

8 January 2024

Michelle Bejcek  
19 Sydney Road  
MANLY NSW 2095

Dear Sir/Madam

**Application Number:** DA2023/1293  
**Address:** Lot 20 DP 235980 , 19 Sydney Road, MANLY NSW 2095  
**Proposed Development:** Use of Premises as an educational establishment

Please find attached the Notice of Determination for the above mentioned Application.

You should thoroughly read the Notice of Determination and be aware of any conditions imposed that affect the development and guide the next steps in the process before you can commence works and/or the use.

A copy of the Assessment Report associated with this application is available to view in the Planning and Development > Application Search section of Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

If you have any questions regarding the decision or the conditions, please contact Council to speak to the assessment officer or the undersigned on 1300 434 434 or via email quoting the Application number, property address and the description of works to [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Olivia Ramage  
**Planner**

## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

<b>Application Number:</b>	DA2023/1293 PAN-369331
<b>Applicant:</b>	Michelle Bejcek 19 Sydney Road MANLY NSW 2095
<b>Property:</b>	Lot 20 DP 235980 19 Sydney Road MANLY NSW 2095
<b>Description of Development:</b>	Use of Premises as an educational establishment
<b>Determination:</b>	Approved Consent Authority: Northern Beaches Council
<b>Date of Determination:</b>	08/01/2024
<b>Date from which the consent operates:</b>	08/01/2024
<b>Date on which the consent lapses:</b>	08/01/2029

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

### Reasons for approval

The development proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the aforementioned Act. Consequently, the development is considered to be in the public interest, subject to conditions.

### Community views

The application was notified in accordance with Council's Community Participation Plan and the Environmental Planning and Assessment Regulation 2021. Any submissions received representing community views were considered as part of the assessment of the application. Conditions of consent included within this Notice of Determination have been applied to ensure that the development satisfies the Objects of the Environmental Planning and Assessment Act and will not result in unacceptable environmental impacts.

## Request a review of the determination

If you are dissatisfied with this determination, you may request a review of the determination:

- You do not have the right to request a review of the determination under section 8.3 of the EP&A Act if you are excluded from those developments listed under Section 8.2(2) of the EP&A Act.
- You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

## Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

## Objector's right of appeal against the determination

An objector who is dissatisfied with the consent authority's determination to grant consent, in relation to Designated Development only has the right to appeal to the Court against the determination under section 8.8 of the EP&A Act within 28 days after the date that the objector was notified of the determination appealed against.

## Dictionary

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

**Signed**                      On behalf of the Consent Authority



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Name                          Olivia Ramage, Planner

Date                            08/01/2024

## Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

### GENERAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA01.01	b	Site Plan	Archi spectrum	19 December 2023
DA02.01	b	As Built Ground Floor Plan	Archispectrum	19 December 2023
DA02.02	b	As Built First Floor Plan	Archispectrum	19 December 2023
DA03.01	a	Proposed Ground Floor Plan	Archispectrum	1 August 2023
DA03.02	a	Proposed First Floor Plan	Archispectrum	1 August 2023
DA04.01	a	External Elevations	Archispectrum	1 August 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Plan of Management	B	Archispectrum	December 2023
Heritage Impact Statement	A	Archispectrum	July 2023
19 Sydney Road Manly - Flood Impact Assessment	20152-M01-FIA_0	WMS	8 September 2023
BCA & Access Assessment Report	P23067-BCA-r1	BCA Clarity	30 August 2023

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation

that applies to the development.

## 2. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of an educational establishment, in accordance with the Dictionary of the Manly Local Environmental Plan 2013, as follows:

*educational establishment means a building or place used for education (including teaching), being—*

*(a) a school, or*

*(b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.*

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

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

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

### 3. **Building components and structural soundness**

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 5.93m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

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

### 4. **Building Code of Australia Upgrade requirements and Fire Safety Upgrade**

The Building Code of Australia works and fire upgrading measures to upgrade the building as detailed and recommended in the Building Code of Australia Audit Report prepared by BCA Clarity, 30/8/2023, Report Ref No. P23067-BCA-r1 are to be considered as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

### 5. **Work Zones and Permits**

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

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

obtained for State Roads.

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

**6. Road Occupancy Licence**

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows.

Reason: Requirement of TMC for any works that impact on traffic flow.

## DURING BUILDING WORK

**7. During the course of demolition and building works**

All construction vehicles associated with the development must obtain a permit from Council on a daily basis, for access into pedestrian only areas. E.g. The Corso and Sydney Road Plaza.

Reason: To manage and minimise disruption to the area.

**8. Ongoing Management**

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

Reason: To ensure public safety.

## BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

**9. 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 Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, 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 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**10. Building Components and Structural Soundness**

B3 - A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level of 5.93m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

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

#### 11. **Businesses Premises Parking Permits**

Any businesses and/or tenants of the subject site are not eligible for business parking permits. This condition is to be provided on the property Title.

Reason: to ensure businesses premises/tenants are aware that they are not entitled to permits irrespective of the location of the development within a permit parking area.

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

#### 12. **Hours of Operation**

The hours of operation are to be restricted to:

- o Monday to Thursday – 8am to 1:30pm, 4pm to 10pm
- o Friday – 8am to 1:30pm
- o Saturday – 8:30am to 1:30pm
- o Sunday – Closed

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.

## **General advisory notes**

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation.

Some of these additional obligations are set out in the Conditions of development consent: advisory notes, which has been uploaded to the NSW Planning Portal as a separate document. The consent should be read together with the advisory notes to ensure the development is carried out lawfully.

## **Dictionary**

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the

current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

**Construction certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**Council** means Northern Beaches Council.

**Court** means the Land and Environment Court of NSW.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the Environmental Planning and Assessment Act 1979.

**EP&A Regulation** means the Environmental Planning and Assessment Regulation 2021.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Local planning panel** means Northern Beaches Local Planning Panel.

**Occupation certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to: the collection of stormwater, the reuse of stormwater, the detention of stormwater, the controlled release of stormwater, and connections to easements and public stormwater systems.

**Strata certificate** means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

**Subdivision certificate** means a certificate that authorises the registration of a plan of subdivision under Part 23 of the Conveyancing Act 1919.

**Subdivision works certificate** means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

**Sydney district or regional planning panel** means Sydney North Planning Panel. Some of these additional obligations are set out in the Conditions of development consent: advisory notes, which has been uploaded to the NSW Planning Portal as a separate document. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.