



northern  
beaches  
council

Reference: 2018/003842  
Enquiries: Development Assessment

Total Pages: 14

Mr M Baxter  
Level 2, 37-39 The Corso  
MANLY NSW 2095

Dear Sir/Madam,

#### NOTICE OF DETERMINATION

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

<b>Development Application No.</b>	436/2008
<b>Proposed Development</b>	Section 96(2) application to modify a Residential Flat Building - Part 4
<b>Land to be developed</b>	SP11874 5 Commonwealth Parade, Manly
<b>Date of Original Determination</b>	30 March 2009 9 November 2016 – Section 96(1A) Modification
<b>Determination of Modification</b>	<b>Approved by DDP</b>
<b>Date of Determination of Modification</b>	20 December 2017

This application was considered at Councils Development Determination Panel Meeting of 20 December 2017 when it was determined:

That pursuant to Section 96 (2) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 436/2008 for a Residential Flat Building – at 5 Commonwealth Parade, Manly be **Approved** subject to:

**The following Condition No. ANS01 (3MS01) is to be amended as per Section 96(2) Application – Part 4 – determined on 20 December 2017:**

#### **ANS01 (3MS01)**

**Works in connection with this Section 96 modification are not to be commenced/carried out until a new Construction Certificate is issued.**

**Reason: The Environmental Planning and Assessment Act 1979 requires a new updated Construction Certificate to cover any or all approved Section 96 modifications involving changes in the design of the development.**

t 1300 434 434  
e council@northernbeaches.nsw.gov.au  
northernbeaches.nsw.gov.au  
PO Box 1336 Dee Why  
ABN 57 284 295 198

Dee Why Office:  
725 Pittwater Road  
Dee Why NSW 2099  
DX 9118 Dee Why  
f 02 9971 4522

Mona Vale Office:  
1 Park Street  
Mona Vale NSW 2103  
DX 9018 Mona Vale  
f 02 9970 1200

Manly Office:  
1 Belgrave Street  
Manly NSW 2095  
f 02 9976 1400



northern  
beaches  
council

The following Condition No. ANS02 is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS02**

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

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

The following Condition No. ANS03 (2PT01) is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS03 (2PT01)**

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.*

The following Condition No. ANS04 (2PT02) is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS04 (2PT02)**

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

*Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.*

The following Condition No. ANS05 (2PT03) is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS05 (2PT03)**

The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

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



northern  
beaches  
council

The following Condition No. ANS06 (2PT05) is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS06 (2PT05)**

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

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

The following Condition No. ANS07 (3PT01) is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS07 (3PT01)**

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

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

The following Condition No. ANS08 (3PT02) is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS08 (3PT02)**

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

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

The following Condition No. ANS09 (6PT01) is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS09 (6PT01)**

The visitor parking is to be accessible at all times, and a sign post erected at the vehicular entry point(s) of the development indicating the location of the visitor parking.

*Reason: To ensure visitors are not forced to park on public streets when visitor parking has been provided and is available within the development.*



northern  
beaches  
council

The following Condition No. ANS10 (6PT02) is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS10 (6PT02)**

Adequate vehicle parking as required by the Manly Development Control Plan 2013 is to be available at all times for motor vehicles associated with the use of the land.

*Reason: To ensure users of the land are not forced to park on public streets.*

The following Condition No. ANS11 (5LD01) is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS11 (5LD01)**

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

*Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately*

The following Condition No. ANS12 (5LD02) is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS12 (5LD02)**

Evidence of an agreement for the maintenance of all plants for a period of twelve (12) months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the final Occupation Certificate.

*Reason: To ensure landscaping will be appropriately maintained.*

The following Condition No. ANS13 (6LP03) is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS13 (6LP03)**

Landscaping is to be maintained in accordance with the approved Landscaping Drawing.

*Reason: This is to ensure that landscaping is maintained appropriately.*

The following Condition No. ANS14 (6LP04) is to be added as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**ANS14 (6LP04)**

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

*Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.*

**GENERAL CONDITIONS**

The following Condition No. DA1 is to be amended as per Section 96(2) Application – Part 4 – determined on 20 December 2017:

**DA1**

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and reference documentation;

This approval relates to Drawings Nos. 110.09 / S.96 / 02H, 03H, 08H, 10H, 11H and 12H; dated 11 November 2008 and received 27 November 2008.

**NOTE:** These drawings supersede the basement and ground floor plans approved under DA211/04, as amended. Apart from these works to the basement and ground floor, the approved drawings under DA211/04 as amended remain the approved plans.

Except as amended by:

*Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(1A) Application – Part 3:*

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
Site Plan	Undated	17 June 2016
110.09 / S96-03 Basement & Ground Floor Plan	Issue J 10 June 2016	17 June 2016
110.09 / S96-04 Level 1 & Level 2 Plan	Issue J 10 June 2016	17 June 2016
110.09 / S96-05 Level 3 & Roof Plan	Issue J 10 June 2016	17 June 2016
110.09 / S96-03 Sections A, B, C, D, E & F	Issue J 10 June 2016	17 June 2016
110.09 / CD-105 Elevations	Issue A Undated	3 November 2016



northern  
beaches  
council

110.09 / CD-107 Sections G & H	Issue A Undated	3 November 2016
--------------------------------	-----------------	-----------------

*Reference Documentation affixed with Council's stamp relating to this Section 96(1A) Application – Part 3:*

- Statement of Modifications prepared by Baxter & Jacobson Architects dated 10 June 2016 and received by Council on 17 July 2016

**Except as amended by:**

*Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96() Application – Part 4 – determined on 20 December 2017:*

Plan No. / Title	Issue/ Revision & Date	Prepared By
1.20 Site Analysis Plan	Rev. A 17 October 2017	Baxter & Jacobson
2.20 Basement Floor Plan	Rev. A 17 October 2017	Baxter & Jacobson
2.21 Ground Floor Plan – Unit 01	Rev. A 17 October 2017	Baxter & Jacobson
2.22 Level 01 Floor Plan – Unit 02	Rev. A 17 October 2017	Baxter & Jacobson
2.23 Level 02 Floor Plan – Unit 03	Rev. A 17 October 2017	Baxter & Jacobson
2.24 Level 03 Floor Plan – Unit 03	Rev. A 17 October 2017	Baxter & Jacobson
2.25 Roof Plan	Rev. A 17 October 2017	Baxter & Jacobson
3.00 Elevations	Rev. A 17 October 2017	Baxter & Jacobson
3.10 Elevations	Rev. A 17 October 2017	Baxter & Jacobson
3.20 Elevations	Rev. A 17 October 2017	Baxter & Jacobson
3.30 Sections A & B	Rev. A 17 October 2017	Baxter & Jacobson
3.40 Section C	Rev. A 17 October 2017	Baxter & Jacobson
3.50 Section D	Rev. A 17 October 2017	Baxter & Jacobson
3.60 Section E	Rev. A 17 October 2017	Baxter & Jacobson
4.00 Landscape Plan	Rev. A 17 October 2017	Baxter & Jacobson
5.10 Cross Section – Floor Level Analysis	Rev. A 17 October 2017	Baxter & Jacobson

*Reference Documentation relating to this Section 96(2) Application – Part 4:*

- BASIX Certificate No. 315056M\_03 prepared by AGA Consultants dated 17 October 2017
- NatHERS Certificate No. 0002042140 prepared by AGA Consultants Pty Ltd dated 17 October 2017
- NatHERS Certificate No. 0002042067 prepared by AGA Consultants Pty Ltd dated 17 October 2017
- NatHERS Certificate No. 0002042083 prepared by AGA Consultants Pty Ltd dated 17 October 2017





northern  
beaches  
council

- **NatHERS Certificate No. 0002042091 prepared by AGA Consultants Pty Ltd dated 17 October 2017**
- **NatHERS Thermal Performance Specifications prepared by Robert Mallindine dated 17 October 2017**

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

*Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council.*

#### DA16

Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$5000. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

#### DA18

Details of the builder's name and licence number contracted to undertake the works shall be provided to Council/Accredited Certifier **prior to issue of the Construction Certificate**.

**Note:** Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, **at least 7 days prior to the commencement of any work on site**.

#### DA19

Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council /Accredited Certifier **prior to issue of the Construction Certificate**.

#### DA21

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

#### DA22

Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.



northern  
beaches  
council

#### DA23

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

#### DA24

A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm.

Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.

#### DA26

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.

#### DA31

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

#### DA39

Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Council/Accredited Certifier **prior to the issue of the Construction Certificate**.

#### DA40

Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.

#### DA44

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.





northern  
beaches  
council

**DA47**

A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.

**DA48**

The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.

**DA58**

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

**DA59**

Building work shall not progress beyond first floor level until such time as Registered Surveyor's details of levels are submitted to the Principal Certifying Authority. These levels shall confirm that the works are in accordance with the levels shown and approved in the development approval.

**DA60**

On completion of the building structure a Registered Surveyor's report is to be submitted to the Principal Certifying Authority confirming that the building has been completed in accordance with the levels as shown on the approved plan.

**DA109**

All demolition is to be carried out in accordance with AS2601-2001.

**DA111**

Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.

**DA121**

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**DA261**

A sediment/erosion control plan for the site shall be submitted for approval to the Council/Accredited Certifier **prior to the issue of the Construction Certificate**. Implementation of the scheme shall be completed prior to commencement of any works on the site and maintained until completion of the development.

**DA269**

A Construction Certificate Application is required to be submitted to and issued by the Council/Accredited Certifier **prior to any building works being carried out on site**.



northern  
beaches  
council

DA270 Should you appoint Council as the Principal Certifying Authority (PCA) to undertake inspections during the course of construction then the following inspection/certification are required:-

Silt control fences  
Footing inspection –  
Reinforced concrete slab x 5  
Framework inspection  
Wet area moisture barrier  
Drainage inspection – pits & tanks  
Landscaping inspection  
Retaining wall steel  
Final inspection

The cost of these inspections by Council is \$2860. (being \$220.00 per inspection inclusive of GST). **Payment of the above amount is required prior to the first inspection. Inspection appointments can be made by contacting the Environmental Services Division on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$100.00.

DA271

An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development.**

DA279

All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.

DA283

De-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:

- a) Ground water or other water to be pumped from the site into council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly council for compliance with ANZECC Water Quality Guidelines
- b) If tested by NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities.



northern  
beaches  
council

- c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received.
- d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
- e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
- f) Also the developer must contact the Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.

#### DA285

Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority **prior to the commencement of framework**.

#### DA289

Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

#### DA290

The operations of mechanical services are not to give rise to an offensive noise within the meaning of the Protection of the Environment Operations Act 1997.

#### DA319

Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements shall be submitted to the Council/Accredited Certifier **prior to issue of the Construction Certificate**. Attention is drawn to the provisions of Australian Standard 3660.1 "Protection of Buildings from Subterranean Termites - New Buildings" and to Council's Code for the "Protection of Buildings Against Termite Attack".



northern  
beaches  
council

**DA320**

**Prior to issue of the Occupation Certificate**, a durable termite protection notice shall be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with Council's Code for the "Protection of Buildings Against Termite Attack".

**DA332**

The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.

**DA333**

A copy of the Soil and Water Management Plan must be kept on-site at all times and made available to Council officers on request.

**DA334**

Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted.

**DA335**

Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.

**DA336**

Drains, gutters, roadways and access ways shall be maintained free of sediment and to the satisfaction of Council. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.

**DA337**

Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

**DA338**

All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.

**DA339**

Stormwater from roof areas shall be linked via a temporary downpipe to a Council approved stormwater disposal system immediately after completion of the roof area. Inspection of the building frame will not be made until this is completed to Council's satisfaction.

**DA340**

The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land.



northern  
beaches  
council

The measures must include:-

- (i) siltation fencing;
- (ii) protection of the public stormwater system; and
- (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

#### DA357

Four (4) copies of Architectural Drawings consistent with the development consent and associated specifications are to be submitted to Council/Accredited Certifier **prior to the issue of the Construction Certificate.**

#### DA274

**Payment of contributions in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, may be required for this development. If required the amount will be in accordance with Councils Section 94 Policy applicable at the time of payment prior to the issue of the Construction Certificate.**

The following Condition No. DA323 (3MS01) is to be added as per Section 96(1A) Application – Part 3 – determined on 09 November 2016:

#### DA323

DELETED

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

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

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

#### **Notes:**

If you are dissatisfied with this decision, Section 97AA of the *Environmental Planning and Assessment Act 1979* gives the applicant the right to appeal to the Land and Environment Court of New South Wales (their address being Level 4, 225 Macquarie Street, Sydney NSW 2000).



northern  
beaches  
council

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

Signed below on behalf of the consent authority.

Yours faithfully,

Date: 3 January 2018

Rodney Piggott  
**Planning Assessment Manager**  
**Northern Beaches Council**