



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

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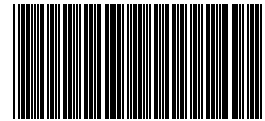
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Your Ref:



D0001KJ8Z8

30 May 2022

### NOTICE OF ORDERS MADE

Case number 2021/00230560  
Case title Stephen Petesic v NORTHERN BEACHES COUNCIL

On 30 May 2022 the following orders (and/or directions) were made:

The Court orders:

- (1) the Applicant's written request prepared by Boston Blyth Fleming pursuant to cl 4.6 of Manly Local Environmental Plan (MLEP) to vary the FSR development standard in cl 4.4 of MLEP is upheld;
- (2) the Applicant's written request prepared by Boston Blyth Fleming pursuant to cl 4.6 of MLEP to vary the development standard in cl 40(4)(c) of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (SEPP HSPD), concerning the height in zones where residential flat buildings are not permitted is upheld;
- (3) the appeal is upheld;
- (4) Development Application DA2021/0008 for the demolition of the existing structure and construction of a seniors housing development and other related works at 12-14 Ponsonby Parade, Seaforth, is determined by the grant of consent, subject to the conditions set out in Annexure 'A' to this judgment.
- (5) the exhibits are returned, except exhibits A, D and 1 which are retained

For the Registrar

## Annexure A

### DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

**Development Application No:** DA2021/0008

**Development:** Demolition of existing structures and construction of a seniors housing development comprising 9 dwellings

**Site:** 12 and 14 Ponsonby Parade, Seaforth  
(Lots 21 and 22 in DP 7577)

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

**Date of determination:** 30 May 2022

**Date from which consent takes effect:** Date of determination.

#### TERMINOLOGY

In this consent:

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

The conditions of consent are as follows:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved plans and supporting documentation

The development must be carried out in compliance (except as amended by any other conditions of consent) with the following:

#### a. Approved Plans & Documents

<b>Approved Plans</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Date</b>	<b>Prepared By</b>
DA03 – Site Plan	F	19 November 2021	Gartner Trovato Architects
DA04 – Basement Plan	G	06 April 2022	Gartner Trovato Architects
DA05 – Ground Floor	F	19 November 2021	Gartner Trovato Architects
DA06 – Level 01 Plan	G	11 January 2022	Gartner Trovato Architects
DA07 – Elevations North & South	F	19 November 2021	Gartner Trovato Architects
DA08 – Elevations East & West	G	11 January 2022	Gartner Trovato Architects
DA09 – Sections	G	11 January 2022	Gartner Trovato Architects
DA18 – Courtyard Elevations	F	19 November 2021	Gartner Trovato Architects
LA01 – Landscape Plan	G	06 April 2022	Gartner Trovato Architects

<b>Approved Documents</b>			
<b>Reference</b>	<b>Revision</b>	<b>Date</b>	<b>Prepared By</b>
Arborist Report	-	December 2020	Growing My Way Tree Consultancy
Access Report	-	27 October 2021	Accessibility Solutions (NSW) Pty Ltd
BASIX Certificate (No.1165744M_03)	-	28 March 2022	Gartner Trovato Architects
BCA Report	-	14 December 2020	BCA Logic
Geotechnical Report	-	14 December 2020	White Geotechnical Report
Traffic Report	-	12 December 2020	Terrafic Pty Ltd
Heritage Report	-	April 2021	Weir Phillips Heritage and Planning

- b. Any plans and /or documentation submitted to satisfy the conditions of this consent.
- c. In the event of any inconsistency between conditions of this consent and the Approved Plans & Documents listed 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.

## 2. 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.
  - iv. 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.
  - v. In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

### 3. 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:

- 8:00am 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. Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- c. 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.
- d. 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.
- e. 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.
- f. 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.

- g. The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- h. No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- i. Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- j. 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.
- k. 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.

- l. A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

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

#### **4. Occupation of seniors housing**

The development may only be occupied by the following only—

- a. seniors or people who have a disability,
- b. people who live within the same household with seniors or people who have a disability,
- c. staff employed to assist in the administration of and provision of services to housing provided under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

Reason: Legislative requirement.

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

#### Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$55,419.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$5,541,900.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

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 the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

### 6. 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 are required 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, and 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.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

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

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

The developer/applicant must lodge with Council a maintenance bond of \$25,000 for the construction of footpaths within the road reserve. The maintenance bond will only be refunded upon completion of the six month maintenance period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council issuing practical completion.

Reason: To ensure adequate protection of Council infrastructure.

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

**8. Amended Architectural and Landscape Plans**

The approved architectural and Landscape plans referenced in Condition 1 of this consent shall be amended to include the following details:

- a) A notation shall be placed on the plan nominating the landscaped roof adjacent to the Unit 8 terraces shall be non-trafficable.
- b) The 1m wide access pathway on the eastern side of Unit 6, connecting the northern and southern terraces, shall be finished in pebbles.
- c) The proposed floor to ceiling privacy screen nominated along the eastern edge of the north facing terrace of Unit 6 shall be extended to the northern façade of the dining room.
- d) A notation shall be placed on the plans indicating that the privacy screens on the eastern side of the terraces of Units 2, 4 and 6 are to be fixed at an angle to maximise privacy to the dwelling and rear yard of 10 Ponsonby Parade and not be operable.
- e) The retention of Tree 106.

Reason: To protect the privacy of adjoining properties



**9. Building Code of Australia Report**

The recommendations made in the Approved Building Code of Australia Assessment Report referenced in Condition 1 of this consent are to be integrated, in full, into the construction certificate detail plans.

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

Reason: To ensure adequate provision is made for health, amenity, access and fire safety for building occupant health and safety.

**10. Access Requirements**

The recommendations made in the Approved Access Report referenced in Condition 1 of this consent are to be integrated, in full, into the construction certificate detail plans.

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

Reason: To ensure adequate provision is made for access for building occupant safety.

**11. 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.

**12. Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

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

**13. Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

- a. 9 Ross Street, Seaforth
- b. 16 Ponsonby Parade, Seaforth
- c. 10 Ponsonby Parade, Seaforth

The dilapidation reports are to be prepared by a suitably qualified person. A copy of the report/s must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing and prior to the issue of the construction certificate.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site and prior to the issue of the construction certificate.

Reason: To maintain proper records in relation to the proposed development.

**14. On-Site Stormwater Detention Details**

The Applicant is to provide certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the Approved Concept Drainage Plans referenced in Condition 1 of this consent. 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.

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

The Applicant is to submit an application for approval for public domain improvement works on Council's public road reserve.

Engineering and Landscaping plans for the new development works within the road reserve and 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:

- a. The construction of a 1.5m wide footpath linking the existing footpath on Ponsonby Parade to the bus stop on the eastern side of Panorama Parade, outside 16 Ponsonby Parade,
- b. A 6m wide driveway crossing to Ponsonby Parade in accordance with Council's Normal standard profile,
- c. The removal of existing driveway crossings to Ross Street and the reinstatement of kerb and guttering.

The design of the footpath and kerb ramps are to be certified by a suitably qualified access consultant, to ensure compliance with the provisions of clause 26 of State Environmental Planning Policy (Housing for Seniors and People with a Disability) and relevant Australian Standards.

These are to be generally in accordance with Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

Any costs associated with the provision of the infrastructure and landscaping upgrades required by this consent are the sole responsibility of the Applicant.

An approval is to be submitted to the Certifying Authority prior to the issue of the construction certificate.

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

### **16. Pedestrian Sight Line Distance at Property Boundary**

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

**17. 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 Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Due to heavy traffic congestion throughout the Seaforth town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- a. The proposed phases of construction works on the site, and the expected duration of each construction phase
- b. 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
- c. Make provision for all construction materials to be stored on site, at all times
- d. The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- e. 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
- f. 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
- g. Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- h. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- i. Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- j. 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
- k. 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

- l. 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
- m. 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
- n. 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
- o. 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
- p. Proposed protection for Council and adjoining properties
- q. 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.

## **18. On Slab Landscape Works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- i) 300mm for lawn
- ii) 600mm for shrubs
- iii) 1m for small trees

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

For all new residential works with two or more dwellings and mixed-use developments, the maintenance activity schedule shall incorporate an on-going maintenance plan that shall be submitted to the Certifying Authority outlining a program to monitor and replenish soil levels as a result of soil shrinkage over time.

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

**19. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Approved Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

**20. Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

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

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

Reason: To provide public and private safety.

**21. Waste and Recycling Requirements**

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

Note: If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

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

## **22. Underground services**

All services connecting to/servicing the development are to be provided underground (both within the site and within the adjacent road reserve). The location of underground services is to be approved by the Project Arborist and Landscaper, to ensure that services do not impact upon existing vegetation to be retained or proposed landscaping.

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

Reason: To minimise visual clutter associated with services and infrastructure.

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

## **23. 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.

## **24. Photographic Archival Record**

A photographic archival record of the site is to be made of all existing buildings and structures (including interiors and exteriors and their setting), generally in accordance with the guidelines issued by the NSW Heritage Division of the NSW Office of Environment & Heritage (OEH).

This record must be submitted and approved by the Certifying Authority prior to commencement of any demolition or works on-site.

The photographic record should be made using digital technology, submitted on archival quality CD-R disc, and should include:

- a. Location of property, date of survey and author of survey;
- b. A site plan at a scale of 1:200 showing all structures and major landscape elements;
- c. Floor plans of any buildings at a scale of 1:100;
- d. Photographs which document the site, cross-referenced in accordance with recognised archival recording practice to catalogue sheets. The extent of documentation will depend on the nature of the item.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

## **25. Project Arborist**

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

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

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, including works listed under section 4. General Tree Protection Requirements and Appendix F - Tree Protection Plan.

All tree protection measures specified must:

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

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

Note: A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.



**26. Tree removal within the property**

This consent approves the removal of the following tree(s) within the property (as identified in the Approved Arboricultural Impact Assessment Report referenced in Condition 1 of this consent):

- a. *Juniperus chinensis*, located adjacent to the southern boundary within the proposed works footprint, Tree 1,
- b. *Juniperus chinensis*, located adjacent to the southern boundary within the proposed works footprint, Tree 2,
- c. *Murraya paniculata*, located towards the north-west of the site within the proposed works footprint, Tree 3,
- d. *Juniperus chinensis*, located towards the north-west of the site within the proposed works footprint, Tree 4,
- e. *Juniperus chinensis*, located towards the north-west of the site within the proposed works footprint, Tree 5,
- f. *Callistemon viminalis*, located towards the north-west of the site within the proposed works footprint, Tree 6.
- g. *Callistemon viminalis*, located towards the north of the site, Tree 102.
- h. *Conifer*, located towards the north of the site, Tree 105.

Reason: To enable authorised building works and provide a suitable landscape outcome.

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

**27. Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Control Plan for standing of construction vehicles in a trafficable lane.

Reason: To ensure Work zones are monitored and installed correctly.

**CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK****28. Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- a. Work Health and Safety Act;
- b. Work Health and Safety Regulation;
- c. Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];

- d. Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- e. Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- f. The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

### **29. Demolition Works – Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

### **30. Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

### **31. 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.

### **32. 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.

### **33. Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

### **34. Property Boundary Levels**

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve.

### **35. Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

### **36. Vehicle Crossings**

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

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.

**37. 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 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.

**38. Notification of Inspections (Section 138A)**

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- a. Installation of Silt and Sediment control devices
- b. Prior to backfilling of pipelines
- c. Prior to pouring of stormwater pits
- d. Prior to pouring of kerb and gutter, driveway crossing
- e. Subgrade level / basecourse level / subbase
- f. Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

**39. Tree and vegetation protection**

Existing trees and vegetation (not otherwise permitted to be removed by this consent) shall be retained and protected, including:

- a. all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation or as otherwise conditioned,
- b. all trees and vegetation located on adjoining properties,
- c. all road reserve trees and vegetation not approved for removal.

Tree protection shall be undertaken as follows:

- a. tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- b. existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- c. removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- d. no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- e. structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- f. excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- g. should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- h. any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- i. the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- j. tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- k. the tree protection measures specified in this clause must:
  - i. be in place before work commences on the site, and
  - ii. be maintained in good condition during the construction period, and
  - iii. remain in place for the duration of the construction works.

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

The Certifying Authority must ensure that:

- a. The arboricultural works are undertaken and certified by an Arborist as compliant to the recommendations of the Approved Arboricultural Impact Assessment.

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

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

#### **40. Waste/Recycling Requirements**

During demolition and/or construction the proposal/works shall be generally consistent with the Approved Waste Management Plan referenced in Condition 1 of this consent.

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

#### **41. Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

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

#### **42. Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- a. Compare the post-construction report with the pre-construction report,
- b. Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- c. Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any occupation certificate.

Reason: To maintain proper records in relation to the proposed development.

#### **43. Accessibility**

A suitably qualified and accredited Access Consultant is to provide written certification that the as-built development and been constructed and fit-out to ensure compliance with the recommendations of the Approved Access Report referenced in Condition 1 of this consent and the standards prescribed by Schedule 3 (Standards concerning accessibility and useability for hostels and self-contained dwellings) of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 that relate to self-contained dwellings.

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

Reason: To ensure the as-built development is appropriately accessible.

#### **44. Access to services**

The upgrades to footpaths in the public domain, as required by this consent, must be completed to the satisfaction of Council.

Written confirmation from Council must be submitted to the Principal Certifying Authority prior to the issuance of any occupation certificate.

Reason: To ensure access is available when required by residents of the development, in accordance with clause 26 of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004

#### **45. House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

#### **46. Unit Numbering**

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 [Unit Numbering for Multi-Unit Developments Form](#).

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 the 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.

#### **47. 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 the occupation certificate.

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

#### **48. 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 Principal Certifier prior to the issue of the 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.

**49. Consolidation of Land**

Prior to the issue of the occupation certificate, evidence of the consolidation of two lots into one lot is to be provided to the Principal Certifying Authority.

Reason: To ensure the consolidation of land.

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

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system 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 the on-site stormwater detention system is to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

**51. Geotechnical Certification Prior to Occupation Certificate**

The project Geotechnical Engineer is to certify that the development was undertaken in accordance with the recommendations of the Approved Geotechnical Report referenced in Condition 1 of this consent.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

## **52. 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.

## **53. Landscape completion**

Landscaping is to be implemented in accordance with the Landscape Plans required by this consent, inclusive of the following conditions:

- i) all tree planting shall be a minimum planting size of 100 litres, and shall meet the requirements of Natspec - Specifying Trees,
- ii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and located either within garden bed or within a prepared bed within lawn,
- iii) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch.

Prior to the issue of an occupation certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

## **54. Condition of retained vegetation - Project Arborist**

Prior to the issue of an occupation certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- a. compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b. extent of damage sustained by vegetation as a result of the construction works,
- c. any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

#### **55. Garbage and Recycling Facilities**

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning. Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

#### **56. Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

#### **57. Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure waste is minimised and recycled.

#### **58. Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of the occupation certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

**59. Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

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

Reason: To create encumbrances on the land.

**60. Restriction to User – Occupation of Seniors Housing**

A restriction as to user is to be registered against the title of the land, in accordance with Section 88E of the *Conveyancing Act 1919*, limiting the occupation of the development by the following only—

- a. seniors or people who have a disability,
- b. people who live within the same household with seniors or people who have a disability,
- c. staff employed to assist in the administration of and provision of services to housing provided under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services.

A copy of the certificate of title demonstrating the creation of the restriction as to user is to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: Legislative requirement.

**61. Underground services**

All services connecting to/servicing the development are to be underground (both within the site and within the adjacent road reserve).

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

Reason: To minimise visual clutter associated with services and infrastructure.

**62. Installation of Basement Security Door**

A secure lockable door is to be installed between the basement carparking area and the foyer area outside the bin room.

This door must prevent access by unauthorised persons from the bin room foyer area into the secure basement area.

Reason: To retain building security whilst bin room doors (2) are unlocked/open.

## ON-GOING CONDITIONS

### **63. Landscape maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the Amended Landscape Plans required by this consent and any other conditions of consent.

Street trees shall be maintained for a period of 12 months following the issue of an occupation certificate. Any failure due to lack of maintenance will require replacement at the discretion of Council.

A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

### **64. Environmental and priority weed control**

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: Preservation of environmental amenity.

### **65. Presentation of Bulky Goods for Collection**

It is the responsibility of the owners' corporation to present bulky goods materials at the kerbside for collection in accordance with Councils' requirements.

Reason: To preserve the public amenity by minimising the time bulky goods materials are presented at the kerbside.

### **66. Access to Bin Storage Room for Service Staff**

The two doors used by waste collection staff to access the bin storage room must remain unlocked from 5.00am to 6.00pm on the scheduled day of collection as nominated by Council.

The two doors used to access the bin storage room must be able to be latched in the open position.

Reason: To ensure unimpeded access to the bins for waste collection staff.