



Land and Environment Court New South Wales

Case Name: **Northern Beaches Council v Northern Beaches Council (at the control and direction of the Sydney North Planning Panel)**

Medium Neutral Citation: [2024] NSWLEC 1816

Hearing Date(s): Conciliation conference on 25 November 2024; s 34 agreement received 13 December 2024

Date of Orders: 18 December 2024

Date of Decision: 18 December 2024

Jurisdiction: Class 1

Before: Dixon SC

Decision: The Court orders:

- (1) The applicant is to pay the second respondent's costs thrown away by the amendment of the development application pursuant to s 8.15(3) of the *Environmental Planning and Assessment Act 1979*, as agreed or assessed.
- (2) The appeal is upheld.
- (3) Development Application DA2021/2173 for alterations and additions to the Newport Surf Life Saving Club building with an extension to the northern side and coastal protection works in the form of a buried seawall along the length of the building at 394 and 394A Barrenjoey Road, Newport (Lot 7039 DP 1050730, Lot 23 of Section 6 in DP6248, Barrenjoey Road reserve adjacent to Lot 23 of Section 6 in DP 6248, Lot 24 of Section 6 in DP 6248, Lot 1 DP 1139445, Lot 7094 DP 1059297, and Lot 7327 in DP 1164236) is determined by the grant of development consent subject to the conditions in Annexure A.
- (4) The first respondent is directed to register the development consent on the NSW planning portal in accordance with s 4.20(1) of the *Environmental Planning and Assessment Act 1979* within 14 days of the date of these orders.

Catchwords: APPEAL – development application – alterations and additions to the Newport Surf Life Saving Club – conciliation conference – agreement between the parties – orders

Legislation Cited: *Biodiversity Conservation Act 2016*
Coastal Management Act 2016, ss 5, 8, 9, 27
Environmental Planning and Assessment Act 1979, ss 4.15, 4.20, 8.2, 8.7, 8.15
Land and Environment Court Act 1979, s 34

Biodiversity Conservation Regulation 2017
Environmental Planning and Assessment Regulation 2000, cll 49, 55
Pittwater Local Environmental Plan 2014, cll 2.7, 4.3, 5.10, 5.21, 7.1, 7.2, 7.10; Sch 5
State Environmental Planning Policy (Resilience and Hazards) 2021, ss 2.10, 2.11, 2.12, 2.16; Ch 4, s 4.6
State Environmental Planning Policy (Transport and Infrastructure) 2021, s 2.119

Category: Principal judgment

Parties: Northern Beaches Council (Applicant)
Northern Beaches Council (at the control and direction of the Sydney North Planning Panel) (First Respondent)
Sydney North Planning Panel (Second Respondent)

Representation: Counsel:
R White (Applicant)
Submitting appearance (First Respondent)
M Staunton / L Nurpuri (Second Respondent)

Solicitors:
King & Wood Mallesons (Applicant)
Wilshire Webb Staunton Beattie Lawyers (First Respondent)
Department of Planning, Housing and Infrastructure (Second Respondent)

File Number(s): 2023/109048

Publication Restriction: Nil

JUDGMENT

- 1 These proceedings arise following the appeal against the refusal of development application DA2021/2173 by the second respondent, Sydney North Planning Panel (SNPP) for alterations and additions to the Newport Surf Life Saving Club (SLSC) building with an extension to the northern side and coastal protection works in the form of a buried seawall along the length of the building (DA) at 394 and 394A Barrenjoey Road, Newport, being the land comprised within Lot 7094 in DP 1059297, Lot 1 in DP 1139445, Lot 23 of Section 6 in DP6248, Barrenjoey Road reserve adjacent to Lot 23 of Section 6 in DP 6248, Lot 24 of Section 6 in DP 6248, Lot 7039 in DP 1050730, and Lot 7327 in DP 1164236 (site).
- 2 The site is Crown Land and includes part of Crown Reserve No. 60118 – known as Farrells Reserve and managed by Northern Beaches Council in accordance with the Ocean Beaches Plan of Management: Newport Beach.
- 3 Notification of the DA has been provided by the applicant to the Crown in accordance with cl 49(2)(a) of the Environmental Planning and Assessment Regulation 2000 (EPA Regulation) on 25 October 2021, 29 November 2022 and 20 August and 20 November 2024 (Tabs 3-5 of the applicant's bundle of application documents filed 21 November 2024, applicant's bundle).
- 4 On 2 September 2022, the first respondent recommended approval of the DA subject to some conditions.
- 5 The DA was determined by the SNPP on 5 October 2022. The SNPP refused the DA. The reasons for refusal include:
 - The proposal does not satisfactorily address s 27 of the *Coastal Management Act 2016*;
 - The proposal does not satisfy cl 4.3 of the Pittwater Local Environmental Plan 2014 (PLEP);

- The site is not suitable for the proposed development given its exposure to coastal hazards;
- Alternative design options for such a valuable but exposed asset were not properly considered due to the emphasis on heritage and open space protection;
- The use of coastal protections works to protect the current building footprint and heritage fabric is questionable given that over topping and inundation of the building would still occur and collateral erosion damage is likely to be caused to surrounding beach and park; and
- The long-term planning for the location's Coastal Management Program is yet to be completed. This would facilitate the appropriate assessment of the impacts on the whole coastal compartment, not just the surf club site.

6 On 29 November 2022, the applicant made an application for a review of the SNPP's determination of the DA (Review Application) under s 8.2 of the *Environmental Planning and Assessment Act 1979* (EPA Act). Before the Review was dealt with the applicant commenced this appeal pursuant to s 8.7 of the EPA Act.

7 On 5 May 2023, the SNPP filed a notice of motion seeking to be joined as a party to the proceedings, which was granted by the Court on the same day.

8 On 8 May 2023, the first respondent filed a submitting appearance.

9 On 26 May 2023, the SNPP filed its Statement of Facts and Contentions (SOFAC).

10 On 21 August 2024, the applicant was granted leave to rely on amended plans and documents (amended DA). The amended DA was exhibited between 22 August and 5 September 2024. A total of 116 submissions were received.

- 11 On 30 August 2024, the SNPP filed its ASOFAC.
- 12 The matter was initially listed for a 3-day hearing on 18-20 September 2024. However, at the conclusion of the first day of the hearing the parties sought, and were granted, an adjournment to prepare further evidence in respect to structural engineering and ecology issues. The matter was then listed for a further hearing on 25 November 2024.
- 13 When the hearing resumed, the parties informed the Court that the additional information had resolved the contentions between them and they had reached an agreement to resolve the proceedings. The parties sought an adjournment of the hearing to allow the matter to be reallocated to a conciliation conference under s 34(1) of the *Land and Environment Court Act 1979* (LEC Act), which took place before me on the same day.
- 14 During the conciliation, the applicant further amended its DA. These additional documents are listed in Schedule 1 of the parties' jurisdictional submission (further amended DA). The further amended DA was then exhibited between 27 November and 10 December 2024 and some 44 submissions were received.
- 15 As the SNPP is now satisfied that the latest amendments satisfactorily address the contentions in its ASOFAC subject to the agreed imposition of conditions of consent (Annexure A), the parties propose resolution of the proceedings in accordance with the terms outlined in their executed s 34 written agreement.
- 16 Under s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties' signed agreement if the Court could have made that decision in the proper exercise of its functions.

Jurisdictional preconditions

- 17 The preconditions relevant to the exercise of the Court's power to make the proposed final orders are addressed in a joint jurisdictional submission annexed to the written agreement. In that regard, I note the following:

Coastal Management Act 2016

18 The site is in a coastal zone in accordance with s 5, a coastal environment area in accordance with s 8 and a coastal use area in accordance with s 9 of the *Coastal Management Act*.

19 No Coastal Management Program has been prepared relating to the site.

20 Section 27 of the *Coastal Management Act* stipulates that development consent must not be granted under the EPA Act to development for the purpose of coastal protection works unless the consent authority is satisfied that:

(a) the works will not, over the life of the works—

(i) unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, or

(ii) pose or be likely to pose a threat to public safety, and

(b) satisfactory arrangements have been made (by conditions imposed on the consent) for the following for the life of the works—

(i) the restoration of a beach, or land adjacent to the beach, if any increased erosion of the beach or adjacent land is caused by the presence of the works,

(ii) the maintenance of the works.

...

21 The parties' respective coastal engineers have assessed the application and are agreed that:

- the proposed coastal protection works and building modifications have reduced the vulnerability of the building compared to the current exposure and the original DA;
- a 100-year ARI wave load and any associated flooding event has a 45% chance of occurring over the building design life of 60 years. This is a 45% chance of the event occurring once. Equally, there is a 55% chance that the 100-year ARI event will not occur over the building design life;

- a 1000-year ARI wave load and any associated coastal flooding event has a 5% chance of occurring over the building design life of 60 years. This is a 5% chance of the event occurring once. Equally, there is a 95% chance that the 1000-year ARI will not occur over the building design life;
- undermining of the existing section of building to be retained and the new section of building would not take place in a 1000-year ARI event as the coastal protection works would be designed for a 1000-year ARI event. Hence structural failure would not occur due to this process; and
- the Water Research Laboratory physical modelling reports and the works agreed to by the parties' structural engineering experts ensure that the existing building structure and proposed additional extension are appropriately reinforced.

22 They also are agreed that the works as set out in Section 6.1 of the Supplementary Coastal Engineering Report prepared by Royal Haskoning DHV dated 6 August 2024 (Coastal Report) (Tab 12 of the applicant's bundle):

- will not unreasonably limit or be likely to unreasonably limit public access to or the use of the beach, and rather it incorporates and accommodates access to the beach in circumstances of low sand through the provision of access stairs and bleachers; and
- will not pose a threat to public safety as they are designed to prevent undermining of the building if it is occupied in severe storm events and to be structurally sound in 1000-year ARI events.

23 The parties are also agreed that the development avoids significant adverse impacts from coastal hazards. They submit that the implementation of the Safety and Evacuation Management Plan dated 18 October 2024, prepared by Rhelm (Tab 38 of the applicant's bundle) enables the evacuation from the site identified as coastal risk in an emergency.

24 Appropriate conditions of consent to ensure satisfactory arrangements for the life of the works have been imposed in accordance with s 27 of the *Coastal Management Act*. In particular:

- condition 34 requires the applicant to provide a bank guarantee for restoration of the beach or maintenance of the coastal protection works in the event they are damaged as a result of a coastal storm;
- condition 35 requires the applicant to, for the life of the coastal protection works, ensure the restoration of Newport Beach and land adjacent to the beach if increased erosion is caused by the presence of the works and ensure the maintenance of the works; and
- condition 100 requires a review of the coastal protection works every 20 years which must consider whether the works are satisfactory in their current state and will not result in a threat to public safety, or whether upgrades or demolition and removal are recommended in the interests of public safety.

25 Having regard to the above, the parties submit, and I accept that the requirements of s 27 have been met by the grant of development consent (with the approved conditions).

State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP)

26 Part of the site is within a Coastal Environment Area under the RH SEPP, and therefore s 2.10 applies. Section 2.10 stipulates that:

(1) development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following-

(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,

(b) coastal environmental values and natural coastal processes,

(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,

(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,

(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,

(f) Aboriginal cultural heritage, practices and places,

(g) the use of the surf zone.

(2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that-

(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or

(b) if that impact cannot be reasonably avoided-the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised-the development will be managed to mitigate that impact.

...

27 The parties submit and I accept that the further amended DA (see in particular Section 6.2.3 of the Coastal Report), and the imposition of conditions (see in particular conditions 34, 35 and 100) result in a development that has been designed, sited and will be managed to minimise impact referred to in subs 2.10(1).

28 Part of the site is also within a Coastal Use Area to which s 2.11 applies. Section 2.11 stipulates that development consent must not be granted to development on land that is within the coastal use area unless the consent authority –

(a) has considered whether the proposed development is likely to cause an adverse impact on the following—

(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,

(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,

(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,

(iv) Aboriginal cultural heritage, practices and places,

(v) cultural and built environment heritage, and

(b) is satisfied that—

(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or

(ii) if that impact cannot be reasonably avoided-the development is designed, sited and will be managed to minimise that impact, or

(iii) if that impact cannot be minimised-the development will be managed to mitigate that impact, and

(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

...

29 In addition, s 2.12 states that development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

30 The parties submit and I accept that the proposed development has been appropriately designed to address the matters set out in s 2.11 and not increase the risk of coastal hazards on the site as set out in s 2.12 (see Sections 6.2.4 and 6.2.5 of the Coastal Report). Furthermore, conditions have been imposed to ensure the maintenance of the works for their life (see conditions 34, 35 and 100). Noting, that s 2.16 states that coastal protection works may be carried on by a public authority with development consent.

31 Chapter 4 of the RH SEPP also applies to the site. Section 4.6(1) provides that a consent authority must not consent to the carrying out of any development on land unless –

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

- 32 The Heritage Impact Statement prepared by NBRS dated 7 August 2024 (Tab 25 of the applicant's bundle) provides that the surf lifesaving clubhouse has been located on the site since 1933 with no known prior land uses. The Amended Statement of Environmental Effects prepared by Rhelm dated 9 August 2024 (SEE) (Tab 6 of the applicant's bundle) also notes in Section 9.2 that the site is not identified on the public register of contaminated sites, nor is it in the vicinity of any. In any event, appropriate conditions of development consent that have been imposed (condition 63) to address the issue of contamination. On that basis the parties submit, and I accept that the site is not contaminated in accordance with s 4.6 of the RH SEPP.

Biodiversity Conservation Act 2016 (BC Act)

- 33 The further amended DA includes works that will permanently remove native dune vegetation, and habitat within the footprint of the proposed works area will be temporarily disturbed. Specifically, the proposal will remove 228 sqm of Coastal Fore-dune Wattle Scrub, of which approximately 190 sqm will be revegetated. There will be a temporary impact to 2000 sqm of beach during construction.
- 34 The Biodiversity Conservation Regulation 2017 (BC Reg) sets out threshold tests for when the Biodiversity Offset Scheme (BOS) will be triggered and a BAM assessment in the form of a Biodiversity Development Assessment Report (BDAR) report is required to accompany the DA. The parties agree that the threshold contained within the BC Reg has not been met to require a BDAR report to accompany the DA.
- 35 The further amended DA includes a Biodiversity Impact Assessment dated 8 August 2024, a Biodiversity Management Plan dated 21 October 2024 and a

Construction Environmental Management Plan dated 21 October 2024, all prepared by GIS Consultants (Tabs 34-36 of the applicant's bundle). The DA maintains, and the experts appointed in the proceedings agree, that the development will not have a significant impact on any threatened species, population, or ecological community. On that basis I am satisfied that relevant matters under the BC Act and regulations have been satisfactorily addressed.

- 36 I am also satisfied that appropriate conditions have been incorporated to ensure impacts during construction have been adequately mitigated (see conditions 29, 30, 50, 51, 71, 88 and 89).

State Environmental Planning Policy (Transport and Infrastructure) 2021 (TI SEPP)

- 37 Barrenjoey Road, Newport is a classified road, and as such s 2.119 of the TI SEPP applies. This section provides that a consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that –

...

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

- 38 The Traffic and Parking Assessment prepared by Transport and Traffic Planning Associates dated September 2021 (Tab 46 of the applicant's bundle), concludes (in Section 5) that the proposed development will not result in any change to the existing traffic circumstances in the beachfront car park or vehicle

access on Barrenjoey Road. It further concludes (in Section 7) that the proposed vehicle access, internal circulation and servicing arrangements will be satisfactory and that there will not be any adverse implications in relation to traffic, pedestrians or cyclists.

- 39 On the basis of the conclusions in the paragraph above, and the imposition of conditions 31 and 53, the parties submit and I accept that the requirements in s 2.119 of the TI SEPP have been met.

Pittwater Local Environmental Plan 2014 (PLEP)

- 40 The site is zoned RE1 Public Recreation under the PLEP. The objectives of the RE1 zone are as follows:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To allow development that does not substantially diminish public use of, or access to, public open space resources.
- To provide passive and active public open space resources, and ancillary development, to meet the needs of the community.

- 41 The further amended DA is for development that is permissible with consent. Clause 2.7 states that demolition may only be carried out with consent. Consent for demolition is sought within the further amended DA.

- 42 The further amended DA is compliant with the height of buildings control within cl 4.3 which prescribes a maximum height of 8.5m. There is no floor space ratio control applying to the site.

- 43 The Newport SLSC building on the site is identified as an item of local heritage significance under the provisions of cl 5.10 and Sch 5 of the PLEP. The parties' respective heritage experts have agreed the further amended DA substantially retains elements of high significance within the building. Conditions have been imposed to ensure the design of the additions to the building reduce impact on

the heritage significance of the Newport SLSC, including by the imposition of conditions relating to colours, materials and finishes (see conditions 24 and 25).

44 The further amended DA also limits the extent of demolition and imposes conditions requiring the need for an experienced heritage architect to supervise works relevant to matters of heritage significance (see conditions 26-27 and 82).

45 The amended DA has been referred to the Aboriginal Heritage Office, who have provided advice on the amended DA. The applicant has subsequently obtained a due diligence report from Heritage Now dated 13 November 2024 (Tab 39 of the applicant's bundle). The recommendations of the due diligence report and other conditions relating to Aboriginal cultural heritage have now been imposed on the consent (see conditions 40, 49 and 62).

46 Part of the site is subject to low-risk flooding and the proposed development is subject to the provisions of cl 5.21. The objectives of this clause are as follows:

(a) to minimise the flood risk to life and property associated with the use of land,

(b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,

(c) to avoid adverse or cumulative impacts on flood behaviour and the environment,

(d) to enable the safe occupation and efficient evacuation of people in the event of a flood.

...

47 The parties submit and I accept that the further amended DA is consistent with cl 5.21 as it is:

- compatible with the flood function and behaviour on the site, as outlined in the Coastal Engineering and Flooding Advice for Newport SLSC Clubhouse Redevelopment Report prepared by Horton Coastal Engineering Pty Ltd dated 26 August 2021,

- will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties,
- will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood,
- incorporates appropriate measures to manage risk to life in the event of a flood, with safe refuge provided within the upper floor of the building, and
- will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses.

48 Clause 7.1 relates to acid sulfate soils. The site is mapped as Class 3, 4 and 5. The amended DA includes a Preliminary Acid Sulfate Soils Screening prepared by JK Environments dated 2 October 2019 (Tab 45 of the applicant's bundle). The expert evidence concludes that the further amended DA is not likely to disturb acid sulfate soils and therefore an acid sulfate soils management plan is not required for the proposed works.

49 Clause 7.2 relates to earthworks, and the matters contained within subcl (3) must be considered. The amended DA includes a Geotechnical Investigation Report prepared by JK Geotechnics dated 19 October 2021 (Tab 44 of the applicant's bundle) which addresses the matters in cl 7.2(3). The recommendations within that report have been incorporated into the conditions (see conditions 57 and 90).

50 Essential services in accordance with cl 7.10 are available to the site as confirmed in the SEE.

Submissions

51 The majority of the submissions received in response to the notification of the DA and the amended DA were in support. Those that were in objection largely concerned the adequacy of the coastal protection works. The parties are agreed that the further amended DA, together with the agreed conditions adequately addresses the concerns of the objectors.

Conclusion and orders

52 As the parties' decision is within power as required by s 34(3) of the LEC Act, I now dispose of the proceedings in accordance with their decision. In forming that view, I am not required to make, and have not made, any assessment of the merits of the DA against the discretionary matters that arise pursuant to an assessment under s 4.15 of the EPA Act.

53 The Court notes:

- (1) That the Sydney North Planning Panel, as the relevant consent authority, has agreed pursuant to cl 55 of the EPA Regulation, to the applicant amending development application No. DA2021/2173 to rely on the following amended plans and documents:

Document			Date
Further Amended Architectural Plans prepared by Adrian Pupilli Architects			18 November 2024
<i>Drawing no.</i>	<i>Title</i>	<i>Revision</i>	
010	Proposed Ground Floor Plan	F	
011	Proposed First Floor Plan	F	
012	Proposed Roof Plan	F	
013	Proposed Sections	F	
014	Proposed Elevations	F	
015	Schedule of Colours and Materials	F	
020	Proposed First Floor RCP	B	
Further Amended Landscape Plans prepared by Adrian Pupilli Architects			11 October 2024
<i>Drawing no.</i>	<i>Title</i>	<i>Revision</i>	
LA-01	Landscape Site Plan	E	

Document			Date
UNSW Water Research Laboratory (WRL) Report - Wave pressures on SLSC wall and overtopping water through upper windows (LR20241021)			21 October 2024
WRL Report - Wave pressures on SLSC wall (0.2 Seconds Duration) (LR20241021a)			21 October 2024
WRL Report – Wave trajectory on SLSC Wall (LR20241016)			16 October 2024
Structural Engineering Plans prepared by Partridge			18 October 2024
<i>Drawing no.</i>	<i>Title</i>	<i>Revision</i>	
S1.1	Suggested strengthening of existing building	R3	
S1.2	Suggested strengthening of existing building	R3	
S1.3	Suggested strengthening of existing building	R3	
S2.1	Suggested strengthening of existing building	R3	
S3.1	Cross sections proposed building structural works only	P1	
S3.2	Cross sections with additional strengthening to east wall to support wave loadings	P1	
Mark ups to Partridge Structural Engineering Plans SK-01, SK-02 and SK-03			Marked up on 15.11.2024
<i>Drawing no.</i>	<i>Title</i>	<i>Revision</i>	
SK-01 (S1.1)	Newport Surf Lifesaving Club Refurbishment, Suggested Strengthening of Existing Building	R3	
SK-02 (S1.2)	Newport Surf Lifesaving Club Refurbishment, Suggested Strengthening of Existing Building	R3	
SK03 (S3.2)	Newport Surf Lifesaving Club Refurbishment, Suggested Strengthening of Existing Building	P1	
Structural Engineering Further Supplementary Report prepared by Partridge			21 October 2024
Biodiversity Management Plan prepared by GIS Environmental Consultants			21 October 2024
Construction Environmental Management Plan prepared by GIS Environmental Consultants			21 October 2024
Safety and Evacuation Management Plan prepared by Rhelm			18 October 2024
Stormwater Drainage letter prepared by Rhelm attaching Stormwater Plans prepared by Royal Haskoning DHV			18 October 2024
Stormwater Plans prepared by Royal Haskoning DHV			8 October 2024
<i>DWG No</i>	<i>Title</i>	<i>Issue</i>	

Document			Date
PA2407-RHD-00-05-DR-ME-SW01	Preliminary Stormwater Design	P01	
Letter from Northern Beaches Council (Parks & Open Space) Dune Management - Newport			16 October 2024
Coastal Protection Works Plans prepared by Royal HaskoningDHV			9 September 2024
<i>Drawing no.</i>	<i>Title</i>	<i>Revision</i>	
PA2407-RHD-00-105-DR-MA-0021	General Arrangement Details	C01	
Supplementary Letter – wave forces on parapet wall, prepared by WRL			5 September 2024
Quantity Surveying Report prepared by TCubed Consulting			11 September 2024
Cost Summary Report prepared by TCubed Consulting			11 September 2024
Aboriginal Heritage Due Diligence Desktop Report – Newport Surf Life Saving Club, Newport prepared by Heritage Now			13 November 2024
Note on Aboriginal heritage (Contention 11(f)) attaching: <ul style="list-style-type: none"> - Report generated by AHIMS Web Service (AHIMS Report) - Site Cards referred to in AHIMS Report: <ul style="list-style-type: none"> o Site ID 45-6-1221 (11 March 1980) o Site ID 45-6-1222 (11 March 1980) o Site ID 45-6-1223 (11 March 1980) o Site ID 45-6-1224 (11 March 1980) o Site ID 45-6-2645 (14 September 2000) 			Prepared 17 September 2024
Notification of Future Act under <i>Native Title Act 1993</i>			19 March 2021
Native Title Advice			22 March 2021
Root Mapping Report prepared by Tree Management Strategies			17 September 2024
Correspondence from Northern Beaches Council to Crown Lands regarding Owner's Consent			20 November and 20 August 2024

54 The Court orders:

- (1) The applicant is to pay the second respondent's costs thrown away by the amendment of the development application pursuant to s 8.15(3) of the *Environmental Planning and Assessment Act 1979*, as agreed or assessed.

- (2) The appeal is upheld.
- (3) Development Application DA2021/2173 for alterations and additions to the Newport Surf Life Saving Club building with an extension to the northern side and coastal protection works in the form of a buried seawall along the length of the building at 394 and 394A Barrenjoey Road, Newport (Lot 7039 DP 1050730, Lot 23 of Section 6 in DP6248, Barrenjoey Road reserve adjacent to Lot 23 of Section 6 in DP 6248, Lot 24 of Section 6 in DP 6248, Lot 1 DP 1139445, Lot 7094 DP 1059297, and Lot 7327 in DP 1164236) is determined by the grant of development consent subject to the conditions in Annexure A.
- (4) The first respondent is directed to register the development consent on the NSW planning portal in accordance with s 4.20(1) of the *Environmental Planning and Assessment Act 1979* within 14 days of the date of these orders.

I certify that this and the preceding **16** pages are a true copy of my reasons for judgment.



.....

S Dixon
Senior Commissioner of the Court

ANNEXURE A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: DA2021/2173

Development: Alterations and additions to a surf club building with an extension to the northern side and coastal protection works in the form of a buried seawall along the length of the building.

Site: Lot 7094 DP 1059297, 394 Barrenjoey Road, Newport; Lot 1 DP 1139445, 394 Barrenjoey Road, Newport; Lot 23 of Section 6 in DP6248; Barrenjoey Road reserve adjacent to Lot 23 of Section 6 in DP 6248; Lot 24 of Section 6 in DP 6248, 394A Barrenjoey Road, Newport; and Lot 7039 in DP1050730, Barrenjoey Road, Newport and Lot 7327 DP1164236 .

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

Date of determination: 18 December 2024

Date from which consent takes effect: 18 December 2024

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the "applicant" means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the "site" means the land known as Lot 7094 DP 1059297, 394 Barrenjoey Road, Newport; Lot 1 DP 1139445, 394 Barrenjoey Road, Newport; Lot 23 of Section 6 in DP6248; Barrenjoey Road reserve adjacent to Lot 23 of Section 6 in DP 6248; Lot 24 of Section 6 in DP 6248, 394A Barrenjoey Road, Newport; and Lot 7039 in DP 1050730, Barrenjoey Road, Newport and Lot 7327 DP 1164236.
- (d) Any reference to the "Planning Secretary" refers to the Planning Secretary under the *Environmental Planning and Assessment Act 1979* or nominee.

The conditions of consent are as follows

1. Approved Plans and Supporting Documentation

The development must be carried out:

- (a) in compliance with the conditions of this consent;
- (b) in compliance with the endorsed plans and documentation listed below, except as amended by any other condition of consent:

Architectural Plans – Prepared by Adriano Pupilli Architects			
Dwg. Number	Title	Issue	Date
000	Cover	D	31.07.2024
001	Survey	D	
002	Site Analysis	D	
003	Site Plan	D	
004	Demolition Plans	D	
005	Existing Ground Floor Plan	D	
006	Existing First Floor Plan	D	
007	Existing Roof Plan	D	
008	Existing Sections	D	
009	Existing Elevations	D	
010	Proposed Ground Floor Plan	F	18.11.2024
011	Proposed First Floor Plan	F	
012	Proposed Roof Plan	F	
013	Proposed Sections	F	
014	Proposed Elevations	F	
015	Schedule of Colours and Materials	F	
016	Shadow Diagrams	D	31.07.2024
017	Waste Management Plan Demolition, Construction & Ongoing	D	

020	Proposed First Floor RCP	B	18.11.2024
-----	--------------------------	---	------------

Structural Reinforcement Works Plans			
Number	Title	Issue	Date
S1.1, S1.2, S1.3, S2.1, S3.1, S3.2	Partridge Structural Engineering Plans	R3 (Drawings S1.1, S1.2, S1.3, S2.1) P1 (Drawings S3.1, S3.2)	18.10.2024
S1.1	Newport Surf Lifesaving Club Refurbishment, Suggested Strengthening of Existing Building	R3	As marked up on 15.11.2024
S1.2	Newport Surf Lifesaving Club Refurbishment, Suggested Strengthening of Existing Building	R3	As marked up on 15.11.2024
S3.2	Newport Surf Lifesaving Club Refurbishment, Suggested Strengthening of Existing Building	P1	As marked up on 15.11.2024

Stormwater Plans				
No.	Title	Issue	Prepared by	Date
PA2407-RHD-00-05-DR-ME-SW01	Preliminary Stormwater Design	P01	Royal Haskoning DHV	8.10.2024

Site Sediment Control Plans – prepared by Rise Consulting Engineers			
No.	Title	Issue	Date
SC.010	Site Sediment Control Plan	C	13.11.2020
SC.020	Site Sediment Control Notes and Details	C	13.11.2020

Landscape Plans – prepared by Adrian Pupilli Architects			
Drawing	Title	Issue	Dated

No.			
LA-000	Landscape Context Plan	C	26.07.2024
LA-01	Landscape Site Plan	E	11.10.2024
LA-02	Landscape Planting Plan	C	26.07.2024

Coastal Protection Work Plans – prepared by Royal Haskoning DHV			
Drawing No.	Drawing	Issue	Date
PA2407-RHD-00-105-DR-MA-0001	Title Sheet, Locality Plan and Drawing List	P01	30.07.2024
PA2407-RHD-00-105-DR-MA-0011	General Arrangement Plan	P01	
PA2407-RHD-00-105-DR-MA-0021	General Arrangement Details	C01	09.09.2024

Biodiversity Management Plan for Revegetation of Foredunes at Newport Beach	Prepared by	Date
	GIS Environmental Consultants	21.10.2024

Construction Environmental Management Plan for Upgrade of Newport Surf Life Saving Club, DA2021/2173, Newport	Prepared by	Date
	GIS Environmental Consultants	21.10.2024

Newport SLSC Coastal Hazard Safety and Evacuation Management Plan	Prepared by	Date
	Rhelm	18.10.2024

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

(d) Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Conservation Management Plan, Issue 8	17 June 2022	Heritage 21
Acoustic Report	May 2022	GHD
ESD Report	11 September 2020	Greenview Consulting
Geotechnical Assessment, Rev 2	19 October 2021	JK Geotechnics
NCC BCA 2019 Section J Assessment	4 September 2020	Greenview Consulting
Waste Management Plan	5 October 2021	Bernard Koon
Traffic and Parking Assessment, Issue B, Ref 59/2018	September 2021	TTPA
Coastal Engineering Report for Buried Coastal Protection Works, Issue 4	27 August 2021	Horton Coastal Engineering
Coastal Engineering and Flooding Advice for NSW SLSC Clubhouse Redevelopment, Issue 3	26 August 2021	Horton Coastal Engineering

BCA Report, Rev 4	22 September 2020	BCA Logic
Access Report, Rev 4	22 September 2020	BCA Logic
Operational Management Plan for Temporary Facilities at Newport SLSC	9 June 2022	Northern Beaches Council and Newport SLSC
Public Domain View Assessment prepared by DFP Planning Consultants	17 June 2022	DFP Planning Consultants
Supplementary Coastal Engineering Report	6 August 2024	Royal Haskoning DHV
Structural Engineering Statement	20 August 2021	Partridge Structural
Supplementary Structural Feasibility Report	5 August 2024	Partridge Structural
BCA Assessment letter	5 August 2024	Jensen Hughes
Access Assessment letter	5 August 2024	Jensen Hughes
Heritage Impact Statement	7 August 2024	NBRS
Arboricultural Impact Assessment Report	7 August 2024	Tree Management Strategies
Biodiversity Impact Assessment Report	8 August 2024	GIS Environmental Consultants
Additional Traffic Study	27 February 2023	TTPA
Parking Assessment letter	6 August 2024	TTPA
Root Mapping Report	17 September 2024	Tree Management Strategies
Stormwater Drainage Letter	18 October 2024	Rhelm
Further Structural Engineering Report	21 October 2024	Partridge Structural
Aboriginal Cultural Heritage Report Due Diligence Report	13 November 2024	Heritage Now

- (e) 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.
- (f) In the event of an inconsistency, ambiguity or conflict between any of the documents listed in the above condition, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

Reason: To ensure the work is carried out in accordance with the determination

of the Council and approved plans.

2. Commencement of works

No construction works are to be carried out until such time as a construction certificate has been issued.

No demolition can be carried out until such time as amended demolition plans have been prepared in accordance with condition 15(4).

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	Undated response. Appears on Council's webpage registered 5/12/2022
NSW Police	NSW Police Referral Response	25/11/2021
Ausgrid	Second Ausgrid Referral Response	October 2024 (letter remains undated)
NSW Police	NSW Police Referral Response	16/10/2024
NSW Aboriginal Heritage Office	NSW Aboriginal Heritage Office Response	10/10/2024

- (a) In the event of any inconsistency between conditions of this consent and recommendations and requirements referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Bodies.

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

4. General Requirements

- a) Unless authorised by the 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:

- 8.00am 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 of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works, the area affected by the demolition works shall be fully stabilized and the site must be maintained in a safe and clean state until such time as new construction works commence.
- e) On-site 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) **[Not used]**
- g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- h) No trees or native shrubs or understory 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.
- i) Prior to the commencement of any development on site 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.

- j) 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.
- k) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- l) Upon completion of the development, temporary structures or appliances are to be removed within 7 days.

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

5. 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 Principal Certifier prior to the issue of the Construction Certificate.

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

6. Prescribed Conditions

- a) All building works must be carried out in accordance with the requirements of the National Construction Code (NCC).
- b) 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 maybe contacted outside working hours, and
 - iii. stating that unauthorised entry to the work site is prohibited.

- c) 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) 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, and
 - 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

7. No Approval for any Signage

A separate development application must be submitted to Council prior to the erection of any signage unless the proposed signage is:

- a) 'exempt development' under any applicable environmental planning instrument, or
- b) permitted without development consent under an applicable environmental planning instrument.

Reason: To ensure any signage is assessed in accordance with the planning controls.

8. Parking Enclosure

No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior approval from Council.

Reason: To ensure accessibility is maintained

9. [Not Used]

10. [Not Used]

11. Construction Certificate

Prior to the commencement of any construction work, a Construction Certificate must be obtained.

Reason: To ensure compliance with Part 6 of the *Environmental Planning and Assessment Act 1979*.

12. Insurance

Public liability insurance - Prior to the commencement of any works including a public road, the applicant is to obtain Public Liability Insurance in the minimum amount of \$20 million. This insurance is to remain current for at least the period from the issue of the Construction Certificate until the issue of the final Occupation Certificate for the works. Documentary evidence of the Certificate of Currency is to be provided to the Principal Certifying Authority prior to the issuing of any Construction Certificate for access.

13. Sydney Water "Tap In"

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

Please refer to the website www.sydneywater.com.au for:

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

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

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

14. Construction Site Management Plan

Prior to the issue of a Construction Certificate, the applicant must submit a Construction Site Management Plan.

Prior to commencement of works on site, appropriate environmental site management measures must be in place and incorporate the following throughout demolition and construction:

- a) access to and from the site during construction and demolition:
- b) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting,
- c) methods of loading and unloading machinery and building materials,
- d) location of storage materials, excavation and waste materials,
- e) methods to prevent material being tracked off the site onto surrounding roadways,
- f) erosion, sediment and dust control measures, and
- g) protection of existing trees and vegetation.

During works, the site management measures listed above must remain in place and be maintained until the completion of works.

Safe pedestrian access free of trip hazards must be maintained at all times on or adjacent to any public access routes.

Reason: To require details of measures that will protect the public and the surrounding environment during site works and construction.

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

15. Structural Adequacy

Prior to the issue of any Construction Certificate:

- (1) the Applicant must submit to the satisfaction of the Certifier revised structural drawings prepared and signed by a suitably qualified practicing Structural Engineer which:

- demonstrate compliance with the BCA;
- demonstrate compliance with this Development Consent; and
- include the works which provide for a structural adequacy consistent with that indicated on sketches SK-01, SK-02 and SK-03 as marked up on 15 November 2024 which are generally in accordance with the below:
- The introduction of additional reinforced concrete walls and slabs detailed in such a way as to provide a continuous and fully connected rigid structure to an extent as indicated on sketch SK-01, SK-02, SK-03 as marked up on 15 November 2024, which is piled with screw piles to depths no less than 5 metres below the existing ground level required to resist coastal loading and mitigate foundation movement due to coastal hazards and giving consideration to the proposed wave parapet and seaward scour level.

- The introduction of a new concrete low height wall to the garden edge as shown on SK-01 as marked up on 15 November 2024 to a minimum height of 400mm.

(2) The revised drawings are to:

- provide details of wall thickness and reinforcement together with details of proposed new linings;
- provide details of any changes to internal wall and floor finishes as a result of the introduction of the concrete walls, floors and ceilings;
- ensure the internal roof structure remains exposed and ensure there is no false ceiling in the central room of the upper floor;
- ensure the retention of the enclosed verandah bay on the first floor
- ensure accessibility and door widths or fenestration are unaltered;
- provide details of the foundation or piling methodology and supporting justification.

the revised structural drawings must not alter the design of the building beyond that shown on sketch SK-01, SK-02, SK-03 as marked up on 15 November 2024 and amended in accordance with condition 15(1), except with approval from the Council.

- (3) Council's Heritage Advisor must provide written confirmation that the revised structural drawings satisfactorily comply with condition 15(2).
- (4) The Applicant is to submit amended Demolition Plans consistent with the approved Structural Reinforcement Works Plans as amended by this condition, to the satisfaction of the Certifier.

16. Supervision of Works by Structural Engineer

All works are to be supervised by a suitably qualified and experienced structural engineer who is to ensure that the structure designed and installed is consistent with the requirements and intent of condition 15.

17. Wave Parapets

Detailed design drawing of the wave parapets shall be prepared and approved by Council prior to issue of Construction Certificate. This shall include confirmation that the wave parapet has been suitably designed for coastal processes and hazards and will not create a public safety hazard, including during storm events.

Reason: To maintain public safety and to minimise the visual impact of the works.

18. Noise Controls

- a) A suitably qualified person must be engaged to assess mechanical plant noise levels on nearby sensitive receivers once a preliminary design for the mechanical

plant specifications of the development are available. The mechanical plant must meet all relevant noise criteria within the acoustic report entitled "Newport SLSC", prepared by GHD, referenced 12537693, dated May 2022.

- b) Any design recommendations made in the acoustic report entitled "Newport SLSC", prepared by GHD, referenced 12537693, dated May 2022, must be implemented into the plans prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of this consent.
- c) Details demonstrating compliance are to be submitted to the satisfaction of the Principal Certifier.

Reason: To assess the noise impact of any mechanical plant installed on the site, in accordance with *Pittwater DCP, Noise Policy for Industry 2017*, and *Protection of Environment Operations (Noise Control) Regulation 2017*.

19. Waste Storage Facilities

Details of waste storage facilities within the approved development site shall be provided to the Council and be to the written satisfaction of the Council prior to the issue of any Construction Certificate.

The waste storage rooms must be accessible via a flat concrete path that is no less than 1.2m wide.

Note: Should the waste storage facilities be required to extend outside the approved footprint, or be constructed outside of the approved footprint, then the applicant is required to submit a Section 4.55 Modification Application to authorise these changes to the design.

Reason: To ensure adequate provision of waste storage is provided on site.

20. Amended Waste Management Plan

An Amended Waste Management Plan must be prepared for this development and submitted to and approved by the Council prior to the issue of any Construction Certificate.

Areas to be excluded from demolition or construction activities requiring temporary land space include: the recreational park areas identified by grassed open space, all of the Youth Space area, accessible car spaces and accessible areas for entering and exiting with vehicles, public car spaces not provided for demolition and construction activities as directed by the Council, and all pedestrian connections linking the aforementioned areas.

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

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner, and does not restrict public use of recreational open space.

21. Stormwater Disposal

Adequate provisions must be made to collect and discharge stormwater drainage during construction of the building to the satisfaction of the Certifier. The prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.

The development must not result in the diversion of overland surface waters onto adjoining properties and where necessary shall construct appropriate surface drainage systems that connect to Council's stormwater system. The proposed stormwater is to be designed and constructed in accordance with relevant Council guidelines and Development Control Plans.

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

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

22. Submission of Civil Works Application – Newport Beach Car Park

The Applicant is to submit engineering design plans for the approval of infrastructure works on Council's car park, specifically, the design of kerb and gutter, pavement adjustments and stormwater drainage (if required) to ensure the surface drainage within the car park is adequately managed. Engineering plans for the new works within the car park are to be submitted to the Council for approval.

The application is to include four (4) copies of Civil Engineering plans for the design of kerb and gutter, pavement adjustments and stormwater drainage (if required) to ensure stormwater runoff is disposed to existing pit (SPP52168 or other drainage system) to the south of the existing basketball court. Plans are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified civil engineer. The design must also include details of adjustments to the Ausgrid streetlight (MV23816) located within the footprint of the proposed boat garage.

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

An approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure civil engineering works on Council's car park assets are designed and constructed in accordance with relevant standards and Council's specification.

23. Building Code of Australia Access Report

Access and facilities to and within the building are to be provided for Persons with a Disability and are to comply with the Building Code of Australia and AS 1428.1.

In this regard consideration is to be given to the Access Assessment Report dated 22/9/2020 prepared by BCA Logic and the access assessment letter dated 5 August 2024 by Jensen Hughes. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

24. External Materials, Finishes and Colours

Full details of external materials, finishes and colours are to be submitted to the Council for approval, prior to the issue of a Construction Certificate. In this regard, the "off the form concrete" finish, including spandrel beams, soffits and a column, are to be smooth (Class One Finish) and remain unpainted. Other materials and colours used in the new extension should be compatible with, and not compete with the architectural characteristics of the heritage listed surf club.

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

Reason: To ensure compatibility with the architectural significance of the heritage listed surf club and its setting.

25. Photographic Archival Record

Prior to the commencement of any works on site, the Principal Certifier shall be satisfied that an archival report has been completed and submitted to Council's Heritage Advisor as follows:

The report must be prepared by a recognised NSW Heritage Office heritage consultant and must contain the following minimum requirements:

- a) title page;
- b) statement of reasons the recording was made;
- c) outline history of the item (including title records, subdivision plans, water and sewerage plans and any archival documents such as family records, old photographs, etc);
- d) statement of a heritage significance (to accepted NSW Heritage Council criteria);
- e) specialised reports such as heritage assessments, dilapidation report, and builders or engineers reports;
- f) location plan showing relationship of site to nearby area;
- g) site plan to scale (1:200 - 1:500) showing all structures and site elements;
- h) measured drawing including site survey, floor plans, all elevations, roof plan and one cross section (1:00);
- i) drawings of specific interiors or details nominated by Council's Heritage Advisor;
- j) room inventories noting materials, profile of nominated decorative elements (1:2) and nominated by Council's Heritage Advisor;

- k) archival quality colour photographs, contact prints, and selected prints (one copy of contact sheets and selected prints);
- l) digital images and archival quality DVD, CD or USB may be submitted as supplementary information.

All photographs in the report are to be labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. A photographic recording sheet must be included. Photographs of the following must form part of the archival report:

- m) each elevation;
- n) each interior room;
- o) photographs of specific details nominated by Council's Heritage Advisor;
- p) all structures on site, such as sheds, outhouses and significant landscape features;
- q) several photographs of the heritage item from public streets or laneways including several views showing relationship to neighbouring buildings;
- r) several photographs of heritage item including views showing the existing buildings within their context from all angles within the public domain;
- s) distant views of the heritage item.

The digital report must be submitted to Council's Heritage Advisor. A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifier prior to the commencement of any demolition works.

26. Heritage Interpretation Plan

A Heritage Interpretation Plan is to be prepared for the site. As well as interpretation of the heritage surf club building, it must also include specific reference to the aesthetic and social significance of the original hall and specifically include items of moveable heritage, which are located within this heritage building.

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

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 development of the site.

27. Supervision of Works by Heritage Architect

All works are to be supervised by an experienced heritage architect who is to be involved in the resolution of all matters where significant fabric and spaces are subject to demolition and adaptive reuse. The heritage architect is to be available throughout the construction process to respond directly to the Council when issues relating to heritage require clarification or resolution. They are also to ensure that the policies outlined in the Conservation Management Plan are adhered to.

Details of the appointment of this heritage architect are to be submitted to the Council, prior to the issue of a Construction Certificate. Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To ensure that all matters relating to significant fabric and spaces are guided by heritage conservation best practice and the Conservation Management Plan.

28. [Not Used]

29. Biodiversity Management Plan

Prior to the issue of a Construction Certificate, the Biodiversity Management Plan for Revegetation of Foredunes at Newport Beach dated 21 October 2024 is to be amended by a qualified ecologist or bush regenerator with experience in coastal sand dune restoration.

The BMP is to be consistent with the document "A Framework to Guide Ecological Restoration" and Guideline 3 - Biodiversity Management Plan Biodiversity Requirements for Development Applications document by Northern Beaches Council.

The amended Biodiversity Management Plan (**BMP**) must include the following actions:

1. The BMP must outline desired outcomes, and specify works and actions required to be carried out to achieve these outcomes. It must clearly state quantifiable objectives that are to be achieved and should be suitable for the landowner, approval authorities, and the persons who are required to undertake implementation actions.
2. Update qualifications to stipulate: The bush regenerator team leader or supervisor responsible for implementation will need to demonstrate the following minimum qualifications and experience:
 - A Certificate III in Conservation and Land Management and/or Certificate III in Natural Area Restoration
 - Membership of the Association of Australian Bush Regenerators (or the prerequisite qualifications and experience for membership).
 - A minimum of 500 hours practical bushland regeneration under an experienced supervisor.
3. Engagement of a bush regeneration nursery at least 3 months in advance,

ensuring they are ready for planting as soon as the sea wall is completed to prevent erosion;

4. Inclusion of a plan identifying monitoring plots with "management areas 1 & 2" referred to in the Biodiversity Management Plan for Revegetation of Foredunes at Newport Beach dated 21 October 2024.
5. For each management area: 1. List the tasks required to achieve the stated objectives. 2. Describe specific strategies and techniques to be used. Every site will have a different management effort dictated by the key threats, size of the site, and the management objectives.
6. Fixed floristic plot/transects in line with the Office of Environment's Biodiversity Assessment Methodology. These are to be identified on mapping and marked on-ground using star pickets. Monitoring is to be undertaken annually.
7. The BMP must include an indicative budget. The budget should reflect all actions and the schedule of works for the duration of the BMP including the cost of materials, labour, watering, maintenance, rubbish removal, monitoring and reporting each year.
8. The BMP is to be amended to include a Gantt chart showing an indicative schedule of works over the "3 year life" of the BMP.
9. Inclusion of indicative costings for implementation of the BMP over the life of the BMP "3-years"
10. The BMP is to account for 20% loss of plantings at the establishment phase.
11. Identify the roles and responsibilities of all personnel with regards to the implementation of the BMP. Performance criteria with regards weed management and native vegetation coverage/establishment is to be clearly identified.
12. The BMP must specify the methods and responsibility for evaluating the achievement of its performance criteria. Performance targets need to be specific, realistic and measurable, and expressed quantitatively wherever it is possible to do so.
13. Reporting on the progress and milestones of the BMP within a year of commencement or as directed, and then annually for the life of the BMP. The reports are to include the results of the monitoring and an assessment of works against the performance criteria. Associated contingency measures are to be identified should performance criteria not be met.
14. Revegetation of the area of the dune that will be disturbed by construction with Coastal Foredune Wattle Scrub vegetation using local native tubestock plants at a density of at least 5 plants per square metre;

15. Regular watering, fence and mesh maintenance, weed control and replacements of loss of plants is to be carried out for a period of 2 years after the issue of the Occupation Certificate.

The BMP must provide for initial restoration works to be carried out immediately after the completion of the sea wall works and grading of the dune profile, and the establishment of the dune vegetation for a period of 2 years after issue of the Occupation Certificate.

Monitoring reports on the progress of the BMP must be submitted to and approved by Council's Ecologist once every twelve (12) months for the duration of the BMP.

Reason: to revegetate and stabilise the dune with native Coastal Fore-dune Wattle Scrub vegetation and associated habitat.

30. Construction Environment Management Plan

Prior to the commencement of the development, the Construction Environment Management Plan (CEMP) dated 21 October 2024 is to be revised to incorporate all measures for the prevention of wind erosion and protection of the newly planted native vegetation. This is to include a temporary during construction panel fence with bracing and mesh and a permanent lower pine fence.

The CEMP is to include details for:

- a) Details of the source of sand that will be added. Only sand is to be used in the reconstruction of the dune;
- b) Location of stockpiles;
- c) Storage of materials;
- d) Location of No-Go zones and refuelling areas;
- e) Access to and from the beach frontage and ensure no encroachment of machinery within nominated tree protection zones;
- f) All plans are to detail the nominated tree protection fencing to be installed in accordance with AS4970-Protection of Trees on development sites;
- g) All areas outside of the works areas are to be identified on plan to be protected by ATF fence panels to a height of 1.8m.

The CEMP is to be certified by the Project Ecologist as complying with this condition and provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent wind erosion of the dune during construction and assist in establishment of a native vegetation cover of the dunes.

31. 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 a suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team or Certifier prior to issue of any Construction Certificate.

The CTMP must address following:

- a) The proposed phases of construction works on the site, and the expected duration of each construction phase.
- b) 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.
- c) Make provision for all construction materials to be stored on site, at all times.
- d) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- e) 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.
- f) 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.
- g) Make provision for parking onsite.
- h) Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by the Council prior.
- i) Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- j) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- k) 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.
- l) 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 the Council prior to work commencing on site.
- m) 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.

- n) Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of the Council, undertake remedial treatments such as patching at no cost to the Council.
- o) 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.
- p) Proposed protection for Council-owned and adjoining properties.
- q) The location and operation of any on site crane.
- r) Detail entry and exit points are to be clearly signposted and visible from both the street and the site at all times.
- s) All required works are to be completed in accordance with Council/Transport for NSW standards prior to the commencement of construction works on the site.

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” and any other applicable Council and TfNSW standards.

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.

32. Stair and ramp termination Level

The final termination level of the stairs and ramp as well as any other amendments to the stair design is to be to the satisfaction of the Council prior to issue of the Construction Certificate.

Reason: To facilitate safe public access to the beach over the life of the works.

33. Detailed Design Drawings and Notes

The following changes are to be incorporated in the design drawings or drawing notes prior to issue of the Construction Certificate:

- a) Use of floor finishes and wall materials that would withstand inundation.
- b) Installation of seaward facing glazing made of toughened/laminated glass with appropriate fracture characteristics that present a low hazard when fractured, or such that it holds together when shattered.
- c) Placement of electrical fittings and outlets that could be damaged by inundation above the appropriate inundation levels and waterproofing them to marine grade below this level.

The incorporation of these design elements in the design drawings or drawing notes is to be to the satisfaction of the Council prior to issue of the Construction Certificate.

Reason: To ensure risk from coastal hazards is appropriately managed.

34. Maintenance Obligations and Public Safety

The Applicant must provide an irrevocable and unconditional bank guarantee by a trading bank without an expiry or end date or a bank deposit to their property division and to the Principal Certifying Authority prior to the issue of any Construction Certificate in the amount of \$1000 per lineal metre of the coastal protection works (based on the length of coastal protection works) to undertake restoration of the beach or maintenance of the coastal protection works in the event that they are damaged as a result of coastal storm, including to:

- a) Undertake any works required to remove any threat to public safety arising from the coastal protection works including the removal of rocks or debris, that have become dislodged from the works, from the public beach and adjacent public land, and/or
- b) Monitor regularly the beach amenities including surround infrastructure, along Newport Beach to determine if any increased erosion of Newport Beach or adjacent land is caused by the presence of the works. Minimum beach monitoring requirements are:
 - i. Yearly (September) beach volume survey by registered surveyor or other agreed means such as a drone survey, minimum coverage including the development and 400m each side of the development, minimum extending from 5m AHD down to 0.00m AHD, capturing the dune and beach berm volumes and enabling minimum beach profiles spacing 20m.
 - ii. Yearly suitably qualified coastal engineer report, informed by beach monitoring, on any effect caused by the works and/or the requirement for beach restoration works such as beach nourishment or beach scraping.
 - iii. Yearly suitably qualified coastal engineer report on any effect caused by the works and/or any increased erosion from end effects from the works.
- c) Restore Newport Beach, or land adjacent to the beach, including of dune eroded at the wall ends and the surrounding infrastructure including the car park if any increased erosion of Newport Beach or adjacent land is caused by the presence of the works, and/or any increased erosion from end effects from the works.

The Council may call on the Bank Guarantee to undertake restoration of the beach or maintenance of the coastal protection works mentioned above. In doing so, the Council must apply the amount received pursuant to the Bank Guarantee towards the costs of those works.

In this condition “*increased erosion of the beach or adjacent land...caused by the presence of the works*” will be attributed to the works if the beach or adjacent land has not sufficiently recovered naturally within a period of six months, assisted as required by beach scraping carried out by Council (including where the sea wall works are exposed without safe access to the beach) following a storm event. Restoration will be to the pre-storm condition as informed by the yearly beach survey and coastal engineering report as required in this development consent together with photographs taken as required by the archival record condition 25.

In this condition “maintenance” means the restoration of the works to a standard in accordance with the approved plans and specifications following any damage caused by a coastal storm.

The bank guarantee (or deposit) is to be replenished by Council if drawn upon and increased to allow for Consumer Price Index (CPI) every year from the date of establishment.

If there is any amount remaining in the bank guarantee or the deposit, it will be returned to Council at the end life of this development consent.

Reason: To satisfy the requirements of Section 27 of the *Coastal Management Act 2016* and to ensure the coastal protection works will not pose any threat to public safety.

35. Restoration works

The Applicant must, for the life of the coastal protection works approved by this consent:

- a) Ensure the restoration of Newport Beach, and land adjacent to the beach, if any increased erosion of the beach or adjacent land is caused by the presence of the works; and
- b) Ensure the maintenance of the works.

Reason: To satisfy the requirements of Section 27 of the *Coastal Management Act 2016*.

36. Public Access Plan

In recognition of the need to maintain beach access for Council Lifeguards, Surf Life Savers, and the general public, from the Surf Club and the adjoining road ends, a public access plan is to be prepared and approved by Council prior to issue of Construction Certificate.

The plan is to outline the actions to be undertaken by the contractor to maintain safe public access to the beach from the Surf Club during the construction of the works. Details demonstrating compliance are to be provided to the Certifier prior to the issue of the Construction Certificate.

37. Removal of unsuitable material

The following material shall be removed by the Applicant, following construction of the works: any material, except beach sand, encountered or imported during excavation and construction and not utilised in the construction of the works. This includes any material disturbed on any land, including adjacent public and private land and any material imported or reworked to form a temporary bund. This may include rocks, rubble, plastic, steel, concrete, geofabric or contaminated sediment, all existing rock, rubble or other material (except beach sand) forming historic protection works encountered during excavation and construction, that is not re-incorporated in the works.

Confirmation of this requirement is to be provided to Council by the engineer supervising the works.

Reason: To ensure that all unsuitable material is removed from the beach for public safety, improved beach amenity and to ensure no pollution of the environment.

38. Coastal Protection Works Landward Return Design

Confirmation that the landward returns of the coastal protection works at the northern and southern ends are sufficiently distant from the building structure that the end effects associated with a significant coastal storm will not reduce the bearing capacity of the existing and proposed footings to the building structure is required prior to issue of Construction Certificate.

Reason: To ensure appropriate protection of the building from coastal storms.

39. Maintenance Management Plan for Coastal Protection Works

A Maintenance Management Plan (**MMP**) is to be prepared for the maintenance of the coastal protection works which also covers maintenance requirements for the SLSC building structures for their intended design life. The MMP is to be prepared by a suitably qualified coastal engineer in relation to coastal protection works and a suitably qualified structural engineer in relation to the surf life saving building, and is to be approved by the Council in writing prior to issue of the Construction Certificate. The MMP must be complied with at all times.

The MMP may be modified from time to time with the approval of the Council .

Reason: To ensure a plan is in place for the on-going maintenance of the works prior to the start of construction.

40. Aboriginal Heritage and Archaeology

Prior to commencement of any works, the Principal Certifier shall be satisfied that an archaeological survey has been completed and submitted to Council's Heritage Advisor.

The survey shall be carried out by a qualified archaeologist and shall identify the likelihood of remains and/or artefacts, whether European or Aboriginal, being present on site. If the survey identifies that such items are likely to be present on site, demolition, earthworks and excavation shall be undertaken under the direct supervision of the consultant archaeologist.

An excavation permit under section 140 of the *Heritage Act 1977* may be required if it is likely relics will be uncovered.

A policy of managing the known relics and an interpretative strategy developed on how to interpret any relics found on the site must be developed and subject to separate approval by Council's Heritage Advisor.

Reason: To ensure adequate assessment of Aboriginal Heritage and Archaeology

41. Finish to External Walkways and Paving (prior to Construction Certificate)

All external walkways and pavers are to closely match the colour of the wave parapet, which in turn is to be a light sand colour. A sample of the colour and finish of the wave parapet, the walkways and any pavers must be submitted to Council's Heritage Advisor for approval. A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifier prior to the commencement of construction. Unfinished concrete is not acceptable.

42. Appointment

Prior to the commencement of work, the person having the benefit of the development consent and a Construction Certificate shall:

- a) Appoint a Principal Certifying Authority and notify the Council of the appointment (if Council is not appointed); and
- b) Notify Council of their intention to commence building work (at least 2 days' notice is required).

Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979*.

43. Dilapidation Report of Land Owned or Managed by the Council

A Pre-Construction Dilapidation Report shall be submitted to the Council and the Principal Certifier prior to commencement of works.

A Pre-Construction Dilapidation Report shall contain a survey of pre-existing land features including photographic record of the land under the Council's care control and management adjoining the development, detailing the physical condition of items such as, but not exclusively limited to, physical assets such as crossovers, driveways, footpaths, utilities, furniture, play equipment, trees, gardens, lawn areas, bushland and any rock outcrops.

Any damage to these assets during the works must be replaced like for like to the satisfaction of the Principal Certifier.

The applicant may be held liable to any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition. In this regard, where required, the damage deposit lodged by the applicant may be used by Council to repair such damage on Council's property.

Reason: Protection of Council's assets.

44. 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 or carpark 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.

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

45. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment.

- a) The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:
 - i. tree protection measures and works under section 5 Tree Management Plan including all requirements outlined in Step 1 to Step 7,
 - ii. additionally, the Project Arborist shall be in attendance and supervise any landscaping works within the TPZ of all existing trees to be retained.
- b) Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.
- c) All tree protection measures specified must:

- i. be in place before work commences on the site, and
- ii. be maintained in good condition during the construction period, and
- iii. remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

d) Note:

- i. A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii. Any potential impact on trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

46. Working and Access on Reserves Permit

Works (undertaken by principal contractors working without the Council's supervision) on land owned or managed by Northern Beaches Council require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks and Recreation business unit.

Reason: public safety and the protection of Council infrastructure.

47. Erosion and Sediment Control Plan

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

- a) Site Boundaries and contours.
- b) Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application).
- c) Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities).
- d) Existing and proposed drainage patterns with stormwater discharge points.
- e) Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste

stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.

- f) North point and scale.

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

Reason: Protection of the receiving environment.

48. Installation and Maintenance of Sediment and Erosion Control

Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period.

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.

49. Aboriginal Cultural Heritage

Prior to any works commencing:

- a) A visual inspection must be conducted by or on behalf of the Applicant together with the Aboriginal Heritage Officer for Northern Beaches Council to identify if there are any surface *Aboriginal* objects present on the site or in its surrounds within 200 metres of the development site, including Newport beach, which may result in the requirement for an Aboriginal Heritage Impact Permit; and
- b) If the visual inspection identifies that such items are likely to be present on site, demolition, earthworks and excavation shall be undertaken under the direct supervision of a suitably qualified consultant archaeologist. An excavation permit under s.140 of the Heritage Act may be required if it is likely relics will be uncovered. A policy of managing the known relics and an interpretative strategy developed on how to interpret any relics found on the site must be developed and subject to separate approval by Council's Heritage Advisor;
- c) All on-site personnel are to be made aware of their obligations under the *National Parks and Wildlife Act 1974*. This includes the protection of Aboriginal sites and the reporting of any new or suspected Aboriginal heritage sites. This may be done through an on-site Aboriginal cultural heritage induction. The induction should cover

procedures for identification and reporting of any new or suspected Aboriginal sites, including reference to the types of sites and sensitive landscape features in the local area;

- d) A letter must be provided by the Applicant to the Certifier, confirming that this condition has been complied with.

Reason: To protect Aboriginal Cultural Heritage.

50. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected (except as permitted to be removed under this consent), including:
- i. all trees and vegetation within the development site area, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii. all trees and vegetation located on adjoining properties,
 - iii. all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
- i. Tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protection existing trees within 5 metres of development,
 - ii. Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii. Removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v. Structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 - vi. Excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii. Should either or all of v. or vi. occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
 - viii. Any temporary access to, or location of scaffolding within the

- tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix. Tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Principal Certifier must ensure that:

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

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

Reason: Tree and vegetation protection.

51. Condition of Trees

During the construction period the Applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from the Project Arborist during the works. In this regard all protected trees shall not exhibit:

- a) A general decline in health and vigour,
- b) Damaged, crushed or dying roots due to poor pruning techniques,
- c) More than 10% loss or dieback of roots, branches and foliage,
- d) Mechanical damage or bruising of bark and timber of roots, trunk and branches,
- e) Yellowing of foliage or a thinning of the canopy untypical of its species,
- f) An increase in the amount of deadwood not associated with normal growth,
- g) An increase in kino or gum exudation,
- h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Project Arborist are to be implemented.

Reason: Protection of trees.

52. Protection of Council's Public Assets

Any damage to Council's public assets shall be made good by the Applicant, and/or the contractor, to the satisfaction of the Council.

These public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the *Local Government Act 1993*.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Should any problems arise with regard to the existing trees on public land during the construction period, the Applicant is to immediately contact Council's Tree Services section and resolve the matter to the Council's satisfaction.

Reason: To protect and/or restore any damaged public asset.

53. 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 TfNSW 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 the Council for approval.

A copy of the approved CTMP is to be kept onsite at all times and made available to the 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.

54. 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.

55. Ongoing Management

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

Reason: To ensure public safety.

56. 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:

- a) Work Health and Safety Act 2011;
- b) Work Health and Safety Regulation 2017;
- c) Code of Practice for the Safe Removal of Asbestos [SWA: 2022];
- d) Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- e) Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)];
- f) Part 7 of the Protection of the Environment Operations (Waste) Regulation 2014; and
- g) 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.

57. Geotechnical Requirements

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

Reason: To ensure geotechnical risk is mitigated appropriately.

58. Survey Certificate

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

- a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with

levels shown on approved plans.

59. Sand

No sand excavated from the beach seaward of the works is to be placed landward of the protection works before, during or after construction. All such sand shall be placed seaward of the works. The sand shall be screened to remove unsuitable material as required.

No sand shall be borrowed from the Newport Beach dunes to maintain the beach amenities along the proposed development or to manage the seawall end-effects. Suitable clean sand is to be imported from an external source and/or existing beach sand is to be reworked by beach scraping to manage beach access and amenities in the vicinity of the proposed works.

Reason: To avoid damage to the beach and dunes.

60. Removal of unsuitable material

Unsuitable materials found within the area of excavation and not utilised in the construction of the works will be required to be removed. Confirmation of this requirement is to be provided to the Council by the engineer supervising the works.

Reason: To ensure that all unsuitable material encountered in the excavation area is removed from the beach.

61. Safety requirements under storm conditions

Works are not to be conducted during ocean storm conditions unless the Applicant obtains a written opinion from a suitably qualified coastal engineer that the carrying out of the works under these conditions does not present a significant safety risk to any person or will result in damage to the beach. This opinion is to be obtained for each and every storm occurrence and is to be kept by the Applicant until the works are completed. If adverse weather conditions are forecast, the works site is to be made safe (where practical) to avoid the dispersal of equipment and debris onto the beach and into the surf zone.

It shall be a requirement of the contract with the contractor that the contractor monitor and make themselves aware of coastal conditions, and take all actions required to secure the site and prevent any pollution of the environment due to tidal or wave activity; and in the event of any pollution emanating from the subject site due to tidal or wave activity then the contractor must remediate the environment to Council's satisfaction.

Reason: To ensure the safety of workers and the public during construction.

62. Aboriginal Heritage

If in undertaking excavations or works any Aboriginal site or object is, or is

thought to have been found or Aboriginal, or suspected Aboriginal, archaeological material is uncovered during the development, then works in that area are to stop and the area is to be cordoned off.

All works are to cease immediately and the Applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the DECCW and is to make an assessment as to whether the material is classed as Aboriginal object/s under the *National Parks and Wildlife Act 1974 (NPW Act)*, and advise on the required management and mitigation measures.

Works are not to recommence in the cordoned off area until heritage clearance has been given and/or the required management and mitigation measures have been implemented.

In the unlikely event that human remains, or suspected human remains, are uncovered during the during demolition, excavation, or construction works during the course of the development, works in that area are to stop and the area is to be cordoned off. The project manager is to contact the NSW Police to establish whether the area is a crime scene.

If it is not a crime scene, and the remains are determined to be Aboriginal ancestral remains, Heritage NSW is to be notified via the Environment Line on 131 555 and management measures are to be devised in consultation with the local Aboriginal community.

Archaeological assessment and approval, or endorsement, may be required prior to works continuing in the affected area(s) based on the nature of the Supplementary Joint Report of Heritage Experts - Newport Surf Life Saving Club 2023/00109048 – Northern Beaches Council v Northern Beaches Council.

Depending on the nature of the discovery and advice from the NSW Heritage Council, an application for an excavation permit under Section 140 of the *Heritage Act 1977* may be required to be made.

If remnants or artefacts are found during the progression of works on the site, excavation or disturbance of the area is to stop immediately.

Works are not to recommence in the area until the management measures have been implemented.

The NPW Act provides statutory protection for all Aboriginal 'objects' and for 'Aboriginal Places' under Section 84. Works must be stopped in the instance where there is a suspected discovery of an 'object' in accordance with the above definition and Heritage Council (Heritage NSW) notified under Section 89A of the NPW Act. In this instance, a valid and applicable Aboriginal Heritage Impact Permit may be required under Section 90 of the NPW Act.

In accordance with section 146(a) of the *Heritage Act 1977* the Applicant must ensure the Heritage Council of NSW is notified within a reasonable time of the discovery or location of these relics.

Reason: Aboriginal Heritage Protection.

63. Discovery of Contamination

Should any unexpected contaminated, scheduled, hazardous or asbestos material be discovered before or during construction works, the applicant and contractor shall ensure the appropriate regulatory authority is notified and that such material is contained, encapsulated, sealed, handled or otherwise disposed of to the requirements of such Authority.

Reason: To ensure contamination discovered during construction is dealt with as quickly as possible and to protect the health of the community and the environment.

64. Imported Fill

While construction work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the Principal Certifier,
- b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to a resource recovery exemption by the NSW EPA.

Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is safe for future occupants.

65. Temporary bund design

The design for any temporary bund constructed on the beach to provide protection from coastal processes shall be undertaken by a suitably qualified coastal engineer and submitted to the Council for approval prior to construction of the bund. The design requirements are to be included in the construction contract.

Reason: To prevent pollution of the beach.

66. Temporary bund construction

Any temporary bund constructed on the beach to provide protection from coastal processes may only be constructed from sand and suitable rocks present on the beach at the commencement of the works, or suitable rocks imported to site as part

of the final coastal protection works. No other construction materials or imported material is to be used in construction of the bund.

Reason: To prevent pollution of the beach.

67. Temporary bund maintenance and safety

A maintenance plan shall be prepared for any temporary bund by a suitably qualified coastal engineer and submitted to the Council for approval. The maintenance requirements are to be included in the construction contract. It is the responsibility of the contractor undertaking the construction works to ensure that the temporary bund constructed on the beach is maintained at all times, and to undertake any required repairs and maintenance of the bund after storms, to ensure public safety. This includes after hours, weekends, public holidays, holiday periods and if the contractor is notified by the Council of an issue with the temporary bund.

The bund is to be monitored for any voids (sink holes) that form. If voids are identified, access to the bund is to be restricted until voids are repaired.

Where wave conditions allow it, the contractor is to use signage and flagging or similar to delineate the bund as a construction site to restrict public access. The bund area adjoining the public beach and the area inside the bund is to have additional safety warnings if required after hours, with the understanding that the public may enter. All sharp objects are to be removed or capped, ponded water drained, and loose objects removed, from inside the bund after hours.

The bund shall be completely removed at the completion of the works. If directed by the Council, the bund materials shall be screened during removal of the bund to remove unsuitable material that could have entered the bund.

Reason: To prevent pollution of the beach.

68. No Weeds Imported On To The Site

No priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2021 – 2026) are to be imported on to the site prior to or during construction works.

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

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

69. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction associated with this Consent has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences

are to be removed from the site.

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

Reason: To protect reserve amenity and public safety.

70. [Not used]

71. Condition of Retained Vegetation - Project Arborist

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation;
- d) compliance with the conditions in this consent relating to tree protection and health.

Reason: Tree protection.

72. Landscape Completion

Landscaping is to be implemented in accordance with the approved Landscape Plan and inclusive of the following conditions:

- a) All tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- b) All trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and located either within garden bed or within a prepared bed within lawn,
- c) Mass planting shall be installed at minimum 1 plant per metre square for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at least 4 plants per metre square for grasses/groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

73. Reinstatement of Streetlighting

Any streetlighting impacted by the building work is to be reinstated and reviewed to provide a level of lighting that is consistent with the requirements of AS/NZS 1158.3.1:2020 to satisfactorily illuminate the public areas around the surf club building.

Reason: to ensure the building and associated pedestrian areas are lit to Australian Standard requirements

74. Shared Bollard Zone

A bollard is to be provided at the shared zone between the disabled spaces sited to the west of the surf club in accordance with Australian Standards AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards

75. Restoration of sand

Sand, shaped to a natural profile, is to be restored seaward of the works, once construction is completed. Sand from the public beach must be used for this purpose.

Details are to be provided to the Principal Certifying Authority prior to the issue of the Occupation Certificate. These details are to be provided to the Council on issue of the Occupation Certificate.

Reason: To limit the impact of the works on the visual quality of the beach

76. Certification of Works

The constructed coastal protection works are to be certified by a suitably qualified coastal engineer and the works to the surf life saving club by a suitably qualified structural engineer as being constructed in accordance with the approved design and performance criteria.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to approval of an Occupation Certificate. This certification is to be provided to the Council on issue of the Occupation Certificate.

Reason: To ensure appropriate design and construction of coastal protection works and the surf life saving building

77. Surveys During Works and Post Completion Survey

A report issued by a registered surveyor is required as evidence that all construction has been effected in accordance with the Development Consent, approved plans and details in the Consent. Details demonstrating compliance are

to be submitted to the Principal Certifying Authority prior to issue of an Occupation Certificate. The Survey plan and report is to be provided to the Council on issue of the Occupation Certificate.

Reason: To ensure accurate location of coastal protection works

78. Fire Safety Matters

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

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

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

Reason: Statutory requirement under Parts 11 & 12 of the Environment Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

79. Post-Construction Dilapidation Report of Land Owned or Managed by Council

Post Construction Dilapidation Report of the land under Council's care control, including photos of any damage evident at the time of inspection, must be submitted after the completion of works.

The report must:

- a) Compare the post-construction report with the pre-construction report,
- b) Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- c) Should any damage have occurred, the evidence of like for like replacement to the satisfaction of Council.

Copies must also be lodged with Council.

The Applicant may be held liable to any damage to public infrastructures in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition. In this regard, where required, the damage deposit lodged by the Applicant may be used by Council to repair such damage on Council's property.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issuing of an Occupation Certificate.

Reason: Protection of Council's assets.

80. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Council Specifications/Guidelines, Australian Standards and Codes by a suitably qualified Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

81. Roof connection to existing rainwater tanks

Roof runoff from the portion of the roof over the multi-purpose and training room area of the building that drains to the south and south-west and that portion of the roof over the lounge that drains to the south and south-west is to be directed via suitable downpipe arrangements to the existing rainwater tanks located along the western façade of the building.

Reason: To assist with water conservation.

82. Implementation of Heritage Interpretation Plan

The approved Heritage Interpretation Plan must be implemented to the satisfaction of the 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 development of the site.

83. Evacuation Management Plan

The Applicant must comply with the Evacuation Management Plan at all times.

The Plan is to be activated in advance of and during a storm event that could result in coastal inundation impacting the promenade and/or SLSC building.

Reason: To ensure public safety during a storm event.

84. Removal of Shipping Containers

Within six (6) months of the issue of an Occupation Certificate, the shipping containers located within the carpark are to be permanently removed.

85. Works-as-Executed Drawings

Works-as-executed drawings ('WAE') are to be provided which outline all constructed works. The drawings shall be certified by a registered surveyor or a

chartered professional Civil Engineer. An electronic copy of the WAE in dwg format shall also be provided.

Reason: To ensure that there is an adequate record of community infrastructure.

86. Completion of Construction Works

All construction works must be completed within 24 months of the on-site commencement of the construction works.

Reason: To ensure the works are completed in a timely manner.

87. Landscape Maintenance

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

All weeds are to be managed in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

88. Native Vegetation

There must be no removal or disturbance of native vegetation except as authorised by this consent, including canopy trees, understorey and ground cover vegetation without the prior written consent of Council.

Reason: To ensure vegetation is maintained on the site.

89. Protection of Habitat Features

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

Reason: To protect wildlife habitat.

90. Geotechnical Recommendations

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

Reason: To ensure geotechnical risk is mitigated appropriately.

91. Hours of Operation

The hours of operation for the surf club (except where otherwise stipulated in this consent) are to be restricted to:

- Monday – Sunday: 5:00am – 12:00am

The hours of operation for the bar located on the first floor are as follows:

- Monday – Thursday: 5:00pm – 9:00pm
- Friday and Saturday: 5:00pm – 12:00am
- Sunday: 5:00pm – 10:00pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

92. Noise Controls

At all times, the operation of Newport SLSC must comply with recommendations in Section 6 of the acoustic report entitled “Newport SLSC”, prepared by GHD, referenced 12537693, dated May 2022.

Reason: To protect noise amenity of surrounding residents, operate in accordance with acoustic report recommendations, Pittwater DCP, Noise Policy for Industry 2017, and Protection of Environment Operations (Noise Control) Regulation 2017. (DACHPGOG5)

93. Complaints Register

A complaints register is to be kept on the premises at all times. There is to be an individual available for contact at all times should a complaint be received.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

94. Maximum Capacity for Seating

Seating at the premises must not exceed 320 on any occasion.

Reason: To ensure that amenity of the surrounding locality is maintained.

95. Plan of Management

A Plan of Management containing details of the ongoing operation of the premises (including the requirements in conditions 91-94 of this development consent) shall be prepared to the satisfaction of the Certifier prior to the issue of any Occupation Certificate.

96. Ongoing maintenance of stormwater quality measures

Stormwater quality measures constructed pursuant to condition 21 of this consent must be maintained in accordance with the manufacturer's requirements throughout the duration of this development consent.

Evidence of maintenance must be submitted to Council every five years from the date of the operation of this development consent.

97. Coastal Erosion

This property is on land located in an area where there is likely to be a risk of coastal erosion and wave impact during severe storms. The risk to the property may increase with time due to long-term beach recession caused by greenhouse induced sea level rise or natural coastal processes. To reduce the potential impact, sand on the beach must be maintained at all times to natural levels as documented in this development consent and maintained to provide access to the beach the proposed concrete sea wall.

Reason: Protection of coastal environment.

98. Ongoing maintenance of coastal protection works and beach amenity

Arrangements for the ongoing maintenance of the works and the adjoining land are to be included in the Northern Beaches Council Infrastructure Asset Management Plan. These arrangements are to document the inspection and maintenance requirements in the event that the works or adjoining beach are damaged by a coastal storm.

If there is a coastal storm which affects the ongoing operation of the natural sand levels of the beach, the surf lifesaving club or the sea wall as authorized by this development consent or that exposes any part of the coastal protection works to damage, that impacts the support or performance of the works, the Applicant at its cost is required to:

- a) inspect the applicable area within (7) days of the coastal storm;
- b) document the condition of the applicable area and to provide a report indicating the state and condition of the applicable area, including with supporting photographs, beach topographic surveys and sand volumetric calculations;
- c) provide any recommendations enabling compliance with this development consent and to ensure that the associated approved development is safe for ongoing occupation and use, signed off by a suitably qualified coastal engineer.

Any recommendations within the report are to be undertaken as soon as reasonably practicable after necessary approvals are obtained, if required.

Reason: To ensure that the works will not pose a threat to public safety or access.

99. Ground Anchors

The ground anchors buried must not be damaged or removed.

Reason: To ensure the structural integrity of the works.

100. Time Limited Consent

The consent operates for 60 calendar years from the date of the issue of the Occupation Certificate.

Every twenty years during the duration of 60 years after the issue of the Occupation Certificate for the works and the upgraded surf life saving club, the owner/s shall procure, a Review Report, by:

- a) a suitably qualified independent coastal engineer in relation to the coastal protection works; and
- b) a suitably qualified independent structural engineer in relation to the structural integrity of the surf life saving building.

A Review Report should be carried out in any event and despite the above twenty year intervals if the SLSC building structure or the coastal protection works (including the seawall and parapet) are significantly affected by wave actions, beach erosion, and/or coastal inundation and requires significant renewal works, upgrade works, or maintenance works.

Each report must review the performance of the surf life saving building and the coastal protection works authorised by this consent using the evidence and coastal hazard projections known at that time.

Each report must consider whether:

- a) The works and/or the surf life saving building are satisfactory in their current state and do not result in a threat to public safety, or
- b) Upgrades to the works and/or the surf life saving building are recommended to ensure they will not result in a threat to public safety, or
- c) Demolition and removal of the coastal protection works and/or the surf life saving building in the interest of public safety is recommended.

The last Review Report shall be submitted to the Council for approval not later than twelve (12) months prior to the date of 60 years after the issue of the Occupation Certificate in accordance with this condition.

If the Review Report recommends any upgrades or alterations to the works or the surf life saving building in accordance with this condition, those upgrades must be dealt with under the planning laws at that time.

If the Review Report recommends removal and replacement of the coastal protection works structures and/or surf life saving building with an alternative design, the replacement structure and/or surf life saving building will be the subject of a further development application for the Council to consider, if required by the planning laws at that time.

If the Review Report recommends beach works in accordance with this condition, those works must be carried out under the planning laws at that time and undertaken by the Applicant at its own expense and within a less than one year from the event or the twenty-year interval Report, whichever is the shorter period.

If the Review Report recommends demolition and removal of the coastal protection works and/or the surf life saving building:

- a) Such removal will be undertaken by the Applicant at its own expense and within a reasonable period of time.
- b) A Decommissioning Plan must be provided to Council (or relevant approval authority) for review and approval no later than 6 months prior to the proposed cessation of operations.

If the last Review Report recommends that the coastal protection works and/or the surf life saving building remain satisfactory in their current state (i.e. with no upgrades required), the Applicant may submit a modification or development application (**Application**) seeking an extension to the duration of this consent. Provided that the Application is lodged prior to the date which is 60 years from the date of the issue of the Occupation Certificate and diligently prosecuted, the Applicant will not be required to remove the coastal protection works and/or the surf life saving building until such time as the Application has been finally determined.

Reason: To ensure the decommissioning occurs in an orderly and sustainable manner, that the amenity of the area is maintained.

Reason: The development application indicated the Coastal Protection works and the associated upgrades to the surf life saving building have a design life of 60 years; to satisfy the requirements of Section 27 of the Coastal Management Act 2016, and to provide a mechanism to review the works and extend the operation of the consent.

101. Coastal Management Program

In the event Council adopts a Coastal Management Program which affects the site and requires physical works to be undertaken to the building and coastal protection works, the Council is to lodge a modification application to modify the development the subject of this consent including to amend the Coastal Hazard Safety and Evacuation Management Plan approved as part of the development consent is to be amended to be consistent with, and implement any recommendations within, that Program which applies to the site and carry out such modified consent within a reasonable period.

Northern Beaches Council v Northern Beaches Council (at the control and direction of the Sydney North Planning Panel)

LEC No: 2023/00109048

Reason: To ensure the ongoing management of the site.

