



## Land and Environment Court New South Wales

Case Name: Leech Harmon Architects v Northern Beaches Council

Medium Neutral Citation: **[2020] NSWLEC 1032**

Hearing Date(s): 18 December 2019

Date of Orders: 22 January 2020

Date of Decision: 22 January 2020

Jurisdiction: Class 1

Before: O'Neill C

Decision: The Court orders:

- (1) The applicant is granted leave to amend the application to rely on the architectural plans listed in condition 2(a) of the conditions of consent at Annexure A.
- (2) The applicant is to pay the respondent's costs thrown away as a result of the amendments made to the development application, pursuant to s 8.15(3) of the *Environmental Planning and Assessment Act 1979*, as agreed or assessed.
- (3) The appeal is upheld.
- (4) Development Application No. 2018/1166 for the demolition of all existing structures on the site and the construction of five 2-storey buildings over a split level basement carpark, containing 80 boarding rooms including 5 managers' rooms, with associated access, communal areas and landscaping works, is approved, subject to the conditions of consent at Annexure A.
- (5) The exhibits, other than Exhibits 1, A, C and E, are returned.

Catchwords: DEVELOPMENT APPLICATION – boarding house – whether design of the development is compatible with the character of the local area

Legislation Cited: Environmental and Planning Assessment Act 1979  
Land and Environment Court Act 1979

State Environmental Planning Policy (Affordable  
Rental Housing) 2009  
Warringah Local Environmental Plan 2011

Cases Cited: Project Venture Developments v Pittwater Council  
(2005) 141 LGERA 80; [2005] NSWLEC 191

Texts Cited: Warringah Development Control Plan 2011

Category: Principal judgment

Parties: Leech Harmon Architects (Applicant)  
Northern Beaches Council (Respondent)

Representation: Counsel:  
M Staunton (Applicant)  
F Berglund (Respondent)

Solicitors:  
Sattler & Associates (Applicant)  
Wilshire Webb Staunton Beattie (Respondent)

File Number(s): 2018/289481

Publication Restriction: No

## JUDGMENT

- 1 **COMMISSIONER:** This is an appeal pursuant to the provisions of s 8.7(1) of the *Environmental Planning and Assessment Act 1979* (EPA Act) against the refusal of Development Application No. 2018/1166 for demolition of all existing structures and construction of five 2-storey buildings over a split level basement carpark, containing 80 boarding rooms including 5 managers' rooms, with associated access, communal areas and landscaping works (the proposal) at 11 May Street and 613 and 615 Pittwater Road, Dee Why (the site), by Northern Beaches Council (the Council).
- 2 The appeal was subject to conciliation on 29 April 2019, in accordance with the provisions of s 34 of the *Land and Environment Court Act 1979* (LEC Act). As agreement was not reached, the conciliation conference was terminated, pursuant to s 34(4) of the LEC Act.
- 3 Leave was granted by the Court on 28 August 2019 for the applicant to amend the application to rely on amended drawings, subject to the applicant paying the costs of the respondent thrown away as a result of the amendment, pursuant to s 8.15(3) of the EPA Act.
- 4 Leave was unopposed and granted at the commencement of the hearing in Court for the applicant to amend the application to rely on amended drawings (Ex A), subject to the parties' agreement that the applicant would pay the costs of the respondent thrown away as a result of the amendment, pursuant to s 8.15(3) of the EPA Act, as agreed or assessed.

## Issues

- 5 Following the amendments made to the proposal and agreed conditions of consent, the Council's remaining contentions can be summarised as:
  - The proposal's excessive bulk and scale is not compatible with the character of the area and does not respond to the challenges of the site and the proposal has insufficient building articulation and

modulation along the side elevations. Pavilion style buildings stepping down the site in sympathy with the contours would mitigate the overbearing bulk and scale and reduce the impacts of excavation and fill.

- The height of Building D is inconsistent with the scale of development within the R2 zone.

### **The site and its context**

- 6 The site consists of three lots with a total area of 3,169sqm and is irregular in shape.
- 7 The site is on the western side of Pittwater Road, to the north of Warringah Road. The site is a short distance from the Dee Why town centre on Pittwater Road.
- 8 613 Pittwater Road is a battle-axe allotment to the rear of 613A Pittwater Road, with an access handle to Pittwater Road to the north of 613A Pittwater Road. 615 Pittwater Road fronts Pittwater Road and adjoins the access handle of 613 Pittwater Road. 11 May Street fronts May Street and shares a rear boundary with 613 Pittwater Road. The site is accessed by a roadway that runs adjacent to the western side of Pittwater Road and from May Street.
- 9 There is a large property to the south of the site containing semi-detached townhouse development.

### **The proposal**

- 10 The proposal is for a boarding house development and includes the following works:
  - Demolition of all on-site structures.

- Construction of five 2 storey buildings containing 80 boarding rooms (each with private facilities including a kitchenette, ensuite bathroom and balcony), including 8 accessible rooms and 5 managers' rooms.
  - Basement containing 47 car parking spaces, 21 motorcycle parking spaces and 66 bicycle spaces.
  - Landscaping works and communal areas.
- 11 The proposal for 80 boarding rooms includes 5 single rooms and 75 double rooms, for a total population of 155.

### **Planning framework**

- 12 The site is zoned R2 Low Density Residential pursuant to the Warringah Local Environmental Plan 2011 (LEP 2011). The objectives of the R2 zone, to which regard must be had, are:
- To provide for the housing needs of the community within a low density residential environment.
  - To enable other land uses that provide facilities or services to meet the day to day needs of residents.
  - To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.
- 13 The application is made pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH), Part 2 New affordable rental housing Division 3 Boarding Houses. Division 3 applies to the site at cl 26(b) for the purpose of a boarding house at cl 27(1) of SEPP ARH.
- 14 The consent authority must not consent to the development unless it has taken into consideration whether the design of the development is compatible with the character of the local area, at cl 30A of SEPP ARH.
- 15 As the development application was made before the commencement of the amending SEPP ARH that included cl 30AA and was not finally determined by a court before that commencement, the application must be determined by

applying all provisions of SEPP ARH as if the amending SEPP had not commenced, pursuant to cl 54C of SEPP ARH.

- 16 The floor space ratio (FSR) development standard at cl 4.3 of the Standard Instrument was not adopted in LEP 2011.
- 17 Part D of the Warringah Development Control Plan 2011 (DCP 2011) includes the following relevant provisions:

**"D1 Landscape Open Space and Bushland Setting**

This provision applies to the site as shown on the DCP Map Landscaped Open Space and Bushland Setting.

There is a minimum of 40% landscaped open space for a typical residential allotment.

**D2 Private Open Space**

**Objectives**

- To ensure that all residential development is provided with functional, well located areas of private open space.
- To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.
- To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.
- To ensure that private open space receives sufficient solar access and privacy.

**D9 Building Bulk**

**Objectives**

- To encourage good design and innovative architecture to improve the urban environment.
- To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.

**Requirements**

1. Side and rear setbacks are to be progressively increased as wall height increases.
2. Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.
3. On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular:

The amount of fill is not to exceed one metre in depth.

Fill is not to spread beyond the footprint of the building.

Excavation of the landform is to be minimised.

4. Building height and scale needs to relate to topography and site conditions.
5. Orientate development to address the street.
6. Use colour, materials and surface treatment to reduce building bulk.
7. Landscape plantings are to be provided to reduce the visual bulk of new building and works.

8. Articulate walls to reduce building mass.”

### **Public submissions**

18 Three resident objectors provided evidence at the commencement of the hearing onsite. Their concerns can be summarised as:

- The proposal will house 2-4 lodgers per room and significantly increase the population on the site which is inconsistent with the amenity of the R2 Low Density Residential zone;
- The proposal includes the excavation of rock which will create silica dust;
- The proposal will significantly increase the traffic in May Road, which is a thoroughfare for cars shortcutting between Warringah Road and Pittwater Road and is narrow when cars are parked on both sides of the road;
- The proposal will increase the traffic along the roadway adjacent to Pittwater Road that provides access to the properties on the north-western side of Pittwater Road including 613 and 615 Pittwater Road and increase the traffic volume in the difficult intersection of May Road, Pittwater Road and Mooramba Road. The proposal will impact on pedestrian safety along the roadway.
- The proposal will have unacceptable amenity impacts on the adjoining site at 605 Pittwater Road which contains six pairs of semi-detached townhouse dwellings backing onto the shared side boundary with small courtyards at the rear of those dwellings adjacent to the side boundary, including overlooking and overshadowing.
- The amendments made to SEPP ARH to limit the total number of boarding rooms in R2 zones reflects the impact that large boarding house developments have on low density residential areas.

- 19 In response to the objectors' evidence, I note there is a maximum of 2 adult lodgers permitted per boarding room (cl 30(1)(c) of SEPP ARH) and the proposal is for 5 single rooms and 75 double rooms.

### **Expert evidence**

- 20 The applicant relied on the expert evidence of Karla Castellanos (urban design), Greg Boston (planning) and Oleg Sannikov (traffic). The Council relied on the expert evidence of Lea Lennon (urban design), Lashta Haidari (planning) and Patrick Bastawrous (traffic).
- 21 The experts were not required to give oral evidence.

### **Submissions**

- 22 The applicant submitted that the proposal has a landscaped area of 45% which satisfies DCP 2011 control at D1 requiring the site to have 40% landscaped area.
- 23 The applicant submitted that the proposal meets the two tests for the compatibility of a development with surrounding development in *Project Venture Developments v Pittwater Council* (2005) 141 LGERA 80; [2005] NSWLEC 191 at [24]:

“Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.

- Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposal's appearance in harmony with the buildings around it and the character of the street?”

- 24 The applicant submitted that the amended proposal in Ex A does not result in unreasonable physical impacts on surrounding development as demonstrated by the deletion by the Council of the contentions regarding height, solar access and overshadowing of adjoining development, views, privacy and acoustic privacy.



- 25 The applicant submitted the proposal's appearance is in harmony with the buildings around it and the character of the street on the basis of the evidence of Ms Castellanos in the joint report of the urban design and planning experts (Ex 4).
- 26 The Council submitted that the issue is not the size of the footprint of one of the buildings proposed on the site; it is the duplication of the footprint as it is atypical to find five such buildings on a site in a low density residential zone. The proposal achieves a density on the site that is not harmonious with the character of the low density residential local area.
- 27 The Council submitted that despite the contentions regarding amenity impacts no longer being pressed, the resident objectors maintained that the proposal will result in amenity impacts on their properties. The development will be viewed from a number of surrounding properties as well as the public domain and this impact should be taken into account in determining whether the proposal's appearance is in harmony with the buildings around it and the character of the street.

### **Consideration**

- 28 The only remaining contention pressed by the Council following the amendments made to the proposal in Ex A is that the design of the proposal is not compatible with the character of the local area.
- 29 The urban design and planning experts agreed that the site is different from the typical residential lots in the vicinity in size and configuration (Ex 4, 3.1.1(b)). The site is an unique configuration because 613 Pittwater Road is a unusually large "land locked" allotment with an access handle to Pittwater Road, surrounded by properties, and it has been married to two much smaller adjoining allotments for the purpose of this proposal, 11 May Road to the north to provide access to May Road and 613 Pittwater Road to the east and fronting Pittwater Road. Furthermore, the northern side boundary of 613 Pittwater Road is the rear boundaries of the six dwellings fronting May Road (including 11 May Road), and the southern side boundary is effectively the

rear boundary of the semi-detached townhouses that have been orientated on their site so that their private open space is adjacent to the side southern boundary of 613 Pittwater Road, despite this shared boundary being a side boundary to both allotments. I do not accept the Council's position that it is the duplication of the five buildings that is the issue because it is atypical to find five such buildings on a site in a low density residential zone. As a result of the unusual configuration of this large site, its future development would be somewhat of an anomaly in terms of the character of development within the R2 zone regardless of its use and style of development. In addition, the development of the semi-detached town houses to the south of the site is also an unusually high density development to find in a R2 zone.

30 The character of the local area, being the visual catchment of the site, is mixed. There are typical detached dwellings on suburban lots fronting May Road and battle-axe lots behind those, particularly in the vicinity of the Victor Road intersection; and there are residential flat buildings and townhouse developments along Mooramba Road and the service station on the triangular site on the opposite side of May Road adjacent to Pittwater Road. This change in character towards the foot of the hill is partly reflective of the changes in zoning from R2 to the R3 Medium Density zone on the opposite side of May Road, behind the B4 zone on either side of Pittwater Road that is the Dee Why town centre, however, there are also some medium density style developments in the R2 zone close to Pittwater Road. The Dee Why town centre forms the backdrop to views from the site and surrounding properties.

31 I am satisfied that the bulk and scale of the five buildings proposed are commensurate with the likely bulk and scale of the development of the site for low density residential use and that the proposal achieves a density on the site that is harmonious with the character of the low density residential local area, for the following reasons:

- The minimum lot size for the site is 600sqm (Lot Size Map - Sheet LSZ\_010A of LEP 2011). The site could be divided into the three allotments that make up the site and 613 Pittwater Road further

subdivided into three allotments, resulting in five residential dwelling on five sites, with building envelopes similar to the proposal. I do not accept Ms Lennon's view that the subdivision of 613 Pittwater Road for residential development would necessarily result in "much tighter constraints to the allowable building footprint" (Ex 4, 3.1.2 (c)) because generally the front, side and rear setbacks are not so strictly applied to a battle-axe lot because a battle-axe lot presents different opportunities and constraints for development.

- I accept the agreement of the urban design and planning experts that the proposal for the development of lots fronting May Road and Pittwater Road follow the traditional residential patterning of the surrounding residential lots (Ex 4, 3.1.1(a)).
- I accept Ms Lennon's evidence that the figure-ground analysis at Appendix B of Ex 4 demonstrates that the proposed buildings on the site have smaller footprints than some of the dwellings on surrounding allotments (Ex 4, 3.1.2(b)).
- There is no FSR development standard.
- The maximum height of the proposal complies with both the height of buildings development standard for the site of 8.5m (Height of Buildings Map - Sheet HOB\_010AA of LEP 2011) and the maximum wall height of 7m.
- The proposal steps up the site and is two storeys in height.
- The proposal exceeds the DCP 2011 control at D1 requiring 40% of the site to be landscaped area because the proposal includes 45.11% of the site as landscaped area (Ex F).
- Each of the buildings has a domestic scale and style.

- 32 I am satisfied that the height of Building D is acceptable because it complies with the height of buildings development standard for the site (cl 29(2)(a) of SEPP ARH).
- 33 I accept the agreement of the urban design and planning experts that the proposal includes sufficient articulation to side walls (Ex 4, 3.1.1(c)) and their agreement satisfies the contention raised by the Council that the proposal has insufficient building articulation and modulation along the side elevations.
- 34 I am satisfied that the proposal does not result in unacceptable amenity impacts on adjoining development following the amendments made to the proposal in Ex A, as demonstrated by the Council abandoning all the contentions in the Amended Statement of Facts and Contentions (Ex 1) relating to the amenity impacts of the proposal.


## **Conclusion**

- 35 I am satisfied that the design of the development is compatible with the character of the local area because the proposal is consistent with the mixed character of the local area, including the bulk and scale of development in the low density residential zone and the medium density style of development located towards the foot of the hill close to the site.

## **Orders**

- 36 The orders of the Court are:
- (1) The applicant is granted leave to amend the application to rely on the architectural plans listed in condition 2(a) of the conditions of consent at Annexure A.
  - (2) The applicant is to pay the respondent's costs thrown away as a result of the amendments made to the development application, pursuant to s 8.15(3) of the *Environmental Planning and Assessment Act 1979*, as agreed or assessed.

- (3) The appeal is upheld.
- (4) Development Application No. 2018/1166 for the demolition of all existing structures on the site and the construction of five 2-storey buildings over a split level basement carpark, containing 80 boarding rooms including 5 managers' rooms, with associated access, communal areas and landscaping works, is approved, subject to the conditions of consent at Annexure A.
- (5) The exhibits, other than Exhibits 1, A, C and E, are returned.



**Susan O'Neill**  
**Commissioner of the Court**

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## Annexure A

## Leech Harmon Architects v Northern Beaches

## CONDITIONS OF APPROVAL

<b>Application Number:</b>	DA2018/1166
<b>Land to be developed (Address):</b>	Lot 8 DP 22384, 615 Pittwater Road DEE WHY NSW 2099 Lot A DP 400997, 613 Pittwater Road DEE WHY NSW 2099 Lot 2 DP 22384, 11 May Road DEE WHY NSW 2099
<b>Proposed Development:</b>	Demolition Works and Construction of a Boarding House development

## DEFERRED COMMENCEMENT CONDITIONS

## 1. Road Safety Assessment

Approval of the 4.0 metre long 5% standing area is subject to confirmation from a registered Road Safety Auditor that its performance is satisfactory in comparison with AS/NZS 2890.1.

Evidence required to satisfy the deferred commencement condition/s must be submitted to and approved by Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

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

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 2. 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
SA-01 – Site Plan SA-01 (Rev E)	11 December 2019	Leech Harmon Architects
DA-02 – Carpark Plan Block A (Rev D)	31 July 2019	Leech Harmon Architects
DA-03 – Lower Floor Plans A, B (Rev E)	11 December 2019	Leech Harmon Architects
DA-04 – Floor Plans A, B, Carpark C (Rev D)	31 July 2019	Leech Harmon Architects
DA-05 – Floor Plans B, Carpark (Rev E)	11 December 2019	Leech Harmon Architects
DA-06 – Floor Plans B, C (Rev E)	11 December 2019	Leech Harmon Architects
DA-07 – Floor Plans C, D & E (Rev E)	11 December 2019	Leech Harmon Architects
DA-08 – Floor Plan C, D & E (Rev E)	11 December 2019	Leech Harmon Architects
DA-09 – Floor Plan Upper Block D (Rev E)	11 December 2019	Leech Harmon Architects
DA-11 – South Elevation/Section (Rev D)	11 December 2019	Leech Harmon Architects
DA-12 – North Elevation (Rev D)	11 December 2019	Leech Harmon Architects
DA-13 – Block A, E Elevation/Section (Rev D)	11 December 2019	Leech Harmon Architects
DA-14 – Block 'E' Elevation Sheet 2 (Rev E)	11 December 2019	Leech Harmon Architects
DA-15 – May Road Driveway Section (Rev D)	11 December 2019	Leech Harmon Architects
DA-16 – Pittwater Road Driveway Section (Rev D)	11 December 2019	Leech Harmon Architects
DA-17 – Block 'E' Elevation Sheet 2 (Rev E)	11 December 2019	Leech Harmon Architects
DA-18 – 3 May Road Long Section	3 December 2019	Leech Harmon Architects
Basement Air Con. Markup (Rev D)	31 July 2019	Leech Harmon Architects
Finishes Schedule	5 July 2018	Leech Harmon Architects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Report on Geotechnical Site Investigation	June 2018	Crozier Geotechnical Site Investigation
Acoustic Report	25 June 2018	Acoustic and Air
Plan of Management	December 2019	-



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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
L01 – Landscape (Rev F)	December 2019	Landskill Pty Ltd

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Statement	-	Leech Harmon Architects

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.

### 3. 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:

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Roads and Maritime Services	Response RMS Referral	13 August 2018

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

### 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.

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)

## 5. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by

the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. 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.
- (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)

## FEES / CHARGES / CONTRIBUTIONS

### 6. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$11,517,188.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$109,413.29
Section 94A Planning and Administration	0.05%	\$ 5,758.59
Total	1%	\$115,171.88

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

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

Reason: To provide for contributions in accordance with Northern Beaches Council's Development Contributions Plan.

### 7. Security Bond

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

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed

with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.warringah.nsw.gov.au/your-council/forms](http://www.warringah.nsw.gov.au/your-council/forms)).

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

**8. Construction, Excavation and Associated Works Security Bond (Road works)**

The applicant is to lodge a Bond with Council of \$130,000 as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works as part of this consent. Details demonstrating payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

**9. Construction, Excavation and Associated Works Bond (Drainage)**

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 Warringah Water Management Policy PL850, and generally in accordance with the concept drainage plans prepared by Taylor Consulting, drawing number SHEET-1, dated 6/06/18, SHEET-2, dated 4/07/18, SHEET-3, dated 7/06/18. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) 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.

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

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

**10. Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- a) The bin room located within the May Road frontage is to be relocated to no more than 6.5 metres walking distance from the property boundary with the street.
- b) The bin room located within the May Road frontage is to have service access that is separate to the vehicular driveway.
- c) The bin room within Pittwater Road frontage is to be also relocated to no more than 6.5 metres walking distance from the property boundary with the street.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

**10A. Public Domain Upgrades – Plan Submission**

Due to the narrow width of Moorilla Road, and the intensification of the land use, the applicant will be required to widen Moorilla Road along the length of the frontage to provide a 6.0m wide road. This will be required to be undertaken along with the public domain upgrades including the footpath, kerb and gutter along this section.

Plans are to be prepared by a suitably qualified person and submitted to and approved by Council prior to the issue of a Construction Certificate.

Note: The applicant is to ensure the following dimensions are provided for the public domain upgrades:

- a minimum 1.5m wide footpath,
- a grass verge of a minimum 0.6m between the footpath and the boundary
- upgrade to the protection of infrastructure opposite the site on Moorilla Road.

Should the above dimensions require additional road reserve, the applicant shall be required to dedicate the necessary land to achieve the dimensions. This may result in a redesign of Block A to accommodate the boundary relocation.

#### **11. On-Site Stormwater Detention Details**

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 Warringah Water Management Policy PL850, and generally in accordance with the concept drainage plans prepared by Taylor Consulting, drawing number SHEET-1, dated 6/06/18, SHEET-2, dated 4/07/18, SHEET-3, dated 7/06/18. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) 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.

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

#### **12. Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for Infrastructure works on Councils roadway. Engineering plans for the new development works within the road reserve within this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of civil works which shall be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer.

The design must include the following information:

- i. Provision of any road widening within Moorilla Road, adjacent Pittwater Road. Current footpath widths are to be maintained.
- ii. Provision of 1.5m wide footpath within May Road and Moorilla Road.
- iii. Provision of a stormwater drainage pit within Moorilla Road, to be a minimum 1 metre clear of the driveway.

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 Certifying Authority prior to the issue of the Construction Certificate.

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

#### **13. 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 ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be

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

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

**14. Pump-Out System Design for Stormwater Disposal**

The design of the pump-out system for stormwater disposal will be permitted for drainage of hard surfaces areas such as driveways and basement pavement areas only, and must be designed in accordance with AS/NZS 3500. The Applicant is to provide engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practising hydraulic engineer. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site.

**15. 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)

**16. External Finishes to Roof**

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

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

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

**17. Off-street Parking Facilities**

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)

**18. Construction Traffic Management Plan.**

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

The CTMP must address following:-

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type

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

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

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

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community.

Reason: To minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

## 19. Waste and Recycling Requirements

Details demonstrating compliance with Warringah Development Control Plan – Part C9 Waste Management, including the required Warringah Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.



Note: If the proposal, when compliant with Warringah Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.  
(DACWTC01)

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

##### 20. 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.

##### 21. Condition 21 deleted – duplication with condition 20

##### 22. Tree protection

(a) Existing trees which must be retained

- i. All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii. Trees located on adjoining land

(b) Tree protection

- i. No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii. All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- iii. All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
  - All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees.
  - All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.  
(DACLAD01)

#### CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

##### 23. Stormwater Disposal

The Applicant shall submit a certificate from a suitably qualified person that the stormwater drainage works have been constructed/installed in accordance with all relevant Australian Standards and Codes. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

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

**24. Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. 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 Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

**25. Road Reserve**

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

Reason: Public Safety.

**26. Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

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

**27. Compliance with the Boarding House Plan of Management**

The requirements of the Boarding House Plan of Management required by this consent is to be fully implemented in perpetuity from the issue of any interim / final occupation certificate.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.  
(DACHPEDW2)

**28. Vehicle Crossings**

The Applicant is to construct one vehicle crossing in May Road 5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and one vehicle crossing in Moorilla Road 6 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/3 NL and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued. A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

**29. Staff and Contractor Parking.**

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

Reason: To ensure minimum impact of construction activity on local parking amenity  
(DACTREDW1)

**30. Implementation of Construction Traffic Management Plan.**

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

made available to the accredited certifier or Council on request.

Reason: to ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent rather than any secondary approval. (DACTREDW2)

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

### 31. **Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)**

The Applicant shall submit 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>.

The post-construction / demolition dilapidation report must be submitted to Council for review Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds.

Reason: Protection of Council's infrastructure.

### 32. **Positive Covenant and Restriction as to User for On-site Stormwater Detention Structures**

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 detention 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 as to user for on-site storm water detention is to be submitted.

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

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

### 33. **Boarding House Plan of Management**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the operator that the requirements of the Boarding House Plan of Management have been implemented and are compliant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority. Reason: To ensure the premises a maintained in an appropriate manner in perpetuity. (DACHPFPOC7)

### 34. **Required Planting**

Trees shall be planted in accordance with the following schedule:

Species	Location	Pot Size
As indicated on the approved Landscape Plan	As indicated on the Landscape plan	As indicated on the Landscape Plan

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

Reason: To maintain environmental amenity. (DACLAF01)

### 35. **Certification of Civil Works and Works as Executed Data on Council Land**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data (details overdrawn on a copy of the approved civil plans) for Council Assets' in an approved format shall be submitted to Council for approval prior to the release of any security deposits.

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

### 36. **Consolidation of Lots**

Lot 2 in DP 22384 (11 May Road), Lot 8 in DP 22384 (615 Pittwater Road), and Lot A in DP 400997 (613 Pittwater Road) must be consolidated as one (1) allotment and registered on a survey plan (prepared and signed by a Registered Surveyor) with the NSW Land & Property Information Service (NSW Department of Lands). Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure development is not constructed over property boundaries

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

In this regard, the numbering is to be as per the Unit Numbering for Multi-Unit Development Table available on Council's website (<https://www.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/unit-numbering-multi-unit-developments-residential-commercial-and-industrial-form/unit-numbering-multi-unit-developments-residential-commercial-and-industrial-form.pdf>).

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

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

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

Reason: To ensure consistent numbering for emergency services access. (DACPLF05)

### 38. **Sydney Water**

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

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to "Water Servicing

Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

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

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

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLF08)

### 39. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

### 40. **Footpath Construction.**

The footpath, in accordance to Council's standard specifications, shall be constructed along the property frontage to Council's satisfaction. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To provide pedestrian access to and from the property. (DACTRFPOC1)

### 41. **Mechanical Servicing.**

The applicant is to include a Section 88E instrument on the title permitting Council to provide direction as to the repair/maintenance of any mechanical devices. In the instance where the building manager does not comply with the direction of Council, or fails to address repair/maintenance requirements in a timely manner, Council reserves the right to undertake the repairs and all fees associated will be borne by the building manager.

Reason: To ensure the mechanical services are maintained in a serviceable state at all times. (DACTRFPOC2)

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

### 42. **Boarding House - Plan of Management**

The requirements of the Boarding House Plan of Management contained within the Statement of Environmental Effects prepared by Mark Shanahan planning Pty Ltd, dated July 2018 is to be fully implemented in perpetuity from the issue of any interim / final occupation certificate.

Reason: To ensure the premises is maintained in an appropriate manner in perpetuity. (DACHPGOG5)

### 43. **Boarding House**

The ongoing operation of the boarding house premise must comply with the relevant sections of the following legislation:

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Public Health Regulation 2012
- Boarding Houses Act 2012

Reason: To ensure compliance with legislation and to protect public health and safety.  
(DACHPGOG6)

**44. Landscape maintenance**

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity

**45. Occupancy of Boarding House**

The building is to contain a maximum of one hundred and fifty five (155) persons, being no more than two (2) persons per each of the seventy five (75) two (2) person designated bedrooms and no more than one (1) person per each of the five (5) managers' rooms. In order to maintain this occupancy rate, a sign is to be erected immediately adjacent to the doorway accessing the building detailing the maximum sleeping capacity of the occupancy.

Reason: To ensure the amenity of occupants. (DACPLG23)

**46. Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed. (DACPLG25)

**47. Signage and Line marking Plan - External**

A signage and line marking plan is to be prepared by a suitably qualified person to address the following:

1. Restriction of parking in Moorilla Street, parallel to Pittwater Road, to allow for a service vehicle to access/exit the street in a forward direction.
2. Servicing of the site along May Road near the frontage of the site.

This plan is to be submitted to and approved by the Northern Beaches Local Traffic Committee prior to the issue of any Occupation Certificate.

**48. Signage and Line Marking - Implementation**

All signage and line marking, as per the Signage and Line Marking Plan approved by the LTC, shall be installed by the applicant at no cost to Council, prior to the issue of any Occupation Certificate.

Reason: To ensure all parking controls are in place prior to servicing of the site (DACTRGOG)