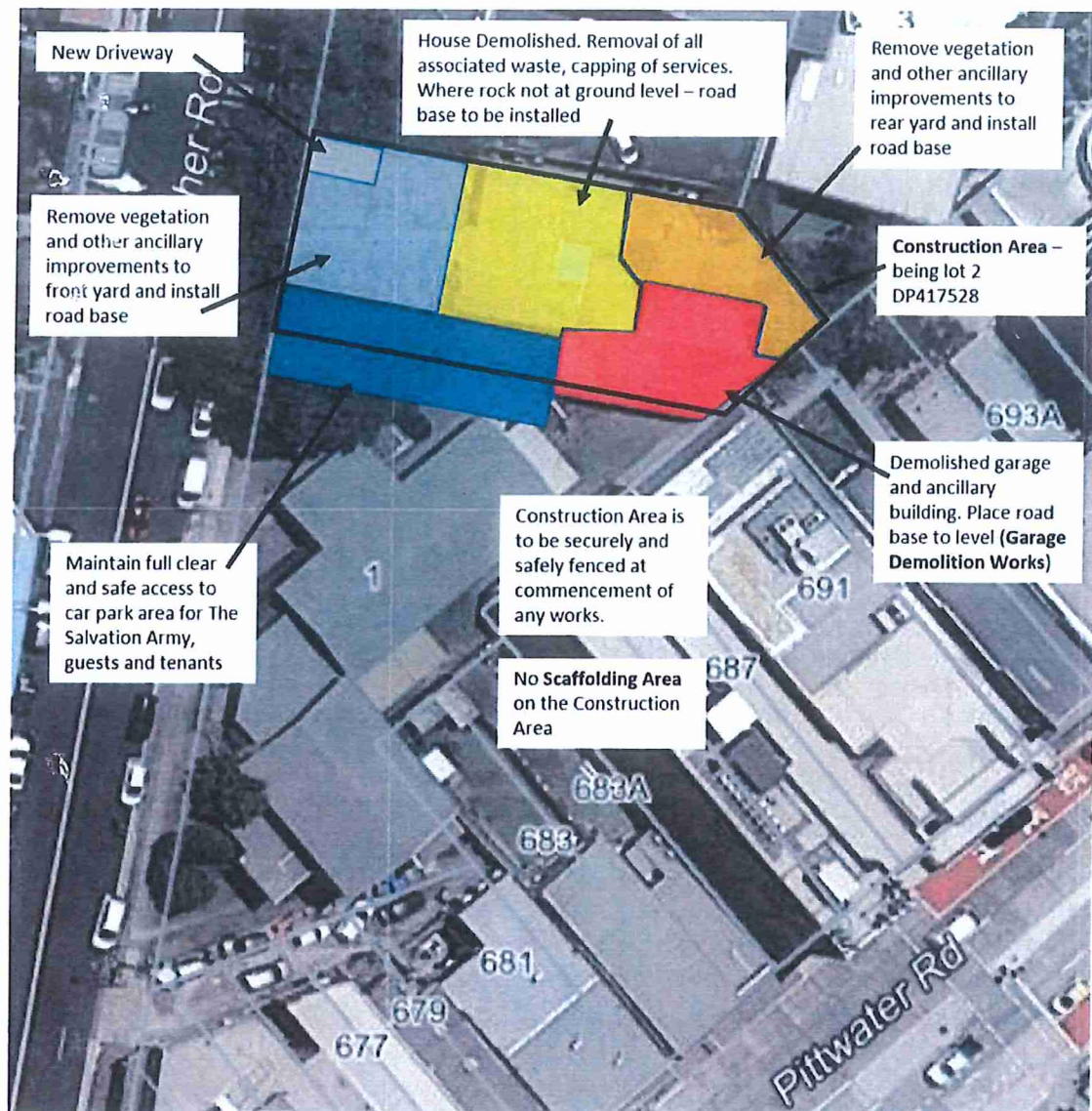


Annexure "B" – Crane Radius



Annexure "C" – Not used

Annexure "D" – Garage Demolition Works



OPERATIONAL PLAN OF MANAGEMENT

Affordable Rental Housing - Boarding House 691 Pittwater Rd Dee Why NSW 2090

Legally described as, Lot 1 in Deposited Plan 166322

The contact persons in respect of all enquiries or public complaints in relation to this plan or the operation of the premises are:

Name: XXXXX

Position: On Site Manager

Phone Number: XXXXX

Email: xxxx@xxxxx

1 Premises to Which this Plan Applies

It is legally described as Lot 1 in Deposited Plan 166322. This plan applies to the Boarding House at 691 Pittwater Rd Dee Why NSW 2099

1.1 Objectives

The primary purpose of this plan is to ensure the boarding house maintains a high level of amenity for neighbouring properties and for all lodgers residing in the premises. To achieve this, the following matters have been considered:

- ·Site management
- ·Amenity of occupants
- ·Amenity of adjoining neighbours
- ·House rules

- Internal and external cleanliness and appearance, including communal areas and individual units
- Maintenance of a Complaints register A full and current copy of all current development consents for the operation of the premises and the boarding house management plan will be kept on-site and made available to Police or Council Officers upon request.

The Applicant will accept compliance with this Operational Plan of Management as a condition of Development Consent.

1.2 Uses to Which this Plan Applies

This plan applies to the Boarding House uses on the site.

1.3 Applicable Development Consents

This Plan applies to DA 2020/0272 and any other statutory approvals

2 Rooms and Occupation

The facility will provide with fully-furnished rooms and a choice of single or double rooms. The facility will provide a lease per furnished room for a minimum 3 month period.

The maximum number of boarders and lodgers

The building is to contain a maximum of 124 (one hundred and twenty four) persons, (not including children under the age of 5 years), being not more than 2 persons per room excluding the managers room.

3 Management on-site

An on-site manager will reside on the premises and oversee the day-to-day operations of the Boarding House including matters such as general maintenance and cleanliness of common areas, observance by residents of house rules, and services.

The on-site manager will be assisted by additional non-resident staff as required, with responsibilities including cleaning and maintenance.

The operation of the Boarding House will be further overseen by an off-site Managing Agent experienced in the operation of multiple occupancy residential development (the “Managing Agent”).

3.1 Responsibilities of Onsite Manager

Provide a point of contact for residents, neighbours, and emergency services in respect to the operation of the Boarding House.

This plan has been prepared as a component of the following Development Consent:

Development Consent 2020/0272 – Mixed Use and Boarding House

Northern Beaches Council are to be advised of any change to the manager or its delegate and of the contact details of the manager or its delegate within 1 (one) week of any change. The sign on site giving the name and contact details of the manager must also be updated within 1 (one) week of any change.

Electric Bicycles: 10 (ten) electric bicycles will be provided and maintained within a development specific sharing system under site management. These 10 electric bicycles are for the exclusive use of occupants at 691 Pittwater Rd Dee Why. These bicycles will be available 24 hours a day.

Car share/Motor Cycle at 5 Mooramba Rd Dee Why: 1 (one) Electric vehicle will be provided and maintained at lot 135 and 2 (two) motor cycles spaces will be provided at lot 136 / 5 Mooramba Rd Dee Why. A development specific car sharing system (online booking system) under site management is to be provided for the exclusive use of occupants at 691 Pittwater Rd Dee Why. The vehicle and motor cycle spaces will be available 24 hours a day.

Keep a list of maintenance requirements identified by residents and pass any maintenance requirements to the Managing Agent promptly for engagement of relevant tradespersons if required.

Maintain a record of resident complaints and incidents (noise etc) and notify the Managing Agent of these.

Oversee the maintenance of grounds, common areas and facilities in a clean and tidy manner, with assistance from non-resident staff as required.

4 Resident Information Brochure

The Resident Information Brochure (“the Brochure”) will contain the house rules that residents must abide by and will be provided with by the Managing Agent in conjunction with the lease.

Each occupant is to be provided with a copy of the Brochure upon commencement of his or her occupation.

4.1 The Brochure will cover at least the following:

Maximum number of two (2) residents per double room and one (1) resident per single room;

Registration of all visitors with no overnight stay permitted; Respect for other residents and neighbours by keeping noise to a minimum; Responsibility to maintain the room in a clean and tidy manner; Use of communal facilities; Dress code in communal areas; General cleanliness in common rooms and on grounds; and Contact details for the on-site manager, Managing Agent and emergency services.

A copy of the Brochure will be attached to the wall of each entry foyer, common rooms and within each of the rooms.

5 Common Area

5.1 Communal room / space

These areas will be available at all times (excluding out of hours times

noted) for the use by residents and their registered visitors. Access will be available via their security key/swipe.

Noise is to be kept to a minimum at all times. The on-site manager is authorised to ask residents and their registered visitors to vacate the communal rooms at any time if the level of noise or behaviour is deemed unacceptable, or house rules as outlined in the Brochure are breached.

5.2 Communal Terrace

The communal terrace will not be used after 10.00pm. Access will be available via resident's security key/swipe.

The on-site manager is authorised to ask residents and registered visitors to vacate the communal space at any time if the level of noise or behaviour is deemed unacceptable, or house rules as outlined in the Brochure are breached.

The use of outdoor / open air common areas is not permitted between 10:00pm and 7:00am, seven days per week.

6 Noise Minimisation

Noise from the boarding house is best controlled using a combination of physical mitigation measures as well as noise management measures which can be implemented and enforced by the onsite Manager. The following key aspects are noted:

A maximum of 30 persons on the roof top communal area at anytime

A maximum of 20 persons on the rear Ground Floor communal space at any time

- External areas must not be used after 10.00pm seven days per week
- No external speakers for music are to be installed in the rear garden / communal terrace area.
- Signage shall be erected in the corridors/communal outdoor area

clearly displaying the time restrictions and to encourage quiet behaviour of occupants and visitors.

- Window and door openings to the common room at roof level of the premises will be closed after 10.00pm each night.
- Any cleaning of the premises, internal or external and including garden maintenance, shall take place between 8am and 6pm Monday to Friday and 10am to 5pm on weekends and public holidays.

7 Waste Management and Cleaning

Waste Management: The On site manager is responsible for the cleanliness of the general waste and recycling bins located on the ground floor

Waste will be separated into separate bins for recycling including plastics, metal, glass, paper and green waste.

Waste will be collected by Council or a private contractor on a weekly basis, or as required.

Empty bins will be washed regularly to maintain appropriate levels of hygiene.

8 Complaints Register

The Managing Agent or delegate will be available between the hours 9:00am to 6:00pm, Monday to Saturday, to deal with any complaints or incidents that occur on the premises. The register will contain: -

- Complaint/Incident date and time
- Name of person/police/council making the complaint or notifying of the incident
- Contact details
- Nature of the complaint/incident
- Action taken (by whom and when)
- Outcome and/or further action required

All complaints shall be dealt with by management with 24 hours of notification.

The complaints register is to be made available to Council, Police or an other authorised person upon formal request.

9 Security and Safety

9.1 General provisions

Each accommodation room entry door will feature a lock (with key or swipe card),

Common entrances to the Boarding House will only be accessible via key/swipe, unless the on-site manager is in attendance at the front office.

9.2 Evacuation Plan

Building layout indicating, position of lodger rooms relative to the rest of the development, location of fire exits and fire fighting equipment and emergency evacuation procedures shall be displayed in all rooms and common areas.

9.3 Maintenance

Emergency systems are maintained as part of a maintenance contract by a qualified company. All equipment will be tested and checked in accordance with the relevant Australian Standards. Any faults are to be documented and rectified immediately. These checks take place, weekly, monthly, bi-annually or annually depending on the required frequency.

9.4 Annual Certification

Annual certification of Fire Safety Equipment to be carried out by a qualified fire consultant.