



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

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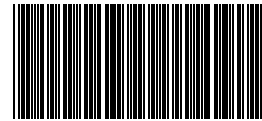
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Your Ref:



D00018BVJK

23 January 2020

### NOTICE OF ORDERS MADE

Case number 2018/00295642  
Case title Aveo North Shore Retirement Villages Pty Ltd v Northern Beaches Council

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On 23 January 2020 the following orders (and/or directions) were made:

The orders of the Court are:

- 1) The applicant is granted leave to rely upon the amended plans referred to in condition 7 of Part A of the conditions in Annexure "A".
- 2) The appeal is upheld.
- 3) The modification application to amend development consent 82/149 for an approved seniors living facility at 79 Cabbage Tree Road, Bayview is approved subject to the conditions in Annexure "A".
- 4) The exhibits are returned except Exhibits A, B, G and 6.

For the Registrar

Annexure A  
**Aveo North Shore Retirement Villages Pty Ltd**  
**V**  
**Northern Beaches Council**  
Conditions of Consent

**79 CABBAGE TREE ROAD, BAYVIEW**

**MODIFICATION OF CONSENT 82/149 GRANTED BY THE COURT ON 14 JULY 2005**

**PART A**

**A Prescribed Conditions:**

- 1 All works are to be carried out in accordance with the requirements of the Building Code of Australia.
- 2 In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there is to be such a contract in force.
- 3 Critical stage inspections are to be carried out in accordance with clause 162A of the Environmental Planning & Assessment Regulation 2000. To allow the Principal Certifying Authority to carry out critical stage inspections required by the Principal Certifying Authority, the principal contractor for the building site, or the owner-builder must notify the Principal Certifying Authority at least 48 hours before building work is commenced and prior to further work being undertaken.
- 4 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:
  - (a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (b) 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
  - (c) 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.
- 5 Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Council has been given written notice of the following information:
  - (a) in the case of work for which a principal contractor is required to be appointed:
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act;
  - (b) in the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and

- (ii) 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 becomes out of date, further work must not be carried out unless the Council has been given written notice of the updated information.

- 6 The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday- Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any other dwelling, including any dwelling within Stage 1.

**B Matters to be incorporated into the development and maintained over the life of the development:**

- 7 The development is to be carried out in accordance with (except as amended by any other condition of consent) the following:

- (a) **Approved Architectural Plans** prepared by Jackson Teece comprising:
- DA-001, Cover Page, Revision 10
  - DA-006, Masterplan, Revision 10
  - DA-007, ILU Number 20-23, Revision 5
  - DA-008, Lower Ground Level, Revision 10
  - DA-009, Ground Level, Revision 10
  - DA-010, Scheme Comparison – May\_Current, Revision 4
  - DA-110, Independent Living Unit – Type 1A (Attached) – Plans, Revision 9
  - DA-111, Independent Living Unit – Type 1A (Attached) – Elevations and Sections, Revision 8
  - DA-112, Independent Living Unit – Type 1AA (Attached) – Plans, Revision 9
  - DA-113, Independent Living Unit – Type 1AA (Attached) – Elevations and Sections, Revision 9
  - DA-115, Independent Living Unit – Type 1B (Detached) – Plans, Elevations and Sections, Revision 11
  - DA-130, Independent Living Unit – Type 3A – Plans, Revision 9
  - DA-131, Independent Living Unit – Type 3A – Elevations and Sections, Revision 4
  - DA-133, Independent Living Unit – Type 3A – Plans, Elevations and Sections, Revision 8
  - DA-135, Independent Living Unit – Type 3B (Attached) – Plans, Revision 4
  - DA-136, Independent Living Unit – Type 3B (Attached) – Elevations and Sections, Revision 4
  - DA-150, Independent Living Unit – Type 5A (Attached) – Plans, Revision 9
  - DA-151, Independent Living Unit – Type 5A (Attached) – Elevations and Sections, Revision 9
  - DA-300, Elevations, Revision 10
  - SK-101, Section 01, 02, 03, Revision 5
  - SK-106, Accessible Path, Revision 5
- (b) **Approved Landscape Plans** prepared by Sym Studio comprising:
- AVEO2-SK-001, Indicative Plant Schedule (Page 1 of 2), Revision F
  - AVEO2-SK-001.1, Indicative Plant Schedule (Page 2 of 2), Revision B
  - AVEO2-SK-003, Landscape Masterplan, Revision H
  - AVEO2-SK-004, Landscape Planting Plan, Revision G

- AVEO2-SK-004.1, Landscape Detail Planting Plan (Sheet 1 of 6), Revision B
  - AVEO2-SK-004.2, Landscape Detail Planting Plan (Sheet 2 of 6), Revision C
  - AVEO2-SK-004.3, Landscape Detail Planting Plan (Sheet 3 of 6), Revision B
  - AVEO2-SK-004.4, Landscape Detail Planting Plan (Sheet 4 of 6), Revision C
  - AVEO2-SK-004.5, Landscape Detail Planting Plan (Sheet 5 of 6), Revision B
  - AVEO2-SK-004.6, Landscape Detail Planting Plan (Sheet 6 of 6), Revision B
  - AVEO2-SK-201, Tree Retention/Removal Plan, Revision C
  - AVEO2-SK-202, Tree Protection Plan, Revision C
- (c) **Approved Civil Plans** prepared by Northrop Consulting Engineers comprising:
- C01DA, Concept Sediment and Erosion Control Plan, Revision D
  - C02DA, Concept Stormwater Management Plan, Revision D
  - C03DA, Concept Road Design Setout Plan, Revision C
  - C04DA, Concept Road Design Long Sections, Revision C
  - C10DA, Concept Cut Fill Plan, Revision D
  - C20DA, Concept Civil Details Sheet 1, Revision C
  - C21DA, Concept Civil Details Sheet 2, Revision C
- 8 The development is to be carried out in compliance with (except as amended by any other condition of consent) the recommendations contained within the following Approved reports:
- (a) Concept Stormwater Management Strategy, prepared by Northrop Consulting Engineers dated 27 September 2019;
  - (b) Revised Flood Impact Assessment, prepared by Northrop Consulting Engineers dated 4 December 2019;
  - (c) Structural Flooding Assessment, prepared by Northrop Consulting Engineers dated 18 April 2019;
  - (d) Flora and Fauna Assessment Report, prepared by Cumberland Ecology, dated 12 October 2019;
  - (e) Disability Access Report, prepared by Lindsay Perry Access, dated 13 February 2018 and Revised Accessibility Statement prepared by Lindsay Perry Access dated 29 September 2019;
  - (f) Geotechnical Investigation Report, prepared by Davies Geotechnical dated 15 February 2019;
  - (g) Waste Management Plan prepared by Aveo, dated January 2018;
  - (h) NatHERS Certificate dated 8 February 2018;
  - (i) Due Diligence Aboriginal Heritage Assessment prepared by Mary Dallas Consulting Archaeologists, dated 14 February 2019;
  - (j) Geotechnical Assessment / Landslide Risk Appraisal Report prepared by Davies Geotechnical, dated 29 January 2018 and Geotechnical Investigation Report prepared by Davies Geotechnical dated 15 February 2019;
  - (k) Construction Traffic Management Plan prepared by The Transport Planning Partnership dated 24 January 2018;
  - (l) Biodiversity Management Plan prepared by Eco Logical Australia, dated 7 February 2019; and
  - (m) BASIX certificate no 896601M\_03 prepared by Fry's Energywise dated 13 December 2019.
- 9 The following geotechnical conditions are to be complied with at all times.
- (a) All buildings and major retaining structures are to be supported by piers founded on sound bedrock.
  - (b) All fills and cuts are to be supported by engineer designed retaining walls.

- (c) All retaining walls are to have suitable drainage measures including subsoil drainage, gravel and geotextile protection.
- (d) All roof and road runoff, stormwater, and overland flows are to be removed to the stormwater system using closed pipes or lined drains. No unlined detention ponds or "soak away" pits are to be used.
- (e) The following maintenance is required over the life of the relevant structures:

Item	Maintenance	Frequency
Stormwater drains and pipes	Cleaning to remove debris and silt	6 monthly or as required
Gutters and down pipes	Cleaning to remove leaves and debris	6 monthly or as required
Subsoil drains	Flushing to remove silt and algae build up	12 monthly or as required
Gardens above or on slopes	Prevent over watering	Always
Weep holes	Flushing to remove silt and algae build up	12 monthly or as required
Exposed batters	Inspection by experienced geotechnical personnel	12 monthly for 2 years then every 48 months for life of batter
Undercroft batters	Inspected by experience geotechnical personnel	12 monthly for 2 years then every 48 months for life of batter
Leaking services	Repair	As soon as detected

- (f) Indicators of reduced slope stability such as cracking or differential settlement of the structure; high ground water levels or poor drainage; erosion or changes to the batters; and other evidence of ground movement such as leaking services or leaning walls are to be investigated promptly by both a structural engineer and geotechnical engineers experienced in hillside developments.
- 10 The installation of in-sink food waste disposal units is prohibited due to the increased loading placed on the Warriewood Sewage Treatment Plant particularly during wet weather.
- 11 Noise from the operation of any plant or equipment at the premises (excluding during construction) shall not exceed 5dB(A) above the background noise level.
- 12 The development is to be carried out in accordance with the General Terms of Approval issued by the New South Wales Rural Fire Service, dated 2 December 2019, as follows:
- (a) APZ 1
- At the commencement of building works and in perpetuity, a 60 metre APZ shall be maintained around the proposed new buildings to the west, north west, and north. On the northern elevation where 60 metres cannot be achieved within the property boundary, the APZ is not required to extend into the adjoining property. The APZ shall be managed as outlined within Appendices 2 & 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- In forested areas a portion of the APZ may be maintained as an Outer Protection Area (OPA) as specified in Table A2.7 of 'Planning for Bush Fire Protection 2006'.

A minimum 20 metre APZ shall be provided to the riparian zone to the south and south west and shall be maintained as an Inner Protection Area (IPA).

(b) APZ 2

In order to achieve a better bush fire risk outcome for the existing facility, a 10 metre to 20 metre IPA shall be maintained around existing buildings, depending on the vegetation being identified as rainforest or forest.

(c) D&C 1

The proposed new buildings shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 *Construction of buildings in bush fire-prone areas* or NASH Standard (1.7.14 updated) *National Standard Steel Framed Construction in Bushfire Areas – 2014* as appropriate and section A3.7 Addendum Appendix 3 of *Planning for Bush Fire Protection 2006*.

(d) ACC 1

Internal roads shall comply with section 4.2.7 of *Planning for Bush Fire Protection 2006*, except that a single road is permitted in this instance. The trafficable width shall comply with Table 4.1 of PBP-2006. Parking shall not obstruct the minimum paved width. The passing bay / layby located on the southern road shall be a minimum 2.6m wide and 20m long. Roll top kerbing shall be provided.

(e) W&U 1

The provision of water, electricity and gas shall comply with sections 4.1.3 and 4.2.7 of *Planning for Bush Fire Protection 2006*.

(f) L 1

Landscaping of the site shall comply with the following principles of Appendix 5 of 'Planning for Bush Fire Protection 2006':

- Suitable impervious areas are provided immediately surrounding the building such as courtyards, paths and driveways, including rock mulch.
- Grassed areas, mowed lawns or ground cover plantings are provided in close proximity to the building.
- Planting is limited in the immediate vicinity of the building.
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs should be isolated or located in small clusters).
- Landscape species are chosen in consideration of the needs of the estimated size of the plant at maturity.
- Species are avoided that have rough fibrous bark, or which keep/shed bark in long strips or retain dead material in their canopies.
- Smooth bark species of tree are chosen which generally do not carry a fire up the bark into the crown.
- Planting of deciduous species is avoided which may increase fuel at surface/ ground level (i.e. leaf litter).
- Climbing species are avoided to walls and pergolas.
- Combustible materials such as woodchips / mulch and flammable fuel are stored away from the building.
- Combustible structures such as garden sheds, pergolas and materials such as timber garden furniture are located way from the building.
- Low flammability vegetation species are used.

(g) E&E 1

A Bush Fire Emergency Management and Evacuation Plan shall be prepared for the facility in accordance with the guidelines, *Development Planning - A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014*.

- 13 All buildings shall be finished in medium to dark colours of an earthy tone, excluding minor areas of trim, windows or doors.
- 14 There must be provided a continuous path of travel between 74% of the units in Stage 2, internal roads and the village amenities in accordance with the requirements of AS 1428.1 (2009). Details are to be provided with the Construction Certificate application.
- 14A Notwithstanding condition 14, all of the proposed new units are to have a continuous accessible path of travel from each unit to communal bin storage areas and to the letterbox of that unit.
- 15 All landscape components are to be maintained for the life of the development. A maintenance program is to be established. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme and be generally in accordance with the Approved Landscape Plans referenced in Condition 7, as amended by Condition 43 of this Consent.
- 16 Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.
- 17 Any vegetation planted outside approved landscape zones is to be consistent with:
- (a) Species listed in the approved Flora and Fauna Assessment Report referenced in Condition 8 of this Consent,
  - (b) Locally native species or locally native plants growing on site and / or selected from the list pertaining to vegetation community(s) on the site as per the Pittwater Book Native Plants for Your Garden - book available from Council and on the Northern Beaches Council web site.
- 18 All Priority weeds (as specified in the Greater Sydney Regional Strategic Weed Management Plan 2017 – 2022) within the development footprint are to be removed and regularly managed. All environmental weeds including Lantana camara are to be removed in accordance with the Approved Biodiversity Management Plan referenced in Condition 8 of this consent, as amended by any other condition of consent.
- 19 All management works and recommendations identified in the updated Biodiversity Management Plan prepared in accordance with Condition 46 are to be fully implemented at all times.
- 20 No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).
- 21 All privacy screens shown on the Approved Architectural Plans referenced in Condition 7 of this Consent, and as required by any other condition of this Consent, are to be maintained for the life of the development.
- C Other Matters to be satisfied prior to the issue of the Construction Certificate:**
- 22 Civil engineering details of the proposed excavation/landfill are to be submitted to the Principal Certifying Authority with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
- 23 A Soil and Water Management Plan (SWMP) shall be prepared by a suitably qualified engineer, who has membership to the Engineers Australia, National Engineers Register and

implemented onsite prior to commencement. The SWMP must meet the requirements outlined in the Landcom publication *Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004)* and Council's *Water Management for Development Policy*.

The SWMP must include the following as a minimum:

- (a) Site boundaries and contours
- (b) Vehicle access points, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- (c) Location of all drains, pits, downpipes and waterways on and nearby the site
- (d) Planned stages of excavation, site disturbance and building
- (e) Stormwater management and discharge points
- (f) Integration with onsite detention/infiltration
- (g) Sediment control basin locations and volume (if proposed)
- (h) Proposed erosion and sediment controls and their locations
- (i) Location of washdown and stockpile areas including covering materials and methods
- (j) Vegetation management including removal and revegetation
- (k) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained
- (l) Inspection and maintenance program
- (m) North point and scale.

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

- 24 Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of the Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
- 25 The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
- 26 The applicant is to consult with Sydney Water to establish whether there are any Section 73 Compliance Certificate requirements for this proposal, under the provisions of the Sydney Water Act, 1994. A copy of any Notice of Requirements letter which may be issued by Sydney Water, is to be provided to the Private Certifying Authority with the Construction Certificate application.
- 27 In accordance with Clause 94 of the Environmental Planning and Assessment Regulation 2000, plans are to be submitted with the Construction Certificate application demonstrating how the building will be brought into full conformity with fire and spread of fire requirements of the Building Code of Australia.
- 28 A satisfactory and complete schedule of essential fire safety measures required to be installed within and/or in association with the building including the minimum standard for performance of each measure is to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate. The schedule is to include a signed statement from a suitably qualified person confirming that all essential fire safety measures as required by the Building Code of Australia have been listed so as to ensure the safety of persons in the building in the event of an outbreak of fire.



- 29 A Schedule of Works prepared by a qualified practising Engineer with corporate membership of Engineers Australia, National Engineers Register is to be submitted to Council in respect of the following items:
- (i) The details and location of all intercept drains, provided uphill of the excavation, to control runoff through the cut area.
  - (ii) The proposed method of disposal of collected surface waters is to be clearly detailed;
  - (iii) Procedures for excavation and retention of cuts, to ensure the site stability is maintained during earthworks.
- 30 Certification from the Accredited Access Adviser that design details and specifications comply with the standards prescribed in Schedule 3 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, must be submitted to the Council with the Construction Certificate application.
- 31 Engineering details relating to the internal driveway, car park areas, and any retaining walls (including any cut and fill required for these works) are to be prepared by a qualified practising engineer with membership of Engineers Australia, National Engineers Register and has appropriate experience and competence in the related field and submitted to the Principal Certifying Authority prior to release of the Construction Certificate.
- 32 As the site is located in a slip liable area, the structural details relating to the internal driveway, car park areas, and any retaining walls (including any cut and fill required for these works) are to be endorsed by a suitably qualified practising Geotechnical Engineer . Evidence to satisfy this condition is to be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.
- 33 With the Construction Certificate Application the applicant is to submit details of the location, design, finish and materials to be used for all retaining walls. Such materials are to be chosen to be recessive in appearance, to allow the walls to blend into rather than dominate the landscaping.
- 34 Prior to issue of the Construction Certificate a comprehensive Construction Process Plan of Management (CPPM) is to be submitted to the Council that outlines statutory obligations and regulatory requirements affecting all site works and procedures that will be implemented for the duration of all demolition works, clearing works, earthworks and construction works associated with the approved development that will ensure the safety and amenity of the residents of the retirement village, the community and the environment are not adversely affected. In particular, the CPPM must address the following requirements:
- (a) The sequence and timing of construction specifying either an overall period for completion of the whole of Stage 2 from the commencement date of construction such period to be not greater than 36 months unless a longer period is otherwise justified in writing and approved by the Council (such approval not to be unreasonably withheld) or for the carrying out of the Stage 2 development in further sub- stages, with a construction staging sequence and construction period for each such sub-stage being nominated, such periods of construction not to exceed 52 weeks for each such sub-stage unless a longer period is otherwise justified in writing and approved by the Council (such approval not to be unreasonably withheld).
  - (b) The CPPM must be accompanied by a report from a qualified/practising acoustic consultant addressing the objective of demonstrating that the Stage 2 development may be constructed in compliance with the requirement that the L10 level measured over a period of not less than 15 minutes when the construction site is operating must

not exceed the background level by more than 10 db(A) measured inside the nearest dwelling, including any dwelling in Stage 1, and outlining the measures necessary for this objective to be achieved, such as: selection of specific noise reduced plant and equipment; silencing of construction site plant and equipment; location of plant; regular site monitoring by the site manager and the acoustic consultant etc. There must also be no delivery of machinery, trucks, plant or equipment to the site outside of the approved work hours. If that acoustical report discloses that this objective cannot be satisfied, the report must identify the areas of non-compliance and must recommend the implementation of measures to achieve this objective insofar as reasonably practicable, all such measures to be to the reasonable satisfaction of the Council.

- (c) Heavy vehicle access routes (plan required), site access availability off Cabbage Tree Rd only; containment of a heavy vehicle parking, construction vehicle parking and employee vehicles within the property; containment of all vehicle loading/unloading within the property; separation or control of all construction vehicles movements and parking from all resident and resident service vehicle movements associated with the Stage 1 retirement village; controllers for entry/exit operations as well as within the shared access corridor; provision of traffic barriers and lighting where necessary. The CPPM must also satisfactorily demonstrate that construction may be carried out with all construction access to be excluded from the area of Stage 1 of the development and must address the options, and advantages and disadvantages, of providing temporary (that is, during any period of construction) access and egress from Stage 1 of the development to the public road system through Gulia Street. The CPPM must be accompanied by a report from the persons responsible for the construction addressing these requirements.
- (d) Site management in terms of delivery of materials, parking for workers, location of toilets and amenities, removal of excavated materials, how machinery will access building platforms, how temporary power will be supplied, and stabilisation of any temporary structures, stockpiles and stored materials.
- (d1) Separation and protection of all resident pedestrian access from the works areas including enclosure of the perimeter of the site by a temporary construction barrier.
- (e) Measures for air quality management and in particular the control of airborne dust (eg watering or temporary sealing of roads; screens or vehicle speed restrictions), litter and other contaminants in relation to the occupants of the existing retirement village and neighbouring properties.
- (f) Waste management methodology including details of quantities of material to be transported and implementation of recycling measures (eg mulching of vegetative matter).
- (g) Stormwater water, sediment and erosion control methodology.
- (h) Provision of site management signage including contact names and telephone numbers for 24 hour contact by the public relating to site issues including the name and telephone contact of the Council.
- (i) The CPPM must ensure there is a process of 'site induction' to be the responsibility of the site manager whereby each employee or contractor is advised of the procedures relating to the requirements of the CPPM.
- (j) The CPPM must ensure there is a liaison committee whereby residents' queries or concerns during the construction of Stage 2 can be regularly and satisfactorily

addressed. Details of the constitution and operation of the liaison committee are to be submitted with the CPPM.

The construction of the Stage 2 development must be carried out in accordance with the CPPM approved by the Principal Certifying Authority as satisfactory to it.

- 35 All retaining structures (including temporary shoring and batters), details of which are to be lodged with the construction certificate application, are to be designed and/or approved by an engineer and geotechnical engineer experienced in hillside developments and are to comply with the design requirements of retaining structures and batters provided in the approved Geotechnical Assessment / Landslide Risk Appraisal Report referenced in Condition 8 of this consent.
- 36 The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's *Pittwater 21 Development Control Plan*. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.
- 37 The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's *Pittwater 21 Development Control Plan*, and generally in accordance with the Concept Drainage Plans prepared by Northrop, drawing number C02DA, dated 27/9/19. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.
- Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.
- A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the Approved Civil Plans referenced in Condition 7 of this Consent and Council's *Water Management for Development Policy* shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.
- 38 The bio-retention basin must not have filter media and plantings installed, and the SPEL Hydrosystem must not be connected online, until 90 percent of the dwellings in Stage 2 have been completed, or two years has passed since the issue of the Occupation Certificate, whichever milestone occurs first.
- 39 The recommendations of the risk assessment required to manage the hazards as identified in the approved Geotechnical Assessment / Landslide Risk Appraisal Report referenced in Condition 8 of this Consent are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of *Pittwater 21 Development Control Plan*) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
- 40 The applicant is to lodge a bond with Council of \$20,000 as security against any damage to Council's road reserve and downstream drainage network. Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
- 41 The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any

other owners of public infrastructure and the owners of adjoining and affected private properties. The pre-construction / demolition dilapidation report must be submitted to Council and the Certifying Authority prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

- 42 A Project Arborist with AQZ level 5 qualifications in arboriculture/horticulture shall submit a Tree Protection Plan to the Certifying Authority prior to the issue of the Construction Certificate, in accordance with AS4970-2009 Protection of trees on development sites, identifying existing trees within 5 metres of development, including:
- (a) location of trees identified for retention and extent of canopy,
  - (b) location of tree protection fencing, tree trunk battens, ground protection and barriers,
  - (c) the tree protection plan will identify key stages or 'hold points' where monitoring, inspections, and approval for work activities are approved by the Project Arborist prior to continuing works,
  - (d) the tree protection plan will identify the scope of certification to be submitted by the Project Arborist to satisfy AS4970-2009, including:
    - 5.3 Pre-Construction, sections 5.3.1 and 5.3.2
    - 5.4 Construction Stage, sections 5.4.1, 5.4.2, 5.4.3, 5.4.4 and 5.4.5
    - 5.5 Post-construction, section 5.5.2.
- 43 The Approved Landscape Plans referenced in Condition 7 of this Consent are to be amended, as follows:
- (a) the documented path from the Lift between ILU 11 and ILU 12 shall be relocated closer to ILU11 to accommodate tall canopy/middle storey tree planting of at least one *Eleocarpus reticulatus* (100 litre pot size) and one *Podocarpus elatus* (75 litre pot container),
  - (b) the documented street tree planting of *Tristaniopsis luscious* shall be deleted and replaced with a combination of both or either *Angophora costata* and/or *Syncarpia glomulifera*, planted at a minimum 100 litre pot container,
  - (c) canopy tree planting shall be nominated by location within the Plant Mix Type 3 category between the proposed buildings, including:
    - (i) one *Acmena smithii* west of ILU8, planted at 100 litre pot size,
    - (ii) two *Eleocarpus reticulatus* between ILU9 and ILU10, planted at 100 litre pot size,
    - (iii) one *Eleocarpus reticulatus* (100 litre pot size) and one *Podocarpus elatus* (75 litre pot container), between ILU11 and ILU12,
    - (iv) three *Angophora costata* east of ILU13, planted at 100 litre pot size,
    - (v) three *Angophora costata* east of ILU14, planted at 100 litre pot size,
    - (vi) two *Eleocarpus reticulatas* west of ILU 19, planted at 100 litre pot size,
    - (vii) two *Angophora costata* (100 litre pot size) and one *Allocasuarina torulosa* (75 litre pot size) south-east of ILU18,
    - (viii) one *Eleocarpus reticulatus* (100 litre pot size) and one *Allocasuarina torulosa* (75 litre pot container), between ILU16 and ILU17,
  - (d) canopy tree planting shall be nominated by location within the Plant Mix Type 8 category associated with the pedestrian ramp,
  - (e) all tree planting shall be located approximately 4 to 5 metres from buildings and structures, and shall be protected by a 4-post tree guard with top and mid rail,
  - (f) The removal of the "existing maintenance track" and areas of gravel to the north of the creekline, to be revegetated in accordance with the Species listed in the approved Flora and Fauna Assessment Report referenced in Condition 8 of this Consent,
  - (g) all other planting works shall be in accordance with the landscape plans and schedules prepared by Sym Studios and referenced above.

The amended plans, accompanied by certification from a suitably qualified landscape architect confirming consistency with this condition, are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

- 44 The Approved Architectural Plans referenced in Condition 7 of this Consent are to be amended as follows:
- (a) A 1.8m high privacy screen is to be incorporated along the entire eastern elevation of the balcony of Unit 19. The screen is to comprise fixed horizontal or vertical batons, with maximum openings of 50mm to prevent overlooking of the adjoining properties to the east.
  - (b) The opening on the eastern elevation of the Lounge in Unit 23 is to be a window, with a minimum sill height of 1.5m.
  - (c) A 1.8m high privacy screen is to be incorporated along the entire eastern elevation of the patio of Unit 23. The screen is to comprise fixed horizontal or vertical batons, with maximum openings of 50mm to prevent overlooking of the adjoining properties to the east.
- 45 A Project Ecologist be employed for the duration of the approved works to ensure all bushland and riparian protection measures are carried out according to the conditions of consent.
- The Project Ecologist will provide certification that recommendations and management works identified in the Approved Biodiversity Management Plan (referenced in Condition 8 of this Consent, and as amended by any other condition of this consent) are carried out. The Project Ecologist will ensure that all conditions relating to the biodiversity management of the property are fully implemented. The Project Ecologist is to be a suitably qualified expert with a minimum of five years relevant industry experience.
- 46 The Biodiversity Management Plan (BMP) referenced in Condition 8 of this Consent is to be updated in accordance with the recommendations of the Flora and Fauna Assessment Report also referenced in Condition 8 of this Consent.
- The BMP must include a plan/map of all trees required to be removed and those to be retained for the completion of the Asset Protection Zone and building envelopes. The BMP must include measures for the restoration and management of all retained vegetation, including the revegetation of cleared and disturbed areas. The BMP must include a map clearly delineating vegetation management zones, with objectives for vegetation management and/or restoration for each zone. It will include a strategy for bushland restoration, plant species suitable for planting to recreate the original vegetation type, and ongoing management requirements.
- The BMP must include provisions for management, monitoring and reporting of biodiversity pre-clearing, during clearing and post construction in perpetuity management of fire hazard Asset Protection Zones and retained vegetation.
- Details demonstrating compliance are to be submitted to the Certifying Authority and Council prior to the issue of the Construction Certificate.
- 47 Prior to the issue of the relevant Construction Certificate or commencement of any clearing, the class and number of species credits must be retired. Credit retirement is based on the loss of 10 *Rhodamnia rubescens* associated with the development.
- Evidence that the requirement to retire the class and number of biodiversity credits outlined in Table 1 has been satisfied in accordance with the *Biodiversity Conservation Act 2016* must be provided to the Principal Certifying Authority prior to release of the relevant Construction Certification or commencement of any clearing.

Table 1

<b>Impacted Species</b>	<b>Number of Biodiversity Credits</b>	<b>IBRA sub-region</b>
<i>Rhodamnia rubescens</i> (Scrub Turpentine)	30	Pittwater Sub Region OR any subregion within 100km of the subject site

- 48 Prior to the issue of the relevant Construction Certificate or commencement of any clearing, the class and number of ecosystem credits must be retired. Credit retirement is based on the area of clearing of relevant Plant Community Types associated with the development including Asset Protection Zones.

Evidence that the requirement to retire the class and number of biodiversity credits outlined in Table 2 has been satisfied in accordance with the Biodiversity Conservation Act 2016 must be provided to the Principal Certifying Authority prior to release of the relevant Construction Certification or commencement of any clearing.

Table 2

<b>Impacted Plant Community Type (PCT)</b>	<b>Number of Biodiversity Credits</b>	<b>IBRA sub-region</b>
PCT 1565 - Turpentine - Rough-barked Apple - Forest Oak moist shrubby tall open forest of the Central Coast	24	Pittwater Sub Region OR any subregion within 100km of the subject site
PCT 1529 - Lilly Pilly - Coachwood gully warm temperate rainforest on sandstone ranges of the Sydney Basin	7	Pittwater Sub Region OR any subregion within 100km of the subject site

- 49 All earthworks and drainage associated with the proposed development shall be in accordance with the approved Revised Flood Impact Assessment referenced in Condition 8 of this Consent. Certification from a suitably qualified flooding engineer confirming that the detailed design meets the outcomes of this approved report shall be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

- 50 Having regard to the results of the approved Revised Flood Impact Assessment referenced in Condition 8 of this Consent, measures are to be proposed for incorporation within the development so as to ensure that:

- (a) all habitable floor levels of proposed new buildings are above the Probable Maximum Flood Level; and
- (b) the carrying out of the development results in no worsening impacts to the downstream of existing Stage 1 properties, as in line with the approved Revised Flood Impact Assessment referenced in Condition 8 of this Consent

Evidence confirming satisfaction of this condition is to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

- 51 Certification of the structural footings and superstructure shall be provided, certifying the design is suitable for the anticipated flood forces identified in the approved Structural Flooding Assessment Report referenced in Condition 8 of this Consent. Certification shall be provided by a suitably qualified Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has

appropriate experience and competence in the related field, before the Construction Certificate is issued by the Principal Certifying Authority.

- 52 A Flood Emergency Response Plan is to be prepared in accordance with Council's "Flood Emergency Response Planning for Development in Pittwater Policy" to help minimise the risk to life on the site. It is to address aspects such as: flood awareness for occupants, flood signage, flood warning, evacuation routes, emergency response actions and the location of flood depth markers. A copy of the Flood Emergency Response Plan is to be provided to Council and the Principal Certifying Authority prior to the issue of the Construction Certificate.
- 53 All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006). Details demonstrating compliance in this regard are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.
- 54 Any structures below the 1% AEP flood level are to be designed and constructed to allow clear passage of floodwaters, with a minimum of 50% of the area below the 1% AEP flood level open. Details demonstrating compliance in this regard are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

**D Matters to be satisfied prior to the commencement of works and maintained during the works:**

- 55 All excess excavated material is to be removed from the site. This is due to the site's location in an area identified as being subject to possible landslip.
- 56 Any fill material imported to the site is to consist of clean fill material only, that is, non-contaminated excavated material and soil, rock or similar material. Putrescible and non-putrescible solid waste (including demolition material) is not permitted.
- 57 Any fill shall be deposited and works carried out in strict compliance with the NSW Department of Land and Water Conservation's Urban Erosion and Sediment Control manual.
- 58 No fill is to be introduced within the drip line of canopy trees on the site.
- 59 No fill is to be introduced in the area of native vegetation or habitat remaining on the site.
- 60 All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 61 All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 62 Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
- 63 Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
- 64 An all-weather accessway is to be provided to the construction area consisting of 50-75mm aggregate or similar material at a minimum thickness of 200mm and 15metres long laid over geotechnical fabric. This is to be constructed prior to commencement of works and maintained over the works period.
- 65 Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.

- 66 Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on-site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.
- 67 The site is to be fully secured by a fence to all perimeters to the site to prevent unauthorised access both during the course of the works and after hours.
- 68 No works are to be carried out in Council's Road Reserve without the written approval of the Council.
- 69 A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
- 70 No skip bins or materials are to be stored on Council's Road Reserve.
- 71 A clearly legible Site Management Sign is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
- (a) The builder's name and telephone contact number both during work hours and after hours.
  - (b) That no works are to be carried out in Council's Road Reserve without the written approval of the Council.
  - (c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
  - (d) That no skip bins or materials are to be stored on Council's Road Reserve.
  - (e) That the contact number for Council for permits is 1300 434 434.
- 72 A stamped copy of the approved plans is to be kept on the site at all times, during construction.
- 73 Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of construction.
- 74 Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.
- 75 Prior to commencement of works, at least three photographs of the road reserve and footpath area adjoining the site, one front-on and one from each side of the property, are to be submitted to Council with the notification of commencement of works, showing the condition of the street trees and road reserve. The photographs must be dated, and accompanied by a statement that they are a true and accurate representation of the scene depicted.
- 76 Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-1991 "The Demolition of Structures".



77 Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

- (i) Protection of site workers and the general public.
- (ii) Erection of hoardings where appropriate.
- (iii) Asbestos handling and disposal where applicable.
- (iv) Any disused service connections shall be capped off.

Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.

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

79 The developer or contractor will take all measures to prevent damage to trees to be retained and their root systems during site works and construction activities including provision of water, sewerage and stormwater drainage services. In particular, works, erection of structures, excavation or changes to soil levels within 5 metres of the trunks of trees to be retained are not permitted unless part of the development as approved, and the storage of spoil, building materials, soils or the driving or parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained, is not permitted.

80 When working within the drip line of the trees, hand digging is to occur within the dripline of all trees to be retained. Liaison on a daily basis is to be maintained during the excavation works between the Builder and Arborist. No filling or compaction shall occur over tree roots within the area defined by the outer drip line of the crown. Root protection/ compaction mitigation in the form of planks or metal decking supported clear of the ground fixed to scaffolding is to be installed as required.

81 A suitable warning sign must be placed to advise contractors and visitors to the site of the purpose for the tree/native vegetation/habitat protection/exclusion fencing installed in accordance with this consent.

82 A Project Arborist with AQZ level 5 qualifications in arboriculture/horticulture is to be appointed prior to commencement of works.

The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as required by AS4970-2009 Protection of trees on development sites, with particular attention to section 4, and AS4373-2007 Pruning of amenity trees,

The Project Arborist is to familiarise themselves with and ensure compliance, as relevant, with any other tree and environmental requirements conditioned under this consent,

All works in the vicinity of the identified existing trees to be retained, shall be conducted under the supervision of the Project Arborist, to comply with the recommendations in the Tree Protection Plan required by Condition 42 of this Consent.

83 Existing trees and vegetation shall be retained as follows:

- (a) all trees and vegetation within the site, nominated for retention, shall be protected during all construction stages, excluding exempt trees under the relevant planning instruments or legislation,
- (b) all other trees and vegetation located on adjoining properties,
- (c) all road reserve trees and vegetation.

Tree protection shall be generally undertaken as follows:

- (a) all tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, with particular attention to section 4, and AS4373-2007 Pruning of amenity trees,
- (b) any tree roots exposed during excavation with a diameter greater than 25mm within the TPZ must be assessed by an Arborist,
- (c) to minimise the impact on trees and vegetation to be retained and protected, 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,
- (d) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorized by the Project Arborist on site,
- (e) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- (f) should either or both (d) and (e) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations and shall report on the tree protection action undertaken, including photographic evidence,
- (g) 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, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009.

84 The exposed batters and foundations are to be inspected by a geotechnical engineer experienced in hillside developments during construction to confirm the assumptions made in the approved Geotechnical Assessment / Landslide Risk Appraisal Report referenced in Condition 8 of this consent are valid and the proposed support measures are appropriate for the actual conditions on site.

85 All site drainage and sediment and erosion control works and measures as described in the Soil and Water Management Plan and any other pollution controls, as required by these conditions shall be implemented prior to commencement of any other works at the Site. Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

86 Prior to the commencement of any onsite building works or commencement of vegetation clearance/modification, the boundary between the APZ, and the construction areas is to be fenced with temporary exclusion fencing as identified in Section 5 of the Biodiversity Management Plan (referenced in Condition 8 of this Consent, as amended by these conditions). The project ecologist must supervise installation and locations of the fencing. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

87 Clearing of native vegetation is to be undertaken in accordance with the protocols and recommendations specified in the Biodiversity Management Plan (referenced in Condition 8 of this Consent, as amended by these conditions of consent). Details confirming compliance are to be certified by the project ecologist and submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Tree Hollow Inspection by Ecologist - All tree hollows proposed for clearing are to be inspected by the project ecologist prior to removal. Inspection of tree hollows is to be

facilitated by a qualified and experienced tree climber or arborist with the use of an elevated work platform where necessary.

Details prepared by the project ecologist in writing demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of tree removals.

- 88 During any vegetation clearance for Asset Protection Zones and construction works the Project Ecologist is to be present to re-locate any displaced fauna that may be disturbed during this activity.

Tree hollows are to be salvaged from trees within the development area and placed within the retained vegetation areas within the Lot. This is to be done by a qualified and experienced Arborist, under the direction of the Project Ecologist.

Details prepared by the project ecologist in writing demonstrating compliance is to be submitted to the Principal Certifying Authority.

- 89 Prior to the commencement of any onsite building works or commencement of vegetation clearance/modification, the extent of the Asset Protection Zone must be clearly delineated with permanent bollards/posts. Fireproof, 50mm round galvanized steel posts are to be installed at 10m intervals. Posts are to be concreted into the ground identifying the boundary of the Asset Protection Zones, Riparian Buffer Zones and retained vegetation as identified in the Biodiversity Management Plan (referenced in Condition 8 of this Consent, as amended in accordance with these conditions). Permanent signage is to be attached to the bollards clearly denoting the boundary of the Asset Protection Zone and retained vegetation identified as 'Bushland Conservation Area, no access'.

The installation of the posts to delineate the Asset Protection Zone is to be supervised by the Project Ecologist. Alternative design options must be agreed by Council in writing. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

**E Matters to be satisfied prior to the issue of Occupation Certificate:**

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

- 90 Prior to issue of an Occupation Certificate, photographic evidence of the condition of the street trees and road reserve and area adjoining the site after the completion of all construction, must be submitted to the Council showing that no damage has been done and if damage has been done that it has been fully remediated. The photographs shall be accompanied by a statement that no damage has been done (or where damage has been remediated that Council has approved that work). In this regard Council's written agreement that all restorations have been completed satisfactorily must be obtained prior to the issue of any Occupation Certificate.
- 91 Restoration of all damaged public infrastructure caused as a result of the development is to occur to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained must be provided to the Principal Certifying Authority with the Occupation Certificate application.
- 92 An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
- 93 A copy of the Section 73 Compliance Certificate issued under the provisions of the Sydney Water Act, 1994, is to be forwarded to the Principal Certifying Authority with the Occupation Certificate.

94 Prior to the issue of the Occupation Certificate, a Suitably Qualified Bushfire Consultant is to provide certification to the Principal Certifying Authority to confirm that the requirements of the NSW Rural Fire Service, as outlined in Condition 12 of this Consent, have been satisfied.

95 The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of *Pittwater 21 Development Control Plan*) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

96 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 the Occupation Certificate.

97 A certificate from a suitably qualified engineer, who has membership to the Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the Approved Civil Plans referenced in Condition 7 of this Consent. The certificate shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

98 A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements, (available from Council), at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. 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 as to user is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

99 Prior to the issue of the Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with the Approved Landscape Plans referenced in Condition 7, as amended by Condition 43 of this Consent.

100 Prior to the issue of the Occupation Certificate, a report prepared by an Arborist with AQZ level 5 qualifications in arboriculture/horticulture shall be submitted to the Certifying Authority,

assessing the health and impact of trees 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.

101 An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater quality system remains effective.

The Plan must contain the following:

- (a) Inspection and maintenance schedule of all stormwater treatment measures
- (b) Maintenance requirements for establishment period
- (c) Routine maintenance requirements
- (d) Funding arrangements for the maintenance of all stormwater treatment measures
- (e) Identification of maintenance and management responsibilities
- (f) Vegetation species list associated with each type of vegetated stormwater treatment measure
- (g) Waste management and disposal
- (h) Traffic control (if required)
- (i) Maintenance and emergency contact information
- (j) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- (k) Work Health and Safety requirements
- (l) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

102 All Priority weeds (as specified in the Greater Sydney Regional Strategic Weed Management Plan 2017 – 2022) within the development footprint are to be removed and continuously managed. All environmental weeds including large areas of Lantana camara are to be removed from the site by qualified bush regenerators. Any disturbed ground within the riparian zone (the riparian zone extends 10m from Top of Bank) is to be stabilised with jute matting, secured with stakes, and replanted at a rate of at least four tube stock per square metre. New plantings must be maintained for the life of the development. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

103 Details demonstrating compliance with the Biodiversity Management Plan (referenced in Condition 8 of this Consent, as amended by these conditions) are to be submitted to the Certifying Authority prior to the issue of the Occupation Certificate.

104 Portions of the riparian corridor adjacent to the development (including informal parking area) but outside of proposed Asset Protection Zones are to be rehabilitated consistent with the adjoining retained native vegetation (Coastal Warm Temperate Rainforest). The cleared area is to be revegetated with species listed in the Flora and Fauna Report referenced in Condition

8 of this Consent. Details prepared by the project ecologist in writing demonstrating compliance are to be submitted to the Principal Certifying Authority.

- 105 A Bush Regeneration contract is to be entered into to ensure that works required by the Biodiversity Management Plan (as referenced in Condition 8 of this consent, as amended by these conditions) to occur post Occupation Certificate are adequately completed.

The bush regeneration company is to provide certification of contract engagement at commencement and for a minimum of (3) years post Occupation Certificate. The contract is to be certified by the Principal Certifying Authority prior to issue of the Occupation Certificate.

- 106 Prior to the issue of the occupation certificate, a suitably qualified access consultant is to provide certification to the Principal Certifying Authority that the as-built development in Stage 2 complies with the standards prescribed in Schedule 3 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* except as provided in condition 14.

**F Advice:**

- 107 Failure to comply with the relevant provisions of the Environmental Planning and Assessment Act, 1979 (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices ( on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.

- 108 You are reminded of your obligations under the objectives of the Disability Discrimination Act (DDA) 1992.

**CONDITIONS OF CONSENT 82/149 GRANTED BY THE COURT ON 9 MARCH 1982, AS MODIFIED BY THE COURT ON 31 DECEMBER 1986 AND 27 MARCH 2002**

- 1 Landscaped, communal, visitor's car parking and the like areas being kept permanently available for such use and not being allocated to any one person or persons. Visitors' parking to be clearly marked as such.
- 2 All accessways and parking bays are to remain clear of all obstructions.
- 3 All parking areas on approved building plans being used solely for this purpose.
- 4 No signs to be displayed without a separate approval from Council.
- 5 The development shall remain as seniors housing as defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 for the life of the development except as otherwise permitted.
- 6 Strata titling of any part of the development shall be prohibited unless the lots in any strata subdivision are consistent with this consent.
- 7
  - (a) Provision shall be made to assure residents of priority of admission to suitable nursing home accommodation off site as and when required. Evidence of such provision shall be provided to the reasonable satisfaction of Council prior to the occupation of any part of the development.
  - (b) Occupiers of self-care units shall be given priority to purchase or reside in hostel units as they become available.

- (c) A majority of the hostel units shall be occupied only by persons who have been certified by a qualified Medical Practitioner or social worker as being in need due to health or other factors of hostel accommodation and the care and supervision provided therewith.
  - (d) Domiciliary assistance such as meals, laundry and home help shall be available to all residents as and when required including those in self-care units.
  - (e) Adequate arrangements shall be made for the provision of medical and home nursing services to residents as and when required. Permanent arrangements shall be made to have a medical practitioner on call for emergencies and a physiotherapist to visit as needed.
  - (f) Prior to occupation of any part of the development, documentary evidence shall be furnished to Council of the existence of a Contractual commitment by the proprietor or operator of the development to provide the facilities referred to in this condition to residents on a continuing basis.
- 8 (a) The hostel shall be completed within three (3) years of the occupation of the first self-contained unit and shall conform to the definition of hostel contained in Clause 2 of SEPP No. 5.
- (b) The Village Centre shall be completed before more than 50% of the self-contained units are residentially occupied or within four (4) years of the first residential occupation of the first available self-contained unit – whichever event first occurs.
- 9 At least one live-in administrator shall be resident on-site, such administrator to be experienced in nursing or social work.
- 10 All self-care and hostel units shall be equipped with an emergency communication device connected to the administrator's residence and to the office.
- 11 Prior to release of the approved building plans the applicant shall furnish a report from a practicing Geotechnical Engineer acceptable to Council to the effect that the design of the foundations of the Village Centre will overcome any probability that the site of the Centre would be affected by landslip or site instability, and a certificate from a Structural Engineer that the Village Centre, if erected in accordance with the said Geotechnical Engineers recommendations, will be structurally adequate.
- 12 From Monday to Friday (both days inclusive) the aged care service provider is to facilitate access, by means of a serviced courtesy car, mini-bus or other vehicle, for all residents, to
- (a) Shops, bank service providers and other retail and commercial services that residents may reasonably require, and
  - (b) Community services and recreation facilities, and
  - (c) the practice of a general medical practitioner.
- 13 Each habitable floor of the hostel shall contain a furnished common room containing tea making facilities and amenities for use of the hostel occupants.
- 14 Treatment of all driveways, pathways and car parking surfaces shall blend with the landscape of the area and be dark earthy tones.
- 15 A consulting room shall be provided within the Village Centre for use by medical practitioners and the like.
- 16 Subject to condition 34(c), vehicular access from Gulia Street shall be restricted to emergency fire-fighting vehicles only. A locking post type vehicle barrier capable of being removed to

allow access by emergency vehicles shall be erected at the end of Gulia Street, and a key for same shall be supplied to the relevant fire-fighting authorities.

- 17 Access for the disabled shall be provided within Stage 1 to units, hostel and Village Centre in accordance with the provisions of Clause 10(4) of the SEPP No. 5.
- 18 The building comprising the development shall be classified for the purposes of Ordinance 70, as follows:
  - (a) Hostel - Class III;
  - (b) Village Centre - Class IX(b);
  - (c) Self-contained units – (i) Class I for single detached units; and (ii) Class II for all other units.
- 19 Buildings shall be located clear of any pipeline, natural watercourse or Council easement. Footings of any building adjacent to an easement shall be a minimum of 300mm below the invert of the pipe and may rise by 300mm for each 300mm removed therefrom.