



**Land and Environment
Court**
of New South Wales

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DX 264, Sydney

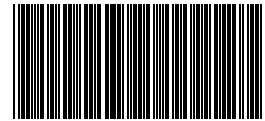
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D0001ED2IM

29 March 2021

NOTICE OF ORDERS MADE

Case number 2020/00145148
Case title Brendan Andrew Waights v Northern Beaches Council

On 29 March 2021 the following orders (and/or directions) were made:

The Court orders that:

- (1) Leave is granted for the Applicant to rely on the amended and additional plans and materials as listed in the conditions of consent attached at Annexure A.
- (2) Within 28 days, the Applicant is to pay the costs of the Respondent thrown away as a result of amending the development application pursuant to s 8.15(3) of the Environmental Planning and Assessment Act 1979 to an agreed total amount of \$6000 incorporating the costs in relation to Proceedings 2020/145123 and 2020/145148 and previous costs orders made by the Court on 19 January 2021 in relation to both proceedings.
- (3) The appeal is upheld.
- (4) Development Application No. DA2020/0261 for partial demolition works and construction of boarding house with associated parking and landscaping works on Lot 8 DP 6984, part of 18 Alexander Street Collaroy, is approved subject to the conditions at Annexure B.
- (5) The exhibits are returned with the exception of Exhibits 1, 2, A, B and C.

For the Registrar

Annexure B

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: DA2020/0261

Development: Partial demolition works and construction of a boarding house with associated carparking and landscape works on Lot 8

Site: 18 Alexander Street, Collaroy

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

Date of determination: 29 March 2021.

Date from which consent takes effect: Date the consent is registered on the NSW Planning Portal.

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as Lot 8 DP6984.

The conditions of consent are as follows:

DEFERRED COMMENCEMENT CONDITIONS**1. Amended Landscape Plan**

Amended Landscape Plans shall be provided for approval by Council's Executive Manager of Development Assessment, and shall be based on the Landscape Sketch – Lot 8 provided by Council at Annexure 1.

Reason: environmental amenity.

2. Final Design Details for Privacy Screens

The final design for all privacy screens is to be submitted to Council for approval by Council's Executive Manager of Development Assessment. Full details of all privacy screens as shown on the approved plans are to be in the form of a Privacy Screen Design Plan, including the specific location, architectural design, materials, size and colours of each screen. The Executive Manager of Development must not unreasonably withhold consent.

Reason: To ensure the final design of the privacy screens is satisfactory in terms of character, design and external appearance

Evidence required to satisfy the deferred commencement condition must be submitted to Council within five (5) years of the date of this consent.

This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

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

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**3. 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
DA101 Rev C Site Plan	31 January 2021	Walsh Architects

DA102 Rev C Demolition Plan	31 January 2021	Walsh Architects
DA111 Rev D Undercroft Floor Plan	31 January 2021	Walsh Architects
DA112 Rev D Level 1 Floor Plan	31 January 2021	Walsh Architects
DA113 Rev D Level 2 Floor Plan	31 January 2021	Walsh Architects
DA123 Rev C Roof Plan	31 January 2021	Walsh Architects
DA200 Rev C Sections	31 January 2021	Walsh Architects
DA201 Rev B Sections	31 January 2021	Walsh Architects
DA300 Rev D Elevations	31 January 2021	Walsh Architects
DA800 Rev C External Finishes	31 January 2021	Walsh Architects

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Traffic and Parking Assessment	March 2020	Transport and Traffic Planning Associates
BCA Assessment Report (111559-BCA-r1 LOT 8)	12 March 2020	BCA Logic
Operational Plan of Management - Boarding House 18 Alexander Street, Collaroy	<u>01 February 2021</u>	Unknown
Access Assessment Report (111559-Access-r1 Lot 8)	12 March 2020	BCA Logic
Arboricultural Impact Assessment Report	9 March 2020	Hugh The Arborist

Lot 9 Addendum to Arboricultural Impact Assessment	9 February 2021	Hugh the Arborist
Preliminary Geotechnical Assessment	20 February 2020	White Geotechnical Group

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

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.

4. Occupancy

The use is to operate in accordance with the following:

Nothing in this consent shall authorise the use of the premises as detailed on the approved plans for any land use of the site beyond the definition of a Boarding House.

A Boarding House is defined as:

"a building that:

- (a) is wholly or partly let in lodgings, and*
- (b) provides lodgers with a principal place of residence for 3 months or more, and*
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment".

(Development is defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary).

B) The boarding house is to operate in accordance with the State Environmental Planning Policy (Affordable Rental Housing) 2009.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application or modification to development consent (section 4.55).

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

5. Prescribed Conditions

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

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

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

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

6. General Requirements

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

Demolition and excavation works are restricted to:

8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or within adjoining properties 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.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

7. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan. The following monetary contributions are applicable:

Northern Beaches Council Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 975,000		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 9262.50
Section 94A Planning and Administration	0.05%	\$ 487.50
Total	1%	\$ 9750.00

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

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 Northern Beaches Council's Development Contributions Plan.

8. Security Bond

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

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

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

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

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

[SW1] CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

9. Vehicle Crossings Application - Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

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

Reason: To facilitate suitable vehicular access to private property

10. On-site Stormwater Detention Compliance Certification

Drainage plans detailing the provision of On-site Stormwater Retention in accordance with Northern Beaches Council's Water Management For Development Policy and the concept drawing by Michal Korecky, drawing number 18040 dated 13/01/2021.

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

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

11. Car Parking Areas.

The parking dimensions, internal circulation, aisle widths, kerb splay corners, vertical clearance heights, ramp widths and grades of the car parking areas are to comply with AS2890.1:2004, except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans. Parking areas are to be accessible by 99% vehicles. Individual parking spaces are to be accessible by 85% vehicles.

Reason: To ensure compliance with Australian Standards.

12. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

13. Acoustic Report

Prior to the issue of a Construction Certificate, the design and location of the mechanical ventilation is to be provided to the private certifying authority. An acoustic assessment is to be undertaken to determine acoustic treatments to control noise emissions from all mechanical plant noise.

Reason: To achieve satisfactory internal and external noise levels to protect public health.

14. Compliance with Standards

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

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

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

15. External Finishes to Roof

The external finish to the roof shall have a medium to dark range (NCC 2019 Volume 2) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

16. Sydney Water "Tap In"

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

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

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

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

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

17. [SW2]Waste and Recycling Requirements

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

Note: If the proposal, when compliant with 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.

18. Construction Traffic Management Plan.

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

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”.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

19. Public Liability Insurance – Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council’s road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah 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

20. Pre-Construction Dilapidation Report

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

Specifically, a dilapidation report for the following properties must be provided:

- 16 Alexander Street, Collaroy
- 18 Alexander Street (Lot 9), Collaroy

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

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

21. Demolition Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking demand, a Demolition Traffic Management Plan (DTMP) shall be prepared and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

The DTMP 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”.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

22. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, including:

- i) Section 10. Recommendations, specifically complying with 10.2, 10.3, 10.4, and 10.5 for existing tree - 1 Port Jackson Fig / Phoenix Palm,
- ii) Section 11. Arboricultural Work Method Statement and Tree Protection Requirements, with specifically complying with 11.5 for existing tree 1 - Port Jackson Fig
- iii) Section 12. Hold Points

All tree protection measures specified must:

- a) in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

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

Note:

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

Reason: to ensure protection of vegetation proposed for retention on the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

23. Traffic Management and Control Plan

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

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

24. 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 Principal Certifying 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

25. Vehicle Crossings

The provision of one vehicle crossing metres 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property

26. Maintenance of Road Reserve

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

Reason: Public Safety.

27. Noise and Vibration

The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations

Reason: To ensure the amenity of the surrounding area for residents

28. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan.

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

29. 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.

30. Tree and vegetation protection

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

- i) trees and vegetation within the site noted in Hugh the Arborist report as being retained, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures

- specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

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

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

A survey certificate prepared by a Registered Surveyor is to be provided for the following stages of construction:

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

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

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

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

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

32. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

33. Noise from Rock Breaking

The activity of rock-breaking associated with the development of the site, must only occur between the hours of 9:00 AM – 5.00 PM on weekdays (Monday – Friday); and rock-breaking activities must not occur on weekends or public holidays.

Adjoining properties must be notified in writing of the times and days in which rock-breaking activities will be carried out. Notices must be distributed at least seven (7) days before the activity is to occur.

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

34. Boarding House Plan of Management

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the operator that the requirements of the Boarding House Operational Plan of Management have been implemented and are compliant. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

35. Positive Covenant and Restriction as to User for On-site Stormwater Detention System

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

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

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

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

36. 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.

37. 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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided.

38. Waste/Recycling Compliance Documentation

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

Reason: To ensure waste is minimised and recycled.

39. Council and Contractor Access to Temporary waste storage facilities

The issuance of an Interim/Final Occupation Certificate authorises the Council or its approved Contractor to access the temporary waste storage facilities stored within the front setback of the land from time to time for the purposes of collecting waste.

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

40. 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 Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

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

Reason: To create encumbrances on the land.

41. 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 Certifying Authority prior to the issue of the Interim / Final 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 Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

42. Post-Construction Dilapidation Report

The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of all property, infrastructure, natural and man-made features that were originally recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the adjoining and affected private properties.

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

43. Landscape Completion Certification

Landscaping is to be implemented in accordance with the Council approved Amended Landscape Plan - Lot 8.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: environmental amenity

44. Condition of retained vegetation

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

- a) Compliance to Arborist recommendations for tree protection and excavation works.
- b) Extent of damage sustained by vegetation as a result of the construction works.
- c) Any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites.

45. No mechanical plant to be located on the roof of the development.

All mechanical plant is to be located within the basement/undercroft area of the development and must not be installed on the roof of the building. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of an Occupation Certificate.

Reason: To ensure the amenity of surrounding properties is maintained.

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

46. Landscape maintenance

- a) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- b) If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.
If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.
- c) All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity

47. Managers Room/ On Site Dwelling

The Managers Room or On Site Dwelling is to be used for the exclusive use of the boarding house manager and shall not be used as a boarding room.

Reason: To ensure compliance with the conditions of this consent

48. Occupancy of Boarding House

The building is to contain a maximum of 10 rooms (excluding the Boarding House Manager unit), being no more than 2 persons per designated double bedroom. In order to maintain this occupancy rate, a sign is to be erected immediately adjacent to the doorway accessing the building detailing the maximum sleeping capacity of each room.

Reason: To ensure the amenity of occupants.

49. Access to Outdoor Common Open Space Areas

All common open space areas on the site are to be restricted in usage with no access before 7am or after 10pm on any day.

Reason: To ensure reasonable amenity is maintained to the surrounding neighbours.

50. Compliance with the Boarding House Plan of Management

The requirements of the Boarding House Plan of Management are to be fully implemented in perpetuity from the issue of any interim / final occupation certificate.

To ensure the premises is maintained in an appropriate manner in perpetuity.

Reason: To ensure the amenity of occupants.

51. Transfer of bins between the permanent bin storage area and the holding bay.

- 1) Bins must not be transferred from the permanent bin storage area to the holding bay any earlier than the evening of the day prior to collection
- 2) Bins must be returned from the holding bay to the permanent bin storage area as soon as possible after emptying but no later than the evening of the day of collection.

Reason: To minimise the time bins remain at the front of the property impacting upon visual amenity.

52. Outdoor Lighting

All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and must comply with where relevant, Australia Standard AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance and design requirements and Australian Standard AS 4282:1997 Control of the obtrusive effects of outdoor lighting. All lights used to illuminate the exterior of buildings onsite must be positioned so as to prevent the emission of direct light onto adjoining roadways, adjoining land and dwellings.

Reason: To protect the amenity of adjoining properties.

53. Noise from Mechanical Plant

Any mechanical plant on the site must be installed and operated at all times so as not to cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997.

In accordance with the Protection of the Environment Operations (Noise Control) Regulation 2008, domestic air-conditioners must not be audible within nearby dwellings in a habitable room in any other residential premises:

- between 10:00pm to 7:00am Monday to Friday, and 10:00pm to 8:00am on Saturdays, Sundays and public holidays before 8:00am or after 10:00pm on any Saturday, Sunday or public holiday, or
- before 7:00am or after 10:00pm on any other day.

Reason: To ensure compliance with legislation and protect the acoustic amenity of neighbouring properties.

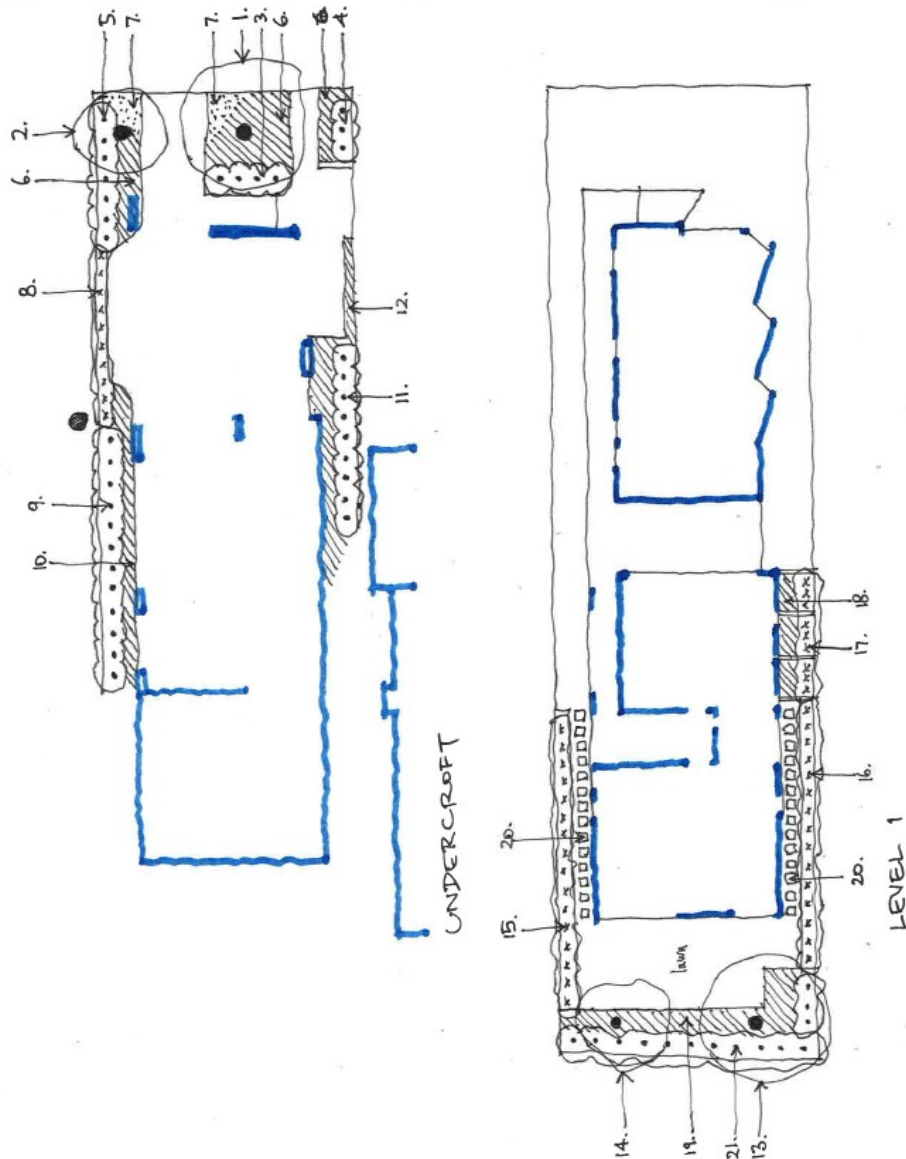
54. Fencing Height / Vegetation

All fencing and/or vegetation along the frontage road(s) shall not impede pedestrian or driver visibility. This requires that vegetation does not exceed one (1) metre in height. Appropriate plants shall be selected within the 2.0 x 2.5m splay to ensure this condition is met.

Reason: To ensure maximum vehicular and pedestrian visibility.

ANNEXURE 1: Landscape Sketch – Lot 8 provided by Council

- Lot 8**
1. 1 x Banksia integrifolia (200L)
 2. 1 x Livistona australis (pencil trunk)
 3. 5 x Murraya paniculata (300mm pot)
 4. 3 x Vitex tricus (300mm pot)
 5. 7 x Murraya paniculata (300mm pot)
 6. low height shrubs planted at 900mm centres and at 200mm pot size including: Westringia fruticosa 'zani', Callistemon 'Little John'
 7. groundcovers planted at 500mm centres and at 140mm pot size including: Dianella 'Little Jess'
 8. 11 x Nandina domestica (200mm pot)
 9. 13 x Sparganium 'resilience' (200mm pot)
 10. Philodendron 'varadi' planted at 600mm centres (140mm pot)
 11. 9 x Sparganium 'resilience' (200mm pot)
 12. mixed groundcovers planted at 500mm centres (140mm pot) including: Dianella 'Little Jess', Philodendron 'varadi'
 13. 1 x Banksia integrifolia (200L)
 14. 1 x Melaleuca linearifolia (75L)
 15. 17 x either Nandina domestica or Rhipis exelsa (300mm pot)
 16. same as 15. above
 17. 9 x Nandina domestica (200mm pot)
 18. mixed groundcovers same as 12. above
 19. low shrubs planted at 1m centres all at 200mm pot size: Atelia grandifolia 'nani', Westringia fruticosa 'zani', Callistemon 'Little John'
 20. small square paverslabs
 21. 11 x Eleocharis 'Primo Donna' (300mm)



LOT 8