



Land and Environment Court New South Wales

Medium Neutral Citation:

**Steve Macri v Northern Beaches Council [2024]
NSWLEC 1195**

Hearing dates:

Conciliation Conference on 1 March 2024

Date of orders:

18 April 2024

Decision date:

18 April 2024

Jurisdiction:

Class 1

Before:

Porter C

Decision:

The Court orders:

- (1) The appeal is granted.
- (2) Development consent DA2020/1351 is modified in the terms in Annexure "A".
- (3) Development consent DA2020/1351 as modified by the Court is Annexure "B".

Catchwords:

MODIFICATION APPLICATION – shop top housing –
conciliation conference – agreement between the parties –
orders

Legislation Cited:

Environmental Planning and Assessment Act 1979, ss
4.15, 4.55
Land and Environment Court Act 1979, s 34
Environmental Planning and Assessment Regulation 2021,
ss 102, 113
Pittwater Local Environmental Plan 2014
State Environmental Planning Policy (Housing) 2021, s 147
*State Environmental Planning Policy (Transport and
Infrastructure) 2021*

Cases Cited:

Macri v Northern Beaches Council [2021] NSWLEC 1685

Category:

Principal judgment

Parties:

Steve Macri (Applicant)
Northern Beaches Council (Respondent)

Representation:

Counsel:
M Staunton (Applicant)

M Domingo (Solicitor) (Respondent)

Solicitors:

Sattler & Associates (Applicant)

Northern Beaches Council (Respondent)

File Number(s): 2023/268177**Publication restriction:** Nil

JUDGMENT

- 1 **COMMISSIONER:** This is a modification application made to the Court pursuant to s 4.55(8) of the *Environmental Planning and Assessment Act 1979* (EPA Act), being a modification application to a Land and Environment Court development consent (*Macri v Northern Beaches Council* [2021] NSWLEC 1685). The modification application was filed with the Court on 20 August 2023.
- 2 The Applicant seeks to modify DA2020/1351, primarily in relation to changes to the basement and ground floor. These changes include deletion of basement two, reconfiguration of basement one, inclusion of car stackers, reconfiguration of the ground floor (including a smaller proposed colonnade, changes to the stairs and other services, changes to unit 102 and amendments to conditions 17 and 63), to the approved development at 1 Bilambee Lane, Bilgola Plateau (site).
- 3 The Court arranged a conciliation conference under s 34 of the *Land and Environment Court Act 1979* (LEC Act) between the parties for 1 March 2024. I presided over the conciliation conference.
- 4 At the conciliation conference, the parties reached agreement as to the terms of a decision in the proceedings that would be acceptable to the parties. This decision involved the Court granting the appeal for the modification application and modifying the development consent.
- 5 The Court notes that Northern Beaches Council, as the relevant consent authority, has agreed pursuant to s 113 of the Environmental Planning and Assessment Regulation 2021, to the Applicant amending modification application MOD2023/0613 to rely upon the amended architectural plans and supporting information (amended application) listed as follows:

Plan	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Basement Plan	DA-0101	E	6.3.24	Artiva Architects

Ground Floor Plan	DA-0102	E	6.3.24	Artiva Architects
Level 1 Plan	DA-0103	B	4.10.23	Artiva Architects
Level 2 Plan	DA-0104	B	4.10.23	Artiva Architects
Roof Plan	DA-0106	B	4.10.23	Artiva Architects
North Elevation	DA-0200	B	4.10.23	Artiva Architects
South Elevation	DA-0201	D	6.3.24	Artiva Architects
East Elevation	DA-0202	D	6.3.24	Artiva Architects
West Elevation	DA-0203	B	4.10.23	Artiva Architects
Section AA	DA-0300	E	6.3.24	Artiva Architects
Section BB	DA-0301	C	12.12.23	Artiva Architects
Reports	Date	Version	Prepared By	
Mechanical Plant Acoustic Review – Report No. nss24040	September 2023	Final	Noise and Sound Services Pty Ltd	
BCA/NCC Compliance Assessment	12.10.23		Surescope Building Certifiers	

Statement of Compliance Access for People with a Disability – Job No. 220187	7.3.24	-	Accessible Building Solutions
Geotechnical Assessment - Proj. No. 30538/8569D-G; Report No. 24/0542	7.3.24	-	STS Geotechnics
Preliminary Car Park Management Plan Ref. 20-072-4	13.3.24	-	Stanbury Traffic Planning
Design Verification Statement	12.3.24	-	Artiva Architects
Updated Parking & Traffic Impact Assessment – Ref. 20-072-4	13.3.24	-	Stanbury Traffic Planning

- 6 Accompanying the submitted s 34 agreement, submitted to the Court 27 March 2024, the parties have provided a jurisdictional statement setting out how the proposal has satisfied the jurisdictional requirements and other matters.
- 7 Under s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties' decision if the parties' decision is a decision that the Court could have made in the proper exercise of its functions.
- 8 The parties' decision involves the Court exercising the function under s 4.55(2) of the EPA Act to modify the development consent.

Jurisdictional Prerequisites

- 9 There are jurisdictional prerequisites that must be satisfied before this function can be exercised. The parties identified the jurisdictional prerequisites of relevance in these proceedings and explained how the jurisdictional prerequisites have been satisfied. With consideration of the agreed jurisdictional note and documentation within the Class 1 Application, I am satisfied that the parties' decision is one that the Court could have made in the proper exercise of its functions, as required by s 34(3) of the LEC Act. This is set out below.
- 10 I am satisfied that owners consent accompanied the modification application.
- 11 With consideration of the amended application and the parties' agreed submissions I accept that the proposed modifications, primarily being the deletion of a basement level, reconfiguration of basement one and ground floor, changes to unit 102 and

changes to the nominated conditions will be substantially the same as the original development.

12 With respect to s 4.55(2)(c) and (d), the modification application was notified between 7 September 2023 to 22 September 2023 and 28 September 2023 to 12 October 2023. Five objections were received. A without prejudice set of plans were provided to objectors for comment on 22 February 2024. Three objections were received.

13 In reaching agreement, Council as the consent authority has considered the concerns raised by the submissions in reaching resolution.

14 With respect to s 4.55(3), in reviewing the parties' submissions, *Macri v Northern Beaches Council* [2021] NSWLEC 1685 and noting that the parties had reached agreement in that decision, the proposed modification application does not offend the reasons for the grant of consent.

15 The parties agree and I accept that the modification application is accompanied by an amended Design Verification Statement by the nominated qualified architect (Winston Chu, Registration number 6848) as required by s 102 of the EPA Reg that addresses s 147 of State Environmental Planning Policy (Housing) 2021 (SEPP Housing).

16 I accept the parties agreement that the proposed modifications do not affect the development standards under the Pittwater Local Environmental Plan 2014 (PLEP) as previously considered in the original application as set out in the jurisdictional statement.

17 The parties advise that pursuant to State Environmental Planning Policy (Transport and Infrastructure) 2021, the modification application was notified to Ausgrid who did not object. The relevant conditions remain in Annexure B.

18 The parties agree and I accept that the provisions required to be considered by ss 4.55(2), 4.55(3) and 4.15(1) of the EPA Act have been met as evidenced in the documentation accompanying the Class 1 appeal, amended application, and supported by the jurisdictional statement.

Conclusion

19 In making the orders to give effect to the agreement between the parties, I was not required to, and have not, made any merit assessment of the issues that were originally in dispute between the parties.

20 I have considered the jurisdictional prerequisites and I am satisfied on the basis of the evidence before me that the agreement of the parties is a decision that the Court could have made in the proper exercise of its functions.

21 As the parties' decision is a decision that the Court could have made in the proper exercise of its functions, I am required under s 34(3) of the LEC Act to dispose of the proceedings in accordance with the parties' decision.

Orders:

22 The Court orders:

- (1) The appeal is granted.
- (2) Development consent DA2020/1351 is modified in the terms in Annexure "A".
- (3) Development consent DA2020/1351 as modified by the Court is Annexure "B".

S Porter

Commissioner of the Court

268177.23 Annexure A

268177.23 Annexure B

DISCLAIMER - Every effort has been made to comply with suppression orders or statutory provisions prohibiting publication that may apply to this judgment or decision. The onus remains on any person using material in the judgment or decision to ensure that the intended use of that material does not breach any such order or provision. Further enquiries may be directed to the Registry of the Court or Tribunal in which it was generated.

Decision last updated: 18 April 2024

Annexure A**DETERMINATION OF APPLICATION FOR MODIFICATION OF DEVELOPMENT CONSENT**

Modification Application No: Mod2023/0474

Development Consent modified: DA2020/1351

Description of development to be carried out under the consent: Demolition works and construction of a shop-top housing development.

Address and particulars of title of land on which development to be carried out: Lot 5 DP229309, known as 1 Bilambee Lane, Bilgola Plateau, NSW 2107.

Description of modification to the development consent: Modification of Development Consent Land and Environment Court for DA2020/1351 granted by the Land and Environment Court for demolition of all existing structures and the construction of a 3 storey shop top housing development.

Determination: The development consent is modified as follows:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:

1A - Modification of Consent - 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
DA- 0101	E	Basement 1 Plan	Artiva Architects	6 March 2024
DA- 0102	E	Ground Floor Plan	Artiva Architects	6 March 2024
DA- 0103	B	Level 1 Plan	Artiva Architects	4 October 2023
DA- 0104	B	Level 2 Plan	Artiva Architects	4 October 2023
DA- 0106	B	Roof Plan	Artiva Architects	4 October 2023
DA-0200	B	North Elevation	Artiva Architects	4 October 2023
DA-0201	D	South Elevation	Artiva Architects	6 March 2024

DA-0202	D	East Elevation	Artiva Architects	6 March 2024
DA-0203	B	West Elevation	Artiva Architects	4 October 2023
DA-0300	E	Section AA	Artiva Architects	6 March 2024
DA-0301	C	Section BB	Artiva Architects	12 December 2023
LS01	A	Cover Page/Construction Notes	Melissa Wilson Landscape Architects	24 July 2023
LS02	A	Landscape: GF/Public Domain Plan	Melissa Wilson Landscape Architects	24 July 2023
LS03	A	GF/Public Domain Details	Melissa Wilson Landscape Architects	24 July 2023
LS04	A	Level 2 Landscape	Melissa Wilson Landscape Architects	24 July 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Mechanical Plant Acoustic Review	Final	Noise and Sound Services	September 2023
Statement of Compliance – Access for People with a Disability	-	Accessible Building Solutions	7 March 2024
Geotechnical Assessment	-	STS Geotechnics	7 March 2024
Preliminary Car Park Management Plan	-	Stanbury Traffic Planning	13 March 2024

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

In the event of any inconsistency with 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.

(Condition added in LEC Proceedings No. 2023/00268177)

B. Modify Condition 13. Submission of Traffic Engineering Plans to read as follows:

13. Submission of Traffic Engineering Plans

The applicant shall submit traffic engineering plans for the design of:

- The on-street parking in Bilambee Avenue, including extension of the indented 90 degree angle parking area by one parking space to accommodate a Loading Zone together with relocation of the existing Post Boxes
- Provision of a combined Loading Zone and Mail Zone in Bilambee Avenue. The Loading Zone to apply between 6am and 4pm Everyday and Mail Zone at other times (or at alternate hours as approved through the Traffic Committee)
- Signage to designate the direction of travel upon exit of the basement carpark • Provision of No Stopping restrictions along the Bilkurra Avenue site frontage

- Signage to direct retail customers to the offstreet retail parking spaces

These are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Section 138 and/or 139 applications are to be submitted to Council for Local Traffic Committee approval of the Loading Zone works and on-street regulatory signposting.

Reason: To ensure compliance with Council's specification for engineering works.

(Condition amended in LEC Proceedings No. 2023/00268177)

C. Modify Condition 14. Building Code of Australia Fire Safety/ Compliance Report to read as follows:

14. Building Code of Australia Fire Safety/ Compliance Report

The Building Code of Australia works and fire safety measures for the proposed building as detailed and recommended in the BCA Compliance Report prepared by Dix Gardner Pty Ltd dated 23/9/2020, as modified by the Building Code of Australia Audit Report prepared by Surescope Building Certifiers, dated 12/10/2023, are to be considered as part of the assessment for the Construction Certificate.

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

(Condition amended in LEC Proceedings No. 2023/00268177)

D. Modify Condition 15. Access for People with Disabilities to read as follows:

15. Access for People with Disabilities

Access and facilities for persons with a disability are to be provided to and within the proposed building in accordance with the recommendations contained within the Access Report prepared by Accessible Building Solutions dated 13/6/2023, Ref: 220187.

Details demonstrating implementation and compliance are to be submitted to the Principal Certifier prior to issue of the Construction Certificate.

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

(Condition amended in LEC Proceedings No. 2023/00268177)

E. Modify Condition 17. Tanking of Basement Level to read as follows:

17. Tanking of Basement Level

Unless otherwise determined by a geotechnical report to the satisfaction of the council (and for avoidance of doubt it is agreed that this is not a matter which a certifier could be satisfied about under cl 161 of the EPA Reg 2000) the basement carparking stacker pits area are to be permanently tanked. The Applicant is to submit structural details of the tanking, prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water are to be complied with and a copy of the approval must be submitted to the Certifier.

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

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements.

(Condition amended in LEC Proceedings No. 2023/00268177)

F. Modify Condition 19. Amended Public Domain Plan to read as follows:

19. Amended Public Domain Plan

An Amended Public Domain Plan, based on drawing number LS01, LS02 and LS03 prepared by Melissa Wilson Landscape Architects, and in compliance with Council's Northern Beaches Public Spaces Vision & Design Guidelines shall be submitted as part of a Infrastructure Works on Council Roadway application under Section 138 of the Roads Act, for approval by Council, with sufficient detail and design information including the following:

- i) alignment levels showing existing and proposed levels for altered driveway crossovers, and kerbs and gutters,
- ii) existing and proposed pavement levels, with proposed gradients no more than a 2.5% fall from building openings to top of kerb, and to match existing levels along adjoining properties
- iii) details of any utility alignment and level changes,
- iv) details of the proposed pavement finish from building to kerb,
- v) tactile ground surface indicators at pedestrian crossings and crossovers in accordance with Australian Standard 1428.4.1-2009 - Design for Access and Mobility,
- vi) existing utility pit lids are to be altered to paver infill types to accommodate the proposed pavement type,
- vii) proposed street tree planting shall be in accordance with drawing LS01, LS02 and LS03, including 4600 x 2200 strata cell system, tree pit openings, and understorey planting as documented.

The following works shall also be documented:

- viii) full road verge width paving design in accordance with drawing LS01, LS02 and LS03,
- ix) seating in accordance with drawing LS01, LS02 and LS03,
- x) bicycle racks in accordance with drawing LS01, LS02 and LS03, with a clearance to structures such as seating of at least 1200mm,
- xi) kerb ramps in accordance with drawing LS01, LS02 and LS03,
- xii) street trees shall be installed at a pre-ordered 200 litre container size,
- xiii) any other additional works shall be as documented on drawing LS01, LS02 and LS03, as prepared by Melissa Wilson Landscape Architects.

Any work carried out upon public land shall have all the necessary prior approvals and permits from Council and utility authorities in place prior to commencement to conduct such works. All works, including the cost of necessary applications, to be at the full cost of the applicant.

The relocation of the Australia Post Box and the provision of carparking for Australia Post vehicles shall be subject to the terms and conditions required by Australia Post, and the applicant shall provide details to Council.

Reason: compliance with Council standards for works on public land.

(Condition amended in LEC Proceedings No. 2023/00268177)

G. Modify Condition 21. Compliance with Standards to read as follows:

21. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.
(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**

- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'**
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) DELETED
- (h) AS 2890.3:2015 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6:2022 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 – 2009* Design for access and mobility - General requirements for access – New building work**
- (m) AS 1428.2 – 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website www.hreoc.gov.au/disability_rights/buildings/good.htm.

<www.hreoc.gov.au/disability%20rights%20/buildings/good.htm>

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.)

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

(Condition amended in LEC Proceedings No. 2023/00268177)

H. Add Condition 25A. Removal of Redundant Driveways to read as follows:

25A. Removal of Redundant Driveways

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council prior to the issue of the Construction Certificate. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

(Condition added in LEC Proceedings No. 2023/00268177)

I. Add Condition 25B. Vehicle Access and Parking to read as follows:

25B. Vehicle Access and Parking

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

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

i. The following revisions must be undertaken to the basement parking allocation:

- 14 residential spaces (8 in car stackers)
- 2 motor cycle bays
- 9 retail spaces, including 1 accessible space (4 in car stackers)
- 0 visitor bays (visitor parking will be accommodated within existing on-street parking)
- 6 bike racks

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

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

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

(Condition added in LEC Proceedings No. 2023/00268177)

I. Add Condition 25C. Mechanical Car Stackers to read as follows:

25C. Mechanical Car Stackers

The applicant is to provide information on the proposed mechanical car stackers, operation details, and instructions on using the device, maintenance plan, and contingency plan during a malfunction.

Details are to be provided to Council for approval and this requirement is to be reflected on the Construction Certificate plans for the endorsement of the Principal Certifier prior to the release of the Construction Certificate.

Reason: To ensure no vehicle conflicts within the basement carpark.

(Condition added in LEC Proceedings No. 2023/00268177)

J. Add Condition 47A. Dewatering Management to read as follows:

47A. Dewatering Management

A permit from Council is required for any dewatering of seepage and tailwater.

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

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

Reason: Protection of the receiving environment and groundwater resources.

(Condition added in LEC Proceedings No. 2023/00268177)

K. Modify Condition 51. Convex Mirror at Ramps to read as follows:**51. Convex Mirror at Ramps**

One (1) convex mirror is to be installed and maintained at each point of conflict on the ramp leading from B1 to the ground floor entry level. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To minimise vehicular conflicts at ramps.

(Condition amended in LEC Proceedings No. 2023/00268177)

L. Add Condition 60B. Fire Safety Matters to read as follows:**60B. 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.

(Condition added in LEC Proceedings No. 2023/00268177)

M. Add Condition 60C. Allocation of Parking Spaces – Strata Title to read as follows:**60C. Allocation of Parking Spaces – Strata Title**

All residential car parking spaces are to be assigned to individual units. All residential units must be assigned two parking spaces with spaces in a car stacker pair assigned to the same residential unit. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability for residents in accordance with Council's Pittwater Development Control Plan.

(Condition added in LEC Proceedings No. 2023/00268177)

N. Add Condition 60D. Allocated Parking Spaces (retail/commercial) to read as follows:**60D. Allocated Parking Spaces (retail/commercial)**

Nine off-street retail parking spaces including one accessible parking space allocated to this development must be clearly signposted and linemarked as being for the exclusive use of this development.

Details, including the provision of prominent signage at street level directing customers to the basement retail parking and demonstrating compliance with above are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability.

(Condition added in LEC Proceedings No. 2023/00268177)

O. Add Condition 60E. Disabled Parking Spaces to read as follows:

60E. Disabled Parking Spaces

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2022 including the provision of a bollard in the shared zone adjacent to the disabled parking space.

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.

(Condition added in LEC Proceedings No. 2023/00268177)

P. Modify Condition 63. Mechanical Plant to read as follows:

63. Mechanical Plant

At all times, mechanical plant noise emissions must comply with the recommendations in section 5 of the acoustic report "Mechanical Plant Noise Assessment" number "nss23254 – Final" prepared by Noise and Sound Services and dated September 2020.

All rooftop plant is to remain screened, as shown on the approved plans, so that the plant itself is not visible outside of the site.

Reason: To protect residential amenity, comply with Protection of Environment Operations Act 1997 and Noise Policy for Industry 2017.

(Condition amended in LEC Proceedings No. 2023/00268177)

Q. Add Condition 65. Diesel Fire Pump to read as follows:

65. Diesel Fire Pump

The diesel fire pumpset testing must not be carried out before 8 am or after 8 pm on any Saturday, Sunday, or public holiday, or before 7 am or after 8 pm on any other day.

Reason: To ensure acoustic compliance in an operational situation.

(Condition added in LEC Proceedings No. 2023/00268177)

R. Add Condition 66. Management Action Plan - Diesel Fire Pumpset to read as follows:

66. Management Action Plan - Diesel Fire Pumpset

A management action plan is put in place and updated accordingly to ensure that all residents of the residential units and employees of the commercial areas are fully informed of the dates and times of the diesel fire pumpset testing.

Reason: To ensure potential impacts from noise are reduced as much as possible.

(Condition added in LEC Proceedings No. 2023/00268177)

S. Add Condition 67. Delivery Vehicles to read as follows:

67. Delivery Vehicles

All deliveries to retail premises are to be undertaken by vehicles no larger than a 6.4m long Small Rigid Vehicle

Reason: There is no on or off-street loading bay provided to cater for deliveries by larger vehicles.

(Condition added in LEC Proceedings No. 2023/00268177)

T. Add Condition 68. Parking Enclosure to read as follows:

68. 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 consent from Council.

Reason: To ensure accessibility is maintained.

(Condition added in LEC Proceedings No. 2023/00268177)

U. Add Condition 69 On-Street Car Parking

69. On-Street Car Parking

No consent is granted for the exclusive use of any existing or proposed on-street car parking or loading spaces, which are to remain publicly accessible at all times.

Reason: To ensure that on-street car parking and loading spaces are not privatised.

(Condition added in LEC Proceedings No. 2023/00268177)

Annexure B**DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF
CONSENT**

Development Application No: DA2020/1351
Development: Modification of Development Consent DA2020/1351 granted by the Land and Environment Court for demolition of all existing structures and the construction of a 3 storey shop top housing development.
Site: Lot 5 DP229309, known as 1 Bilambee Lane, Bilgola Plateau, NSW 2107.

Schedule of Modifications:

Date approved	Modification Application Number	Decision maker (Land and Environment Court or relevant council)	Proceedings Name and Number (if applicable)
18 April 2024	Mod2023/1351	Land and Environment Court	Steve Marci v NORTHERN BEACHES COUNCIL - 2023/00268177

Date of determination: 10 November 2021

Date from which consent takes effect: 10 November 2021

CONDITIONS OF APPROVAL

Application Number:	DA2020/1351
Land to be developed (Address):	Lot 5 DP 229309, 1 Bilambee Lane BILGOLA PLATEAU NSW 2107
Proposed Development:	Demolition of all existing structures and the construction of a 3 storey shop top housing development.

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**1. Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp

Drawing No.	Dated	Prepared By
DA-0100 - REV G - General Arrangement	Oct 21	Benson McCormack Architecture
- Level B2 Plan		
DA-0101 - REV G - General Arrangement	Oct 21	Benson McCormack Architecture
- Level B1 Plan		
DA-0102 - REV G - General Arrangement	Oct 21	Benson McCormack Architecture
- Ground Floor		
DA-0103 - REV G - General Arrangement	Oct 21	Benson McCormack Architecture
- Level 1 Plan		
DA-0104 - REV G - General Arrangement	Oct 21	Benson McCormack Architecture
- Level 2 Plan		
DA-0105 - REV G - General Arrangement	Oct 21	Benson McCormack Architecture
- Roof Plan		
DA-0200 - REV G - Elevations - North Elevation	Oct 21	Benson McCormack Architecture
DA-0201 - REV G - Elevations - South Elevation	Oct 21	Benson McCormack Architecture
DA-0202 - REV G - Elevations - East Elevation	Oct 21	Benson McCormack Architecture
DA-0203 - REV G - Elevations - West Elevation	Oct 21	Benson McCormack Architecture
DA-0300 - REV G - Sections - Section AA	Oct 21	Benson McCormack Architecture
DA-0301 - REV G - Sections - Section BB	Oct 21	Benson McCormack Architecture
DA-0302 - REV G - Sections - Section CC	Oct 21	Benson McCormack Architecture

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Mechanical Plant Nosie Assessment Report No. nss23254 - Final	September 2020	Nosie and Sound Services

Arboricultural Impact Assessment	09/06/2020	Advanced Treescape Consulting
Construction Management Plan	No date	DreamBuild

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LS01 - Issue E - Landscape - Ground Level, Public Domain Plan	19.10.21	Melissa Wilson Landscape Architects
LS03 - Issue E - Landscape - Level 2 Planters	19.10.21	Melissa Wilson Landscape Architects

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	September 2020	Benson McCormack Architecture

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

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

1A - Modification of Consent - 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.

<u>Approved Plans</u>				
<u>Plan Number</u>	<u>Revision Number</u>	<u>Plan Title</u>	<u>Drawn By</u>	<u>Date of Plan</u>
<u>DA- 0101</u>	<u>E</u>	<u>Basement 1 Plan</u>	<u>Artiva Architects</u>	<u>6 March 2024</u>
<u>DA- 0102</u>	<u>E</u>	<u>Ground Floor Plan</u>	<u>Artiva Architects</u>	<u>6 March 2024</u>
<u>DA- 0103</u>	<u>B</u>	<u>Level 1 Plan</u>	<u>Artiva Architects</u>	<u>4 October 2023</u>

<u>DA- 0104</u>	<u>B</u>	<u>Level 2 Plan</u>	<u>Artiva Architects</u>	<u>4 October 2023</u>
<u>DA- 0106</u>	<u>B</u>	<u>Roof Plan</u>	<u>Artiva Architects</u>	<u>4 October 2023</u>
<u>DA-0200</u>	<u>B</u>	<u>North Elevation</u>	<u>Artiva Architects</u>	<u>4 October 2023</u>
<u>DA-0201</u>	<u>D</u>	<u>South Elevation</u>	<u>Artiva Architects</u>	<u>6 March 2024</u>
<u>DA-0202</u>	<u>D</u>	<u>East Elevation</u>	<u>Artiva Architects</u>	<u>6 March 2024</u>
<u>DA-0203</u>	<u>B</u>	<u>West Elevation</u>	<u>Artiva Architects</u>	<u>4 October 2023</u>
<u>DA-0300</u>	<u>E</u>	<u>Section AA</u>	<u>Artiva Architects</u>	<u>6 March 2024</u>
<u>DA-0301</u>	<u>C</u>	<u>Section BB</u>	<u>Artiva Architects</u>	<u>12 December 2023</u>
<u>LS01</u>	<u>A</u>	<u>Cover Page/Construction Notes</u>	<u>Melissa Wilson Landscape Architects</u>	<u>24 July 2023</u>
<u>LS02</u>	<u>A</u>	<u>Landscape: GF/Public Domain Plan</u>	<u>Melissa Wilson Landscape Architects</u>	<u>24 July 2023</u>
<u>LS03</u>	<u>A</u>	<u>GF/Public Domain Details</u>	<u>Melissa Wilson Landscape Architects</u>	<u>24 July 2023</u>
<u>LS04</u>	<u>A</u>	<u>Level 2 Landscape</u>	<u>Melissa Wilson Landscape Architects</u>	<u>24 July 2023</u>

<u>Approved Reports and Documentation</u>			
<u>Document Title</u>	<u>Version Number</u>	<u>Prepared By</u>	<u>Date of Document</u>
<u>Mechanical Plant Acoustic Review</u>	<u>Final</u>	<u>Noise and Sound Services</u>	<u>September 2023</u>
<u>Statement of Compliance – Access for People with a Disability</u>	<u>=</u>	<u>Accessible Building Solutions</u>	<u>7 March 2024</u>
<u>Geotechnical Assessment</u>	<u>=</u>	<u>STS Geotechnics</u>	<u>7 March 2024</u>
<u>Preliminary Car Park Management Plan</u>	<u>=</u>	<u>Stanbury Traffic Planning</u>	<u>13 March 2024</u>

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

In the event of any inconsistency with 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.

(Condition added in LEC Proceedings No. 2023/00268177)

2. 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	4/12/2020

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

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

2A. Future use of Retail A and Retail B and associated areas

(a) This consent is the first consent for the approved development on the land. It does not approve any use of the Retail A and Retail B areas ("the Retail Areas") or any use (including any tables and chairs) of any pedestrian areas of the land outside of and adjoining the Retail Areas including both land within the site and any Council owned land ("the Adjoining Retail Areas"). A separate development consent must be obtained for any use of each of these areas and in accordance with the definition of shop top housing in Pittwater LEP 2014 any such use must be for retail premises or business premises. This means this consent does not permit any "current use" for the Retail Areas and the Adjoining Retail Areas as referred to in relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 ('the Codes SEPP'). Also relevant for the Codes SEPP is that each of the Retail Areas have potential capacities for more than 50 seats.

(b) The use of any of the Adjoining Retail Areas for outdoor seating, eating or dining must be the subject of a separate development consent and for any Council owned land the subject of a Roads Act 1993 approval.

(c) The area of the land fronting Bilambee Ave and Bilkurra Avenue being the subject of the public easement referred to in condition 60A is to be a permanent public thoroughfare area (subject to the terms of the easement as referred to in condition 60A).

(d) The conditions of this consent are, for the purposes of the Retail Areas and the Adjoining Retail Areas and the Codes SEPP, to be regarded as existing conditions of the most recent development consent (other than a complying development certificate) that apply to these premises together with the following conditions:

- (i) Hours of operation – 8.00 am to 8.00 pm Monday to Saturday and 9.00 am to 6.00 pm on a Sunday or a public holidays.
- (ii) Loading- All loading and unloading for any use of the Retail A and Retail B Areas to be confined to the loading bay to be constructed in Bilambee Ave as referred to in condition 13 . No loading or unloading in Bilkurra Ave or Billambee Lane.

- (iii) Parking – No parking in Bilkarra Ave (on the side of the development).

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) The development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (being the revision of certificate number 1136015M dated 21 October 2021). Demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate;
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

4. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00am to 1.00pm Saturdays
- No work on, Sundays and Public Holidays.

Demolition and excavation works are restricted to:

8.00 am to 5.00 pm Monday to Friday only.

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

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or

premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS**5. Policy Controls****Northern Beaches 7.12 Contributions Plan 2021**

A monetary contribution of \$68,104.08 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$6,810,408.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifier written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. Security Bond

A bond (determined from cost of works) of \$50,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure (including any road) contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

7. Construction, Excavation and Associated Works Security Bond (Road and footpath works)

The applicant is to lodge a bond with Council of \$ 140,000 as security against any failure to complete the construction of footpath paving/landscaping, kerb and gutter road pavement/shoulder reconstruction works as part of this consent.

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

Reason: Protection of Council's infrastructure.

8. Construction, Excavation and Associated Works Bond (Maintenance for Road and Footpath works)

The developer/applicant must lodge with Council a maintenance bond of \$50,000 for the construction of the footpath paving/landscaping, kerb and gutter and road shoulder works. The maintenance bond will only be refunded upon completion of the six month maintenance period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council issuing practical completion.

Reason: To ensure adequate protection of Council infrastructure.

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

9. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's WATER MANAGEMENT POLICY FOR DEVELOPMENT.

The stormwater drainage details are to be generally in accordance with the plans prepared by Enspire Solutions DRW Nos 200019-Da –C03.01 ,C03.02, C03.03,C05.01, and C06.01 (all issue 2) Drainage details by an NER qualified

and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

10. Car Parking Standards

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004. Detail demonstrating compliance with this condition are to be submitted to the Certifier prior to the issue of a construction certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

11. Vehicular Swept Paths

Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Drawings must be submitted with the Construction Certificate application.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

12. Construction Traffic Management Plan

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

Truck movements and staging, including travel routes must be agreed with Council's Traffic Engineer prior to the submission of the CTMP. No heavy vehicles attending the site are to travel through the School Zone in Plateau Road during the gazetted hours of operation (8am – 9.30am and 2.30pm - 4pm School Days).

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase

- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council

- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

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

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

13. Submission of Traffic Engineering Plans

The applicant shall submit traffic engineering plans for the design of:

- The on-street parking in Bilambee Avenue, including extension of the indented 90 degree angle parking area by one parking space to accommodate a Loading one together with relocation of the existing Post Boxes
- Provision of a combined Loading Zone and Mail Zone in Bilambee Avenue. The Loading Zone to apply between 6am and 4pm Everyday and Mail Zone at other times (or at alternate hours as approved through the Traffic Committee)
- Signage to designate the direction of travel upon exit of the basement carpark
- Provision of No Stopping restrictions along the Bilkurra Avenue site frontage
- Signage to direct retail customers to the offstreet retail parking spaces

These are to be generally in accordance with the civil design approved with the Development Application and Council’s specification for engineering works - AUS-SPEC #1 and or Council’s Minor Works Policy. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Section 138 and/or 139 applications are to be submitted to Council for Local Traffic Committee approval of the Loading Zone works and on-street regulatory signposting.

Reason: To ensure compliance with Council’s specification for engineering works.

(Condition amended in LEC Proceedings No. 2023/00268177)

14. Building Code of Australia Fire Safety / Compliance Report.

The Building Code of Australia works and fire safety measures for the proposed building as detailed and recommended in the BCA Compliance Report prepared by Dix Gardner Pty Ltd dated 23/9/2020, as modified by the Building Code of Australia Audit Report prepared by Surescope Building Certifiers, dated 12/10/2023, are to be considered as part of the assessment for the Construction Certificate.

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

(Condition amended in LEC Proceedings No. 2023/00268177)

15. Access for People with Disabilities

Access and facilities for persons with a disability are to be provided to and within the proposed building in accordance with the recommendations contained within the Access Report prepared by Accessible Building Solutions dated 13/6/2023, Ref: 220187.

Details demonstrating implementation and compliance are to be submitted to the Principal Certifier prior to issue of the Construction Certificate.

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

(Condition amended in LEC Proceedings No. 2023/00268177)

16.Submission Roads Act Application for Road and Footpath works within the Public Road and Reserve

The Applicant is to submit an application for approval for infrastructure works on Council's footpath roadway (consistent with the approved public domain plan as referred to in condition 19) . Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of the public domain works including road works, footpath paving, new kerb and gutter and landscaping works which are to be generally in accordance with the approved public domain works plans and Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified NER (civil engineer). The design must include the following information:

1. All public domain works including footpath paving, carparking and landscaping
2. New kerb and gutter for all road frontages, stormwater drainage lines, pedestrian ramps, seating, line marking, street signage and half road resurfacing for the Bilambee Ave , and damaged section of Bilkurra Ave. Full road resurfacing for the Bilambee Lane frontage and resurfacing of all parking bays fronting the site, and
3. Any other necessary matters referred to in conditions 13 and 19.

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

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

All works, including the cost of necessary applications, to be at the full cost of the applicant.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

17. Tanking of Basement Level

Unless otherwise determined by a geotechnical report to the satisfaction of the council (and for avoidance of doubt it is agreed that this is not a matter which a certifier could be satisfied about under cl 161 of the EPA Reg 2000) the basement carparking stacker pits area are to be permanently tanked. The Applicant is to submit structural details of the tanking, prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water are to be complied with and a copy of the approval must be submitted to the Certifier.

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

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements.

(Condition amended in LEC Proceedings No. 2023/00268177)

18. Shoring of Council's Road Reserve

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

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

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

19. Amended Public Domain Plan

An Amended Public Domain Plan, based on drawing number LS01, LS02 and LS03 prepared by Melissa Wilson Landscape Architects, and in compliance with Council's Northern Beaches Public Spaces Vision & Design Guidelines shall be submitted as part of a Infrastructure Works on Council Roadway application under Section 138 of the Roads Act, for approval by Council, with sufficient detail and design information including the following:

- i) alignment levels showing existing and proposed levels for altered driveway crossovers, and kerbs and gutters,
- ii) existing and proposed pavement levels, with proposed gradients no more than

a 2.5% fall from building openings to top of kerb, and to match existing levels along adjoining properties

iii) details of any utility alignment and level changes,

iv) details of the proposed pavement finish from building to kerb,

v) tactile ground surface indicators at pedestrian crossings and crossovers in accordance with Australian Standard 1428.4.1-2009 - Design for Access and Mobility,

vi) existing utility pit lids are to be altered to paver infill types to accommodate the proposed pavement type,

vii) proposed street tree planting shall be in accordance with drawing LS01, LS02 and LS03, including 4600 x 2200 strata cell system, tree pit openings, and understorey planting as documented.

The following works shall also be documented:

viii) full road verge width paving design in accordance with drawing LS01, LS02 and LS03,

ix) seating in accordance with drawing LS01, LS02 and LS03,

x) bicycle racks in accordance with drawing LS01, LS02 and LS03, with a clearance to structures such as seating of at least 1200mm,

xi) kerb ramps in accordance with drawing LS01, LS02 and LS03,

xii) street trees shall be installed at a pre-ordered 200 litre container size,

xiii) any other additional works shall be as documented on drawing LS01, LS02 and LS03, as prepared by Melissa Wilson Landscape Architects.

Any work carried out upon public land shall have all the necessary prior approvals and permits from Council and utility authorities in place prior to commencement to conduct such works. All works, including the cost of necessary applications, to be at the full cost of the applicant.

The relocation of the Australia Post Box and the provision of carparking for Australia Post vehicles shall be subject to the terms and conditions required by Australia Post, and the applicant shall provide details to Council.

Reason: compliance with Council standards for works on public land.

(Condition amended in LEC Proceedings No. 2023/00268177)

20. On slab landscape works

Details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following minimum soil depths are required to support landscaping as proposed:

i) 300mm for groundcovers and accents

ii) 600mm for shrubs

Design certification shall be submitted to the Certifier by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: to ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

21. Compliance with Standards

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

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) DELETED
- (h) AS 2890.3:2015 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6:2022 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 – 2009* Design for access and mobility - General requirements for access – New building work**
- (m) AS 1428.2 – 1992*, Design for access and mobility - Enhanced and additional requirements

- Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website www.hreoc.gov.au/disability_rights/buildings/good.htm.
<www.hreoc.gov.au/disability%20rights%20/buildings/good.htm.>

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.)

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

(Condition amended in LEC Proceedings No. 2023/00268177)

22.External Colours and Materials (Industrial, Commercial, Mixed & Apartment Buildings)

- (a) External Glazing - The reflectivity index of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20% (expressed as a per centum of the reflected light falling upon any surface).
- (b) External Roofing - The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.
- (c) Anti Graffiti Coating - The finishes of the walls adjoining Bilambee Ave, Bilambee Lane and Bilkurra Ave must be finished in heavy duty long life, ultra violet resistant coating with a high resistance to solvents and chemicals as an anti-graffiti coating easily cleaned by solvent wipe.

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

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC04)

23. Visitor Spaces Located Behind Security Shutter/Door

The installation of any security roller shutter for parking areas shall not restrict access to any designated visitor car parking space. In the event that the approved visitor car parking spaces are located behind any proposed security roller shutter, an intercom system is required to be installed to enable visitor access into the basement car parking area. This requirement is to be reflected on the Construction Certificate plans and any supporting documentation for the endorsement of the Certifier prior to the release of the Construction Certificate.

Reason: To ensure visitor car parking is accessible to visitors.

24. Waste and Recycling Requirements

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

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

25. Pre-Commencement Dilapidation Report

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifier prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction

25A. Removal of Redundant Driveways

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council prior to the issue of the Construction Certificate. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

(Condition added in LEC Proceedings No. 2023/00268177)

25B. Vehicle Access and Parking

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

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

i. The accessible parking space and shared zone must be relocated so that neither the accessible parking space or shared area is located within a traffic circulation area.

ii. The following revisions must be undertaken to the basement parking allocation:

- 14 residential spaces (8 in car stackers)
- 2 motor cycle bays
- 9 retail spaces, including 1 accessible space (4 in car stackers)
- 0 visitor bays (visitor parking will be accommodated within existing on-street parking)
- 6 bike racks

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

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

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

(Condition added in LEC Proceedings No. 2023/00268177)

25C. Mechanical Car Stackers

The applicant is to provide information on the proposed mechanical car stackers, operation details, and instructions on using the device, maintenance plan, and contingency plan during a malfunction.

Details are to be provided to Council for approval and this requirement is to be reflected on the Construction Certificate plans for the endorsement of the Principal Certifier prior to the release of the Construction Certificate.

Reason: To ensure no vehicle conflicts within the basement carpark.

(Condition added in LEC Proceedings No. 2023/00268177)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

26. Tree Removal Within the Road Reserve

This consent approves the removal of the following tree within the road reserve (as recommended in the Arboricultural Impact Assessment):

i) Callistemon salignus fronting the site within Bilkurra Avenue road verge.

Removal of the approved tree in the road reserve shall only be undertaken by a Council approved tree contractor.

Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services Section prior to removal.

Reason: public liability.

27. 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.

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

28. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, visibly accessible structural members and other similar items.

Plateau,

li Any other property assessed by a geotechnical report to be within the zone of influence of the proposed works.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

29. Public Risk Insurance –works with councils Road Reserve

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

30.Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation located on adjoining properties,
- ii)all road reserve trees and vegetation within adjoining properties.

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 protect existing trees within 5 metres of development,

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where

Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited.

Reason: tree and vegetation protection.

31.Road Reserve

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

Reason: Public safety.

32.Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

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

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

Reason: Protection of the receiving environment.

33.Traffic Management

Traffic management procedures and systems must be in place and practised during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A plan of traffic management is to be submitted to and approved by the relevant Roads Authority.

Reason: To ensure pedestrian safety and continued efficient network operation.

34.Staff and Contractors Parking

The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the basement parking once available. All necessary facilities are to be provided to accommodate this requirement including lighting in the basement, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity.

35.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.

36.Removing, Handling and Disposing of Asbestos

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

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

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

37. 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.

38.Progress Certification Road and Footpath works

The applicant shall provide written certification is to be provided by a NER qualified engineer upon completion and/or as and when requested by the Council for the following stages of works:

- (a) Laying of stormwater pipes and construction of pits
- (b) Base-course laid and compacted **
- (c) Kerb and gutter construction
- (d) Pavement
- (e) Landscaping and vegetation
- (f) Clean-up of site, and of adjoining Council roadway and drainage system.
(**To be tested by a recognised N.A.T.A. approved laboratory).

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

Reason: To ensure compliance of civil works with Council's specification for engineering works.

39. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Section 138 approval is supervised by an NER qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifier and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

40. Notification of Road and Footpath works inspections

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter
- (e) basecourse level / subbase
- (f) Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

41. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual

(<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

42. Detailed Site Investigation and Remediation

Prior to excavation, a Stage 2 Detailed Site Investigation must be conducted on-site to determine the nature and extent of subsurface contamination beneath hard stands. Any contaminated material must be remediated as part of a Remedial Action Plan prepared by a Certified Environmental Practitioner, and in accordance with SEPP55 and the Contaminated Land Management Act 1997.

A validation and site monitoring report confirming clean-up objectives within the Remediation Action Plan, including a survey of all sites used for landfill disposal is to be prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997. The validation report must be reviewed and approved by an accredited Certified Environmental Practitioner and must be in accordance with the protocol outlined in the NSW EPA (1997) document entitled Guidelines for Consultants Reporting on Contaminated Sites, and state that the site is suitable for its proposed use.

Reason: To ensure compliance with SEPP 55, Contaminated Land Guidelines, and protection of environment and human health

43. Dead or Injured Wildlife

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

44. Implementation of Construction Traffic Management Plan

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

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

45. Dewatering Management

Discharge of tailwater must not occur until the above water quality parameters are met.

Parameter	Criterion	Method	Time Prior to Discharge
Oil and grease	<5ppm and no visible sheen	Visual inspection	<1 hour
pH	6.5- 8.5	Probe/meter	<1 hour
Total Suspended Solids (TSS)	<50mg/L	Meter/grab sample measures as NTU	<1 hour

NOTE: The correlation between NTU and TSS must be established by a NATA accredited laboratory prior to the commencement of dewatering activities.

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

Tailwater must be discharged to the nearest stormwater pit in accordance with Council's Auspec1 Design Manual and must not spread over any road, footpath and the like. Discharge to the kerb and gutter will not be accepted.

Reason: Protection of the receiving environment.

46. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated September 2020

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

47. Waste/Recycling Requirements (Materials)

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

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

47A. Dewatering Management

A permit from Council is required for any dewatering of seepage and tailwater.

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

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

Reason: Protection of the receiving environment and groundwater resources.
(Condition added in LEC Proceedings No. 2023/00268177)

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

48.Landscape Completion

- i) Landscape works within the site is to be implemented in accordance with drawing LS03 Landscape - Level 2 Planters, issue E, as prepared by Melissa Wilson Landscape Architects, as amended.
- ii) Public Domain Works are to be completed in accordance with the Amended

Public Domain Plan submitted as part of the Infrastructure Works on Council Roadway application under Section 138 of the Roads Act, and as approved by Council.

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

Reason: landscape and public domain amenity.

49. Post-Construction Road Reserve Dilapidation Report (Major Development)

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.

50. Signage and Linemarking – Implementation

The applicant is to install all signage and linemarking, as per any Roads Act approval. These works are to be completed prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with the Road Act.

51.Convex Mirror at Ramps

One (1) convex mirror is to be installed and maintained at each point of conflict on the ramp leading from B1 to the ground floor entry level. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To minimise vehicular conflicts at ramps.

(Condition amended in LEC Proceedings No. 2023/00268177)

52.Stormwater Drainage works

The stormwater drainage works shall be certified as compliant with the approved Construction Certificate stormwater plans by the design engineer. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any interim / final Occupation Certificate.

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

53.Mechanical plant noise emissions compliant with noise goals

A noise assessment must be done by a suitably qualified person verifying that recommendations in section 5 of the acoustic report "Mechanical Plant Noise Assessment" number "nss23254 – Final" prepared by Noise and Sound Services and dated September 2020 have been implemented and comply with the "noise goals" in section 4.2.

Reason: protect residential amenity, comply with Protection of Environment Operations Act 1997 and Noise Policy for Industry 2017.

54. Garbage and Recycling Facilities

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

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

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

55. Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial) The units within the development are to be numbered in accordance with the Australia Post Address Guidelines (https://auspost.com.au/content/dam/auspost_corp/media/documents/Appendix-01.pdf).

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website Unit Numbering for Multi-Unit Developments Form

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Interim/Final Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

56. Sydney Water

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

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site

www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water

Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

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

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

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

57.Waste and Recycling Facilities Certificate of Compliance

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

58.Waste/Recycling Compliance Documentation

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

Reason: To ensure waste is minimised and recycled.

59.Positive Covenant for Council and Contractor Indemnity

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council’s requirements, (Appendix E of the Waste Management Guidelines), at the applicant’s expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

60.Authorisation of Legal Documentation Required for Waste Services

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

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

Reason: To create encumbrances on the land.

60A Public Thoroughfare- S 88A Easement

A right of footway in favour of the Council is to be registered on the title of the land under section 88A of the Conveyancing Act 1919 for that part of the land shown as "s 88A easement" on the attached s 88A Easement PLAN dated 29 Oct 2021 (the only purpose of this plan is to show the area of the easement and no development is approved by this plan). The owner of the land must maintain this area of the land to the Council's satisfaction and take out, maintain and fund appropriate insurances for this area of the land as required by the Council. This easement is to continue in the event of any strata or community title subdivision of the land and this area of the land is to be in the ownership of the owners corporation.

The Terms of the easement or right of footway are not to exclude the possibility of providing for the placement and use of tables and chairs for outdoor dining under a separate development consent (and any other necessary approval) from the Council.

60B. 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.

(Condition added in LEC Proceedings No. 2023/00268177)

60C. Allocation of Parking Spaces – Strata Title

All residential car parking spaces are to be assigned to individual units. All residential units must be assigned two parking spaces with spaces in a car stacker pair assigned to the same residential unit. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability for residents in accordance with Council's Pittwater Development Control Plan.

(Condition added in LEC Proceedings No. 2023/00268177)

60D. Allocated Parking Spaces (retail/commercial)

Nine off-street retail parking spaces including one accessible parking space allocated to this development must be clearly signposted and linemarked as being for the exclusive use of this development.

Details, including the provision of prominent signage at street level directing customers to the basement retail parking and demonstrating compliance with above are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability.

(Condition added in LEC Proceedings No. 2023/00268177)

60E. Disabled Parking Spaces

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2022 including the provision of a bollard in the shared zone adjacent to the disabled parking space.

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.

(Condition added in LEC Proceedings No. 2023/00268177)

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

61.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 planting 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.

For all new residential works with two or more dwellings and mixed use developments, a maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

Public Domain Works are to be maintained by the applicant for a period of 12 months from completion of all elements of the public domain works, and handover to Council is subject to acceptance by Council. During the 12 month period all public domain elements shall be maintained to the satisfaction of Council, and otherwise replaced when required or requested by Council.

Reason: to maintain local environmental amenity.

62.Sight lines within carparks

The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

63. Mechanical Plant

At all times, mechanical plant noise emissions must comply with the recommendations in section 5 of the acoustic report “Mechanical Plant Noise Assessment” number “nss23254 – Final” prepared by Noise and Sound Services and dated September 2020.

All rooftop plant is to remain screened, as shown on the approved plans, so that the plant itself is not visible outside of the site.

Reason: To protect residential amenity, comply with Protection of Environment Operations Act 1997 and Noise Policy for Industry 2017.

(Condition amended in LEC Proceedings No. 2023/00268177)

64. No Weeds on to the Site

No Priority or environmental weeds are to be imported on to the site prior to or during construction works.

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

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

65. Deisel Fire Pump

The diesel fire pumpset testing must not be carried out before 8 am or after 8 pm on any Saturday, Sunday, or public holiday, or before 7 am or after 8 pm on any other day.

Reason: To ensure acoustic compliance in an operational situation.

(Condition added in LEC Proceedings No. 2023/00268177)

66. Management Action Plan - Diesel Fire Pumpset

A management action plan is put in place and updated accordingly to ensure that all residents of the residential units and employees of the commercial areas are fully informed of the dates and times of the diesel fire pumpset testing.

Reason: To ensure potential impacts from noise are reduced as much as possible.

(Condition added in LEC Proceedings No. 2023/00268177)

67. Delivery Vehicles

All deliveries to retail premises are to be undertaken by vehicles no larger than a 6.4m long Small Rigid Vehicle

Reason: There is no on or off-street loading bay provided to cater for deliveries by larger vehicles.

(Condition added in LEC Proceedings No. 2023/00268177)

68. 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 consent

from Council.

Reason: To ensure accessibility is maintained.

(Condition added in LEC Proceedings No. 2023/00268177)

69. On-Street Car Parking

No consent is granted for the exclusive use of any existing or proposed on-street car parking or loading spaces, which are to remain publicly accessible at all times.

Reason: To ensure that on-street car parking and loading spaces are not privatised.

(Condition added in LEC Proceedings No. 2023/00268177)

S 88A Easement PLAN

No 1 BILAMBEE AVENUE
SP 14737



SC EDULE OF C ANGES

- 1. REMOVAL OF BULKY WASTE STORAGE.
- 2. ADDITIONAL 'NO PARKING AT ALL TIMES' SIGNAGE ON GROUND PROPOSED, TO FACILITATE WASTE ROOM ACCESS BY COUNCIL STAFF.
- 12. ~~PUBLIC FOOTPATH, OUTSIDE OF SITE BOUNDARY~~
- 20. ~~REINSTATE LANDSCAPE STRIP ADJACENT TO BILAMBEE AVENUE PARKING~~
- 21. ~~2.8m WIDE PUBLIC THOROUGHFARE ADJACENT TO SHOPFRONT~~
- 22. REMOVAL OF CAR PARKING SPACE 8 AND TIME RESTRICTED LOADING BAY. REPLACED WITH LANDSCAPING.
- 23. REMOVAL OF RAMP ON PUBLIC FOOTPATH.
- 24. RECONFIGURATION OF LEVELS. WASTE BIN STORAGE ROOMS NOW AT THE SAME LEVEL AS DRIVEWAY.
- 28. TWO STREET TREES IN TREE PITS, WITH TWO SEATS
- 29. ONE STREET TREE IN TREE PIT, WITH ONE SEAT
- 30. FOUR STREET TREES IN TREE PITS, WITH FOUR SEATS
- 31. ADDITIONAL PUBLIC BICYCLE PARKING
- 32. RECONFIGURED VEHICULAR EGRESS KERB
- 33. ADDITIONAL BOLLARDS TO ALLOW SAFE PASSAGE DURING WASTE COLLECTION

<div>retained or disclosed to any unauthorised person either wholly or in part without the written consent of benson mccormack architects. Drawings show design intent only. Do not scale drawings. Check dimensions before commencing work. Inconsistencies are to be reported to Benson McCormack Architecture.</div> <div>ALL WORKS TO COMPLY WITH THE BUILDING</div>	A	May 20	Pre-DA	A/C	Air Conditioning Unit	CEX	Carpark Exhaust Dining	GBR	Garbage Room Exhaust	R	Robe Rainwater Tank	DREAM BUILD	1 BIL	GENERAL	1 200	DB		
	B	Sep 20	DA	ACC	Accessible	DRY	Dryer	GFA	Gross Floor Area	SCR	Screen	6/37A King Road Hornsby NSW 2077	1 Bilambee Avenue Bilgola Plateau NSW 2107	ARRANGEMENT - GROUND FLOOR	STATUS	CHECKED		
	C	Jun 21	S34 - Without Prejudice	ADP	Adaptable	DP	Down Pipe	GM	Gas Meter	SW	Sewer							
	D	Aug 21	S34	AHD	Aust. Height Datum	DW	Dishwasher	H	Hydraulic Services	ST	Storage							
	E	Sep 21	S34 - Amendments	B	Basement	F	Fridge	LY	Laundry	SD	Study							
<div>CODE OF AUSTRALIA(BCA) 2014 + AUSTRALIAN STANDARDS (AS) ** DIAL BEFORE YOU DIG**</div> <div>www.1100.com.au</div>	F	Oct 21	S34 - Amendments	BAL	Balustrade	FEX	Fire Extinguisher	M	Meter Room	STP	Stormwater Pit	+61 2 9482 3511			PROJECT No	DRAWING No	REV	
	G	Oct 21	S34 - Amendments	BALC	Balcony	FFL	Finish ^oa [Te] FN	MC	Motorcycle Parking	STW	Stormwater							
				BED	Bedroom	Fence		MSB	Main Switch Board	SFL	Structural ^oa [Te] FN							
				BT	Bathroom	FS	Fire Stairs	NGL	Natural Ground Level	TOF	Top of Fence	www.dreambuild.com.au			2012A	DA 0102	G	
				COL	Column	FSR	Floor Space Ratio	OSD	Onsite Detention Tank	TOW	Top of Wall							
				COMM	Comms Room	GBA	Gross Building Area	P	Pantry	VIS	Visitor Parking							