

Reference: 2018/633911
Enquiries: Development Assessment

Total Pages: 27

Mario Sanzari
17A Manly Road
SEAFORTH NSW 2092

Dear Sir/Madam,

NOTICE OF DETERMINATION
Pursuant to Section 81(1)(a) of the *Environmental Planning and Assessment Act 1979*

Development Application No.	DA171/2017
Proposed Development	Construction of an access driveway fronting 11 Manly Road and 2A Old Sydney Road Seaforth
Land to be developed	Lot 10 in DP 582777 11-17A Manly Road, Seaforth
Determination	Approved by DEL
Date of Determination	02 October 2018
Consent is to operate from	02 October 2018
Consent is to lapse on	02 October 2023

Council determined this application under delegated authority on 2 October 2018 when it was determined:

That Development Application No. DA171/2017 for construction of an access driveway fronting 11 Manly Road and 2A Old Sydney Road Seaforth at 11-17A Manly, Road be **approved** subject to the following conditions:-

DEFERRED COMMENCEMENT CONDITIONS

This approval shall not operate until the following documentation/information has been submitted to Council for approval (within 3 years from the date of determination):-

A. Utilities Services

Prior to the activation of the consent, written concurrence from all underground utilities service providers to the proposed works is to be submitted to Council for approval. All requirements of these providers must be satisfied and documented on the engineering design / construction plan.



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Reason: To ensure that utility services are not compromised by the proposed structure and have been provided as required by this consent.

B. Lease Agreement

The applicant is required to meet Council's requirements in establishing an appropriate Lease Agreement, including:

1. A detailed survey plan is to be provided to Council for approval indicating the extent of the position of the driveway and associated structures by reference to the road reserve.
2. The applicant is to pay any associated fees and charges for the establishment of Lease Agreement including all legal fees and advertisement costs.
3. The Lease Agreement is to outline the responsibilities of the property owners benefiting from the driveway structure (being Nos. 11, 13, 15, 17 and 17A Manly Road, Seaforth), including initial start-up works and ongoing maintenance in accordance with the requirements of Council and any other relevant authority.
4. The Lease Agreement must provide that the property owners benefiting from the driveway structure (being Nos. 11, 13, 15, 17 and 17A Manly Road, Seaforth) take out and maintain all necessary insurances, and indemnify Council against any claims or damages arising from the works upon the road reserve in establishing the driveway and associated structures and failure to maintain driveway and associated structures.
5. The Lease Agreement must provide that written notice by the Council can require the property owners to promptly attend to any matters and to carry out works within such time as the Council may require to ensure that the driveway and associated structures are maintained to the requirements of Council or any other relevant authority
6. The Lease Agreement must ensure that current and any future property owners benefiting from the driveway structure (being Nos. 11, 13, 15, 17 and 17A Manly Road, Seaforth) are bound by the lease agreement.
7. A draft Positive Covenant of the proposed structures must be provided to Council for approval. The property owners benefiting from the driveway structure (being Nos. 11, 13, 15, 17 and 17A Manly Road, Seaforth) are to enter into the Covenant in respect of the driveway structure. The Covenant must detail the obligation of the registered proprietors in relation to the annual inspection, maintenance, repair and insurance of the proposed structures and the manner in which costs are to be shared amongst property owners.

Written agreement to the Positive Covenant from Council must be obtained prior to the activation of the Consent.

Reason: Public safety and appropriate property management.

C. Council Stormwater Asset

Plans are to be amended to the satisfaction of Council and must include the following:

- a) Demonstrate compliance with Council's D100 Policy – Drainage easements – construction over drainage easements:
 - Accurately locate, confirm dimensions including depth and plot to scale Council's stormwater pipelines and associated infrastructure on the DA plans that outline the proposal. This is to be carried out by a service locating contractor and registered surveyor. Evidence of methodology used for locating stormwater system must be provided to Council.
 - If the applicant proposes to use a CCTV pipeline survey to confirm the location of the pipeline, the survey is to be carried out in accordance with Council's guideline attached.
 - All structures are to be located clear of any Council pipelines, pits, or easements.
 - All required horizontal and vertical clearances are to be met as specified in the Policy.
 - Footings of any structure adjacent to an easement, pit, or pipeline are to be designed in accordance with the Policy.
 - Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance with Council's policy are to be submitted.
- b) The following details are to be submitted, should the applicant propose to modify, relocate, upgrade or remove a public drainage system in accordance with Council's D100 Policy – Drainage easements – construction over drainage easements:
Hydraulic design & construction plans and an accompanying report detailing the Council drainage system upgrade are to be prepared by a Civil Engineer registered on the NPER. Hydrological and Hydraulic technical guidelines as specified in Council's Engineering Design Specification -AUSPEC ONE are to be used in the preparation of the Hydraulic design plans and report.

Written approval of the above requirements must be obtained from Council prior to the activation of the Consent.

Reason: To protect Council's stormwater assets.

D. Arboricultural Impact Assessment

An Arboricultural Impact Assessment regarding the impact of the proposal upon existing trees within No.11 Manly Road is to be submitted to the satisfaction of Council.

Reason: To protect significant vegetation.

E. Landscape Plan

A Landscape Plan demonstrating suitable treatment to the undercroft of the proposed driveway is to be submitted to the satisfaction of Council.

Reason: To ensure appropriate landscaping.

F. Pedestrian Access

Plans are to be amended to the satisfaction of Council to include pedestrian access to Manly Road, separate to vehicular movements on the driveway.

Reason: Pedestrian and vehicular safety.

Note: The information required by the above deferred commencement conditions are to be submitted within 3 years from the date of this determination.

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
DA01 Site Plan	Issue A 25 July 2017	Architecture Azure
DA02 Elevations & Sections	Issue A 25 July 2017	Architecture Azure

Engineering Plans		
Drawing No.	Dated	Prepared By
16039-S1.00 Footing & Driveway Slab Plan & Details	Issue 03 18 December 2017	Azure Project Services

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation and Stability Assessment	8 March 2018	JK Geotechnics

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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



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Waste Management Plan		
Drawing No.	Dated	Prepared By
Waste Minimisation & Management Plan & Checklist	Undated	Applicant

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. (DACPLB01)

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
NSW Roads and Maritime Services	2017/382450 RMS Response	6 October 2017

(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 Department, Authority or Body's. (DACPLB02)

3. Prescribed Conditions (Demolition)

- (a) 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 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
 - (ii) 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.

- (b) 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,



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- (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.

- (c) 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.

Reason: Legislative Requirement (DACPLB09)

4. 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.



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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)



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5. General Requirements (Demolition)

(a) Unless authorised by Council:

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 a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. 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) The applicant shall bear the cost of all works that occur on Council's property.
- (f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (i) 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.

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



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6. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00am 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. 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.
- (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 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.



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- (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.

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

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



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7. **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)

8. **Compliance with Standards (Demolition)**

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 Council prior to the commencement of demolition works.

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

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

9. **Bonds**

Construction, Excavation and Associated Works Bond (Road)

A Bond of \$500,000 as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works and driveway as part of this consent. This bond may be refunded upon submission to Council of the registration of the Positive Covenant referred in this consent.

Construction, Excavation and Associated Works Bond (Drainage)

A Bond of \$100,000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent. This bond may be refunded upon submission to Council of the registration of the Positive Covenant referred in this consent.

Construction, Excavation and Associated Works Bond (Maintenance for civil works)

The developer/applicant must lodge with Council a Maintenance Bond of \$50,000 for the construction of driveway and retaining structures. The Maintenance Bond will only be refunded on completion of the 6 months Maintenance Period, if work has been completed in accordance with the approved plans and to the satisfaction of Council.



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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.

Reason: To ensure adequate protection of Council infrastructure.

10. Works on Council Roadway

An Application for Works on Council Roadway, including engineering plans is 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 driveway and associated structures which are to be generally in accordance with the Development Application, RMS's standard and Council's specification for engineering works - AUS-SPEC #1 and/or Council's Minor Works Policy. The plans shall be prepared by a qualified structural and civil engineer. The design must include the following information:

- 1) The detailed structural design of the driveway and the associated supporting structures.
- 2) The detailed structural design of the retaining walls.
- 3) The detailed design of driveway in comply with Australian Standard: Parking facilities part 1: off- street car parking AS 2890.1.
- 4) The detailed design of drainage system in accordance with Council's stormwater specification.
- 5) The detailed design of footpath in accordance with Council's Specification.
- 6) All public and private utility services are to be located on the plan and cross-section plan. All requirements of these providers must be satisfied and documented on the engineering design/ construction plan.
- 7) The corrosion protection must be applied to the structures.
- 8) Construction management plan.
- 9) Reinstate the existing footpath into the grass.
- 10) Reinstate the existing driveway and crossing on Manly Road in accordance with RMS's standard and approval.

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 Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

11. Shoring of Adjoining Property

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings. Council approval is required if temporary rock anchors are to be used within Council land.

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



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

12. Pre-Construction Stormwater Assets Dilapidation Report Survey

A pre-construction/demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

13. Erosion and Sediment Management Plan

An Erosion and Sediment Management Plan which provides adequate measures for erosion and sediment control, must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier. The Erosion and Sediment Management Plan shall comply with the requirements for Erosion and Sediment Management plans contained with Clause 2.1.11 of the Manly Development Control Plan, 2013 and Manly Council's Guidelines for Sediment and Erosion Controls on Building Sites, 2005.

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

14. Construction Traffic Management Plan

A detailed Construction Traffic Management Plan (CTMP) for the proposed development is to be prepared prior to the issue of the Construction Certificate. The CTMP will address the overall management of the site and nearby roads (including Old Sydney Road) during the construction process, including truck delivery routes, any traffic control arrangements, anticipated truck numbers accessing the site during demolition, excavation and construction stages, and parking arrangements for worker vehicles throughout the project.

Reason: To ensure equitable access to users of the locality and to manage traffic as a result of the construction of the proposed development.



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15. Trust Fund Deposit

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

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

16. Excavation Shoring

Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings and specifications certifying the shoring will be adequate for their intended purpose and must be submitted to the Council/Accredited Certifier for approval with the Construction Certificate. The documentation prepared and certified by an appropriately qualified and practicing structural engineer is to show all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements. A copy of this documentation must be provided to the Council for record purposes at the time of Construction Certificate application.

Reason: To ensure the protection of existing public infrastructure and adjoining properties.

17. Engineering Drawings

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.



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18. Geotechnical Survey – Stability

A Geotechnical Survey, on the stability of the subject site, is to be prepared by a suitably qualified geotechnical engineer in accordance with the guidelines contained in the current Manly Development Control Plan 2013. All recommendations of the report are to be complied with during the construction process. The report is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure structural integrity of the works maintained.

19. Geotechnical Survey – Excavation

A Geotechnical Survey is to be prepared by a suitably qualified geotechnical engineer for the proposed excavation. The requirements for a Geotechnical Survey are contained within the Dictionary of the Manly Development Control Plan 2013. All recommendations of the survey are to be complied with during the construction process. The survey is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure excavation is undertaken in an appropriate manner.

20. Works on Existing Roads

Detailed drawings and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by Council under the Roads Act 1993, before the issue of any Construction Certificate. Specific works include:

- 1) Full width vehicular crossings having a maximum width, at the back of layback, and in accordance with the current policy of Council and Specifications for the construction of vehicle crossings; and
- 2) Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway must be provided for assessment. Gradients and transitions must be in accordance with Australian Standard AS 2890.1 – 2004, Part 1 – Off-Street Car Parking. The driveway profile submitted to Council must be to scale at 1:25 (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

Driveway to be designed to provide for existing or future footpaths across driveway, in accordance with Council's Specification for Civil Infrastructure Works, Developments & Subdivisions 2003 and Australian Standard AS 1428.1:2001 - Design for access and mobility.

Reason: To facilitate suitable vehicular access to private sites.



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21. Soil Surface and Vegetation Disturbance

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

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

22. Driveway

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.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles. (DACTRCPC1)

23. Driveway Treatment

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff. (DACTRCPC2)



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24. Waste Management Plan

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

25. Commencement of Works

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

26. Demolition

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

27. Security Fence

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.



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28. Construction of Vehicular Crossing

The applicant must complete an application form and pay applicable fees for an application to Council for the construction of a Vehicular Crossing, for the design, specification and inspection by Council. Applications are to be made a minimum of two (2) working days prior to commencement of proposed works on Council's property.

Reason: To provide suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic.

29. Roads Approval

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

30. Construction Zone Applications

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Applications for a construction zone on a State Road require 28 days notice to Council and RTA State Network Services indicating the location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council, the Traffic Committee and the RTA have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

31. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures, and/or public infrastructure from damage using underpinning, shoring, retaining, walls, and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.



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

Reason: Safety.

32. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by a C7 Accredited Certifier by Building Professionals Board NSW. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

33. Public Liability Insurance - Works on Public Land

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

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

34. 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 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. Pedestrian access to Manly Road must be retained at all times.

Reason: Public safety.

35. Maintenance of Road Reserve

Public footways and roadways adjacent to the site to Manly Road must be retained and maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

36. Removal of Traffic Mirror

The existing Traffic Mirror on the Manly Road reserve outside the subject site is to be removed by the relevant authority being Northern Beaches Council.

Reason: To ensure removal of superfluous traffic markers.

37. Demolition, Construction and Site Works

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.



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- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

38. Footpath Level

The footpath is to be constructed as per the Council Standards & Specifications. The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

39. Approved Erosion and Sediment Management Plan

An approved Erosion and Sediment Management plan is to be implemented from the commencement of works and maintained until completion of the development.

The design and controls addressed in the Sediment and erosion management plan must comply with the criteria identified in:

- Manly Development Control Plan 2013, Amendment 2, and
- Manly Councils Guidelines for Sediment and Erosion Controls on building sites, 2005, and
- The document "Managing Urban Stormwater: Soils and Construction" Volume 1, 2004.

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



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

40. Occupation of the Structure

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

41. Certification of Structures on Council Roadway and Works as Executed Data

A C7 Accredited Certifier of Building Professionals Board shall certify that the completed works have been constructed in accordance with this consent and the approved Construction Certificate plans. A Works as Executed plan must be prepared by a registered surveyor prepared and overdrawn in red on a copy of the approved plans are to be provided to Council. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Safety.

42. Utilities Services

Prior to the issue of the occupation certificate, the written concurrence from all underground utilities service providers to the built works are to be submitted to Council for approval. All requirements of these providers must be satisfied.

Reason: To ensure that services have been provided as required by this consent.

43. Certification of Drainage Works and Works as Executed Data

A suitably qualified Civil Engineer shall certify that the completed works have been constructed in accordance with this consent and the approved Construction Certificate plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' shall be submitted to the Council for approval prior to the issue of the Occupation Certificate. An approval from Council is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

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



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44. Right of Carriageway

A right of carriageway (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan and accompanying 88B instrument to include all vehicular access and manoeuvring areas. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Council's standards and the statutory requirements of the Conveyancing Act 1919.

45. Post-Construction Dilapidation Survey

A post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The post construction dilapidation report must be submitted to the Council for review and the Principal Certifying Authority prior to the issue of the Occupation Certificate. Any damaged to Council's stormwater infrastructure is to be rectified in accordance with Council's technical specifications prior to the release of the security bond.

Reason: Protection of Council's infrastructure.

46. Positive Covenant of Structures on Public Land

A Positive Covenant, as approved by Council, is to be created on the property title to ensure the on-going maintenance, repair and insurance together with the cost sharing arrangements of the shared driveway and associated structure. The property owners benefiting from the driveway structure (being Nos. 11, 13, 15, 17 and 17A Manly Road, Seaforth) are to enter into an Instrument with Council in respect of these structures. The Instrument is to be prepared by the owners and accompanied by a survey plan accurately locating these structures. The Instrument is to detail the obligation of the registered proprietors.



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Northern Beaches Council shall be nominated in the Instrument as the only party authorised to release, vary or modify the instrument, and endorsed Northern Beaches Council's delegate shall be affixed to these documents, prior to submission to the NSW Land Registry. Evidence of the registration of the Instrument referred to in this condition is to be provided to Council. Details demonstrating compliance are to be submitted to Principle Certifying Authority prior to issue of any final Occupation Certificate.

Reason: To ensure pedestrian and public safety and ensure that structures located on public land for private benefit are maintained to an acceptable standard.

47. Authorisation of Legal Documentation Required for structures on road reserve

The original completed Covenant forms from Land Registry Services NSW must be submitted to Council, with a copy of the Works-as-Executed plan and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

48. Registration of Encumbrances for structures on road reserve

A copy of the certificate of title demonstrating the creation of the Positive Covenant for shared driveway and associated structures is to be submitted for each of the affected properties (being Nos. 11, 13, 15, 17 and 17A Manly Road, Seaforth). Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building works is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is also a criminal offence which attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

Please note that all building work must be carried out fully in accordance with this development consent and conditions of approval. It is an offence to carry out unauthorised building work or building work that is not in accordance with this consent.

In accordance with Clause 284 of the *Environmental Planning and Assessment Regulation 2000*, non compliance with the above conditions may result in Council issuing a Penalty Notice which may incur a fine.



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Notes:

Review of Determination

1. If you are dissatisfied with this decision, Section 82A of the *Environmental Planning and Assessment Act 1979* gives the applicant the right of review by Council within six (6) months of the date of determination. Please note that this review must be completed within the six (6) month period after the date of determination. A determination in respect of integrated development or designated development cannot be reviewed by Council.

Right of Appeal

2. If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act 1979* gives the applicant the right to appeal to the Land and Environment Court of New South Wales (their address being Level 4, 225 Macquarie Street, Sydney NSW 2000) within six (6) months after the date on which the applicant received notice of the determination of that application.

Modification of the Consent

3. You are advised that any modification to the approved building(s) or structure(s), changes to the layout of buildings or structures on the site, modification of any conditions of this consent or changes to the operation of an approved use may require the lodgement of modification to the consent under Section 96 of the *Environmental Planning and Assessment Act 1979*.
4. Please be advised that in order to lodge an application to modify the consent pursuant to this section, the development must be substantially the same development for which consent was originally granted. If Council is not satisfied that the development is substantially the same, a new development application for the works/use will be required.

Before the Commencement of Building / Subdivision Work

5. A Long Service Levy is payable prior to the issue of all Construction Certificates or Complying Development Certificates, on building works in NSW, where the value of works is \$25,000 (inclusive of GST) and above. The levy is presently calculated by multiplying the value of works (including GST) by 0.35%. When calculating the levy round down to the nearest dollar, for example, if the cost of works is \$485,260 multiply this by 0.35% = \$1,698.41. The levy payable is therefore \$1,698.

Please be advised that the levy is a state government levy and the percentage at which it is charged, can change without notice. The levy funds a portable long service scheme for workers in the building and construction industry. For further information see www.lspc.nsw.gov.au or contact the Corporation on 13 14 41.



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6. The erection of a building in accordance with this development consent **must not be commenced until:**
- (a) detailed plans and specifications of the building have been endorsed with a **Construction Certificate** by:
 - (i) the Consent Authority, or
 - (ii) an Accredited Certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a **Principal Certifying Authority**, and
 - (ii) has notified the Consent Authority and the Council (if the Council is not the consent authority) of the appointment, and
 - (c) the person having the benefit of the development consent has given at least two days notice to the Council of the person's intention to commence the erection of the building.

Details in regard to **Notice of Commencement of Building / Subdivision Work** and appointment of the Principal Certifying Authority are to be submitted to Council following issue of the Construction Certificate and two (2) working days prior to commencement of building works.

Other approvals

7. It is advised that your plans must be submitted to Sydney Water for approval at least fourteen (14) days before commencement of works. Please phone Sydney Water on 13 20 92 for information regarding an office closest to you.

Letter Box

8. Any new letter box is to comply with requirements outlined in the Australia Post 'General Post Guide' dated September 2007 or later.

Australia post delivers only in to mail boxes of an approved size. Australia Post recommends a separate aperture, box or tube to accommodate newspapers and non-mail articles.

The approved dimensions of the mail boxes are:-

Internal width (left to right) - minimum 230mm

Internal depth (front to back) - minimum 330 mm

Internal height - minimum 160mm

Horizontal aperture – minimum 230mm x 30mm and minimum 130mm above base

Vertical aperture – minimum 330mm x 30mm and minimum 40mm above internal base

Elevation of aperture above ground level –

Single mail box – between 900mm and 1200mm

Group mail boxes – between 600mm and 1600mm.



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For single residential or commercial premises the mail box is to be located on the boundary of the property with the footpath or road. The mail box aperture must face the footpath or road.

For further details please refer to Australia Post website auspost.com.au.

Reason: To comply with Australia Post requirements.

Dial Before You dig

9. Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact *Dial Before You Dig* at www.1100.com.au or Telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the *Dial Before You Dig* service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the *Dial Before You Dig* service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

10. Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with an availability or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact:- Telstra's network Integrity Team on Phone Number 1 800 810 443.

Should you have any questions in relations to the matter, please contact Council's Planning, Place & Community, on (02) 9976 1414, during business hours.

Signed below on behalf of the consent authority.

Yours faithfully,

Date: 3 October 2018

Rodney Piggott
Manager Development Assessment
Northern Beaches Council