

14 December 2020



Giovanni Cirillo  
L24, Three International Towers, 300 Barangaroo Avenue  
SYDNEY NSW 2000

Dear Sir/Madam

**Application Number:** DA2020/0962  
**Address:** Lot 1 DP 1170245 , 0 Wharves And Jetties, MANLY NSW 2095  
**Proposed Development:** Alterations and additions to Manly Wharf in association with Hugos restaurant

Please find attached the Notice of Determination for the above mentioned Application.

Please be advised that a copy of the Assessment Report associated with the application is available on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

Please read your Notice of Determination carefully and the assessment report in the first instance.

If you have any further questions regarding this matter please contact the undersigned on 1300 434 434 or via email quoting the application number, address and description of works to [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Anna Williams  
**Manager Development Assessments**

## NOTICE OF DETERMINATION

<b>Application Number:</b>	DA2020/0962
<b>Determination Type:</b>	Development Application

### APPLICATION DETAILS

<b>Applicant:</b>	Giovanni Cirillo
<b>Land to be developed (Address):</b>	Lot 1 DP 1170245 , 0 Wharves And Jetties MANLY NSW 2095
<b>Proposed Development:</b>	Alterations and additions to Manly Wharf in association with Hugos restaurant

### DETERMINATION - APPROVED

<b>Made on (Date)</b>	09/12/2020
<b>Consent to operate from (Date):</b>	09/12/2020
<b>Consent to lapse on (Date):</b>	09/12/2025

### Detail of Conditions

*The conditions, which have been applied to the consent, aim to ensure that the Environmental Impacts of Development are minimised and the Health and Safety of the community is maintained in accordance with the relevant standards and the Building Code of Australia.*

#### Note:

*If the works are to be certified by a Private Certifying Authority, then it is the certifier's responsibility to ensure all outstanding fees and bonds have been paid to Council prior to the issue of the Construction Certificate or as otherwise specified by Consent conditions.*

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Existing GF and Demo Plan DA002, issue A	9 July 2020	Squillace
Floor Plan Proposed DA100, issue P9	12 June 2020	Squillace
Proposed West Elevation DA201, issue A	9 July 2020	Squillace
Proposed South Elevation / Section AA DA301, issue A	9 July 2020	Squillace
Perspectives and Finished Schedule DA906, issue A	9 July 2020	Squillace

<b>Approved Reports – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Access Report, reference 200081	26 June 2020	City Plan Services P/L
Biodiversity Assessment Report, reference 0148219	26 June 2020	ERM Sydney

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **Compliance with requirements of Ausgrid**

The proposal is to be consistent with the requirements of Ausgrid, as follows:

1. Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid’s Network Standard NS156 outlines the minimum requirements for working around Ausgrid’s underground cables. Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Reason: Legislative Requirement.

3. **Prescribed Conditions**

All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

Reason: Legislative Requirement.

4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- o 8.00 am to 5.00 pm Monday to Friday only.

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

(b) 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.

(c) 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.

(d) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(e) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(f) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(j) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(k) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

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

#### 5. **Compliance with requirements of DPI Fisheries**

The proposal is to be consistent with the requirements of DPI Fisheries, outlined in their correspondence to Council dated 21 September 2020, specifically:

1. The proponent must apply for and obtain a Part 7 permit for dredging and reclamation under the FM Act from DPI Fisheries prior to any works on site. Permit application forms are available from the DPI Fisheries website at: <https://www.dpi.nsw.gov.au/fishing/habitat/help/permit>; and
2. Environmental safeguards (silt curtains, booms etc.) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms.

Reason: Legislative requirement.

#### 6. **Compliance with requirements of Heritage NSW**

##### Works Not Approved

- a) The proposed extension of the existing (triangular) upper deck to the north which incorporates a section of the lower western deck and the proposed straightening of the curvilinear lower deck is not approved.

*Reason: To ensure that the proposed northern extension does not reduce the publicly accessible area of the lower deck and does not introduce insensitive additions to compensate for this loss. The proposed lower deck extension is unsympathetic to the curvilinear characteristic of Baldwinson design of the public space around the wharf.*

- b) The new planters, both on the western lower deck and the southern promenade are recommended not to be approved.

*Reason: The proposed lower deck planter box contributes to the visual separation between the lower deck and the upper triangular deck. It unnecessarily takes up the public space and highlights the physical and visual separation between the public and private space and are in contrast to the Baldwinson design that encouraged visual and physical openness along the promenade. The proposed planters to the south add to the clutter and unnecessarily divide the public promenade.*

- c) The heaters as proposed are not approved. Heaters that can be removed and stored must be used.

*Reason: The proposed heaters fixed to the deck are visually distracting and add significantly to the visual clutter.*

#### Heritage Consultant

- d) A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

*Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.*

#### Site Protection

- e) Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

*Reason: To ensure significant fabric including vegetation is protected during construction.*

#### Photographic Archival Recording

- f) A photographic archival recording of the areas proposed to be modified must be prepared prior to the commencement of works and at the completion of works. This recording must be in accordance with the Heritage NSW publication 'Photographic Recording of Heritage Items using Film or Digital Capture' (2006). The digital copy of the archival record must be provided to Heritage NSW, Department of Premier and Cabinet.

*Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.*

#### Unexpected Historical Archaeological Relics

- g) The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

*Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.*

#### Compliance

- h) If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

*Reason: To ensure that the proposed works are completed as approved.*

#### Section 60 Application

- i) An application under section 60 of the Heritage Act 1977 must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

*Reason: To meet legislative requirements.*

### **7. Compliance with requirements of NSW Police**

The proposal is to be consistent with the requirements of NSW Police, outlined in their correspondence to Council, dated 9 November 2020.

Reason: To ensure compliance with NSW Police requirements.

## FEES / CHARGES / CONTRIBUTIONS

### 8. Security Bond

A bond (determined from cost of works) of \$1,500 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.

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

### 9. Amendments to the Approved Plans

The following amendments are to be made to the Approved Plans:

- a) The proposed deck extension is to be a cantilevered structure, supported by existing piles. No new piles are permitted by this development consent.
- b) The proposed northern extension of the existing outdoor seating area, shown to comprise four x four seat tables, and all proposed works to the north of this area are not approved by this consent and are to be removed from the plans.
- c) Deletion of all proposed planter boxes.
- d) Deletion of fixed heaters.

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

Reason: To ensure development minimises environmental impacts.

### 10. Construction Environment Management Plan

A Construction Environmental Management Plan (CEMP) must be prepared with respect to the approved development. The CEMP is to be prepared by a suitably qualified person and must address:

- a. all measures for the protection of native flora and fauna during construction,
- b. the requirements and general terms of approval of DPI Fisheries,
- c. a risk assessment of all environmental aspects and impacts to the site and surrounding properties or waterbodies associated with:

- i. hazardous substances
  - ii. water
  - iii. air
  - iv. noise
  - v. vibration
  - vi. waste and litter
  - vii. environmental protection objectives and control strategies
  - viii. environmental conditions using measurable indicators and standards
  - ix. emergency response plan
  - ix. environmental monitoring and reporting plan
- d. Any other matters specifically highlighted in conditions of this consent.

An induction plan for site personnel must be prepared that addresses the CEMP.

The CEMP and site induction plan must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure the appropriate operation and management of the site and to protect native vegetation, wildlife, habitats and receiving waterways.

11. **Engagement of Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with these conditions of consent, the Construction Environmental Management Plan and the approved biodiversity report.

The Project Ecologist must have one of the following memberships / accreditation:

- o Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- o Biodiversity Assessment Method Accredited Assessor under the NSW Biodiversity Conservation Act 2016 (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to the Principal Certifying Authority Prior to issue of construction certificate.

Reason: To ensure biodiversity protection measures are complied with.

12. **Survey of Seagrass**

The applicant must engage a suitably qualified ecologist to undertake a detailed survey of seagrass in the vicinity of the site. The results from this detailed survey are to be submitted to the Certifying Authority for approval prior to the issue of the construction certificate. Results from this survey are to be referred to in the CEMP required by this consent.

Reason: Protection of seagrass.

13. **Section 60 Approval**

An application under s.60 of the Heritage Act 1977 must be submitted to, and approved by, the



Heritage Council of NSW (or delegate).

A copy of the approval is to be submitted to the Principal Certifying Authority prior to the issuance of the construction certificate.

Reason: To meet legislative requirements.

14. **Accessibility**

The proposal is to be amended to ensure compliance with the recommendations of the Approved Access Report referenced in Condition 1 of this consent.

A suitably qualified access consultant is to provide written certification of compliance to the Principal Certifying Authority prior to the issuance of the construction certificate.

Reason: To ensure equitable access.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. **Management of *Caulerpa taxifolia***

The invasive marine alga *Caulerpa taxifolia* is present on this site. Site personnel must be able identify *Caulerpa*. All tools, machinery and environmental control devices must be inspected and cleaned thoroughly prior to leaving the site to prevent the spread of *Caulerpa* to other sites.

Any *Caulerpa* removed from the waterway should be tightly sealed in a plastic bag and lawfully disposed in general waste.

Reason: *Caulerpa taxifolia* is listed under the Biosecurity Act 2015 for all NSW waters.

16. **Worksite inductions**

The site Environmental Officer (or appropriate equivalent) must induct all staff prior to their starting work, with an induction record maintained and available onsite at all times.

Personnel conducting the site induction must:

- a. Be familiar with any environmental protection conditions under the development approval and/or the Construction Environment Management Plan
- b. Be familiar with the names and contact details of relevant people and authorities in the event of any environmental or site management emergency.
- c. Be familiar with the presence of environmentally significant areas within and surrounding the site.
- d. Be able to identify threatened species of fauna if they enter the site
- e. Be familiar with animal welfare issues and procedures should human-wildlife interactions take place during the construction phase.

Reason: To ensure all personnel understand what must be done to protect native vegetation, wildlife, habitats and receiving waterways on the site.

All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence of relevant threatened species and endangered ecological communities through a site induction prior to commencement of works. The site induction is to include information about

their conservation significance, potential activities on-site, means of identification and the measures to be implemented for their protection. Confirmation of induction is to be signed by every worker and the site manager.

Evidence of the site induction is to be documented and provided to the Principal Certifying Authority.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

#### 17. **Use of equipment and vessels in the vicinity of seagrass**

No equipment is to be placed on any seagrass beds which may be in the vicinity of the construction site.

Inshore infrastructure for mooring vessels and plant must be used where suitable. Where mooring lines or cables are required, they shall be suitably buoyed prior to laying and kept buoyed once laid to prevent cable drag or swing damage (scalping). Where this is impractical, contractors should use a floating rope.

Vessels must have adequate clearance over seagrass beds, including allowance for tidal movement, swell/wind wave heights and vessel propulsion.

Reason: Protection of seagrass

#### 18. **Timing Restrictions - Little Penguin Habitat**

No works are to be undertaken during the declared penguin breeding season (1 July - 28 February) unless written confirmation that penguins are not nesting or moulting under Manly Wharf is obtained from the Department of Planning, Industry and Environment (DPIE) Little Penguin Recovery Program Coordinator. Written evidence of compliance is to be provided to the Certifying Authority prior to any Occupation Certificate.

Reason: To avoid construction-related impacts to Little Penguins.

#### 19. **Aquatic sediment management**

Environmental safeguards (e.g. silt curtains) are to be used during construction to prevent the escape of turbid plumes into the aquatic environment. The silt curtains must be carefully placed and secured properly to ensure they do not drag over any nearby seagrass beds.

The safeguards must be regularly maintained and removed once the works are completed.

Reason: Protection of seagrass.

#### 20. **Ecologist to Induct Site Manager – Penguin and Bandicoot Habitat**

Prior to commencement of construction works, the project ecologist is to meet with the site manager to:

- a. advise of conditions to be implemented for protection of relevant threatened species and endangered ecological communities;
- b. ensure that all workers are appropriately briefed on required protective measures; and

- c. inspect protective measures to confirm their adequacy and advise the proponent and site manager of the inspection results and their implications.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

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

### 21. **Requirement to Notify about New Contamination Evidence**

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment.

### 22. **Compliance with the Construction Environmental Management Plan**

The requirements of the Construction Environmental Management Plan required by this consent are to be fully implemented from commencement of any works until the issue of the occupation certificate.

Reason: Protection of the environment.

### 23. **Report Dead or Injured Penguins**

Any injured or dead Little Penguins within the worksite must be reported to the National Parks & Wildlife Service (9457 9577) or Northern Beaches Council (1300 434 434).

Reason: To prevent impacts to Little Penguins and record any mortality events.

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

### 24. **Accessibility**

Prior to the issuance of the occupation certificate, a suitably qualified access consultant is to provide the Principal Certifying Authority with written certification confirming that the as-built development is consistent with the recommendations of the Approved Access Report referenced in Condition 1 of this consent.

Reason: To ensure equitable access.

### 25. **Construction Environmental Management Plan Certification**

Written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and Council, stating that Construction Environmental Management Plan required by this consent has been complied with.

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 standards.

### 26. **Project Ecologist Certification**

Works are to be carried out in accordance with these conditions of consent, the Construction Environmental Management Plan and the Approved Biodiversity Assessment Report referenced

in Condition 1 of this consent.

Written confirmation of compliance with the recommendations of the Approved Biodiversity Assessment Report and the Construction Environmental Management Plan it to be provided to the Principal Certifying Authority by the Project Ecologist prior to the issuance of the occupation certificate.

Reason: To ensure biodiversity protection measures are complied with.

27. **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 NSW Fire & Rescue.

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

Each year the Owners must send to the Council and NSW Fire & Rescue 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.

28. **Plan of Management**

A Plan of Management is to be prepared for the use of the outdoor areas associated with Hugos in accordance with the following:

- a. A maximum of 64 patrons are allowed within the western outdoor dining area at any given time.
- b. A maximum of 36 patrons are allowed within the southern outdoor dining area at any given time.
- c. All patrons within the western outdoor dining area and the southern outdoor dining area are to be seated.
- d. No amplified music or live entertainment is permitted at either the western or southern outdoor dining area.
- e. The outdoor areas are not to be used between the hours of 12am midnight to 11am.
- f. Management is to ensure that patrons departing the premises do so in an orderly manner to minimise noise impacts (especially after 10pm)
- g. Garbage and bottle disposal should be undertaken prior to 10pm and not before 7am.
- h. A register of any complaints and any actions made in response to such complaints is to be maintained on site and produced upon request from Council.
- i. Tables must be cleared in a timely manner so items are not blown into the waterway.
- j. Disposable items such as plastic or polystyrene cups, containers and straws are not to be used in outdoor dining areas.
- k. With the exception of candles, no external lighting is permitted.
- l. Hours of operation for the outdoor dining areas are limited to:

11:00am to 11:30pm on all days, with all restaurant services to cease and all customers to

vacate within 30 minutes.

- m. A 1m wide service area is to be outlined on the ground immediately adjacent to the southern outdoor dining area, with staff servicing the southern outdoor dining area to be generally limited to this area.

The Plan of Management is to be submitted to the Principal Certifying Authority prior to the issuance of the occupation certificate.

Reason: To ensure appropriate management of outdoor areas to minimise impacts upon the surrounding environment.

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

29. **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

30. **Adherence with the Plan of Management**

The premises are to be managed in accordance with the Plan of Management required by this consent.

Reason: To ensure appropriate management of outdoor areas to minimise impacts upon the surrounding environment.

## Right to Review by the Council

You may request Council to review this determination of the application under Division 8.2 of the Environmental Planning & Assessment Act 1979. Any Division 8.2 Review of Determination application should be submitted to Council within 3 months of this determination, to enable the assessment and determination of the application within the 6 month timeframe.

*NOTE: A fee will apply for any request to review the determination.*

## Right of Appeal

If you are dissatisfied with this decision Division 8.3 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

**Signed**            On behalf of the Consent Authority



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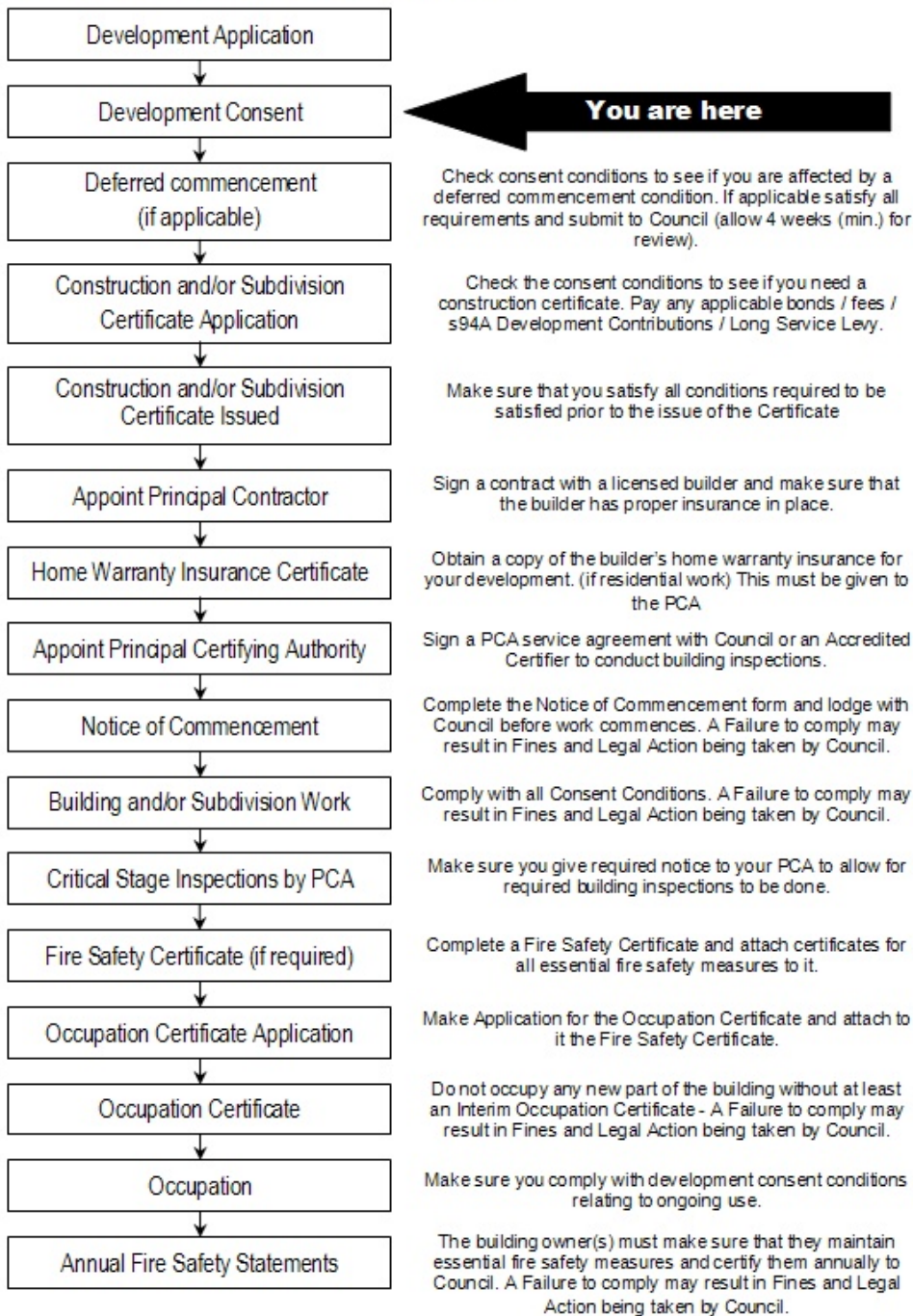
Name                Anna Williams, Manager Development Assessments

Date                 09/12/2020

## GENERAL ADVICE

# Advisory Notes (General)

**Where are you in the development process?**



**Note:** The advice within this document is provided in good faith as a guide to assist applicants understand the broad process and will not detail every step or every requirement for demolition, building construction works or subdivision required or business operating requirements under New South Wales or Commonwealth Legislation. If you require clarification or have any questions, please contact your Certifier or Council's Planning and Development Enquiries Team.

The attached Notice of Determination includes conditions of consent which must be complied with.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action.)

## **Building Certification**

The Environmental Planning and Assessment Act 1979 provides that:

- Building work cannot occur unless a construction certificate has been issued;
- Occupation of building works cannot occur unless an occupation certificate has been issued
- Subdivision cannot be registered until a subdivision certificate has been issued
- Mandatory Inspection for building work must be completed

Please refer to process chart for more detail.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action.)

## **Certification Services**

Construction Certificates / Occupation Certificates / Subdivision Certificates / Strata Certificates, can be issued by Council or an accredited private certifier (Note Council must be the Principal Certifying Authority (PCA) for subdivisions).

Council is well placed to provide Certification Services. Council can issue Construction Certificates and act as your Principle Certifying Authority at competitive rates. Please visit our web site [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au) or speak to our Customer Service Officers if you have any further questions about our Certification Services or if you wish to use Council as your certifier.

## **Charges Associated with the Development Consent**

All bonds, fees, Development Contributions or the Long Service Levy detailed within the Notice of Determination are required to be paid prior to the issuing of any Construction Certificate.

## **Bonds are released after:**

1. 'Final Occupation Certificate' has been received by Council; and
2. Final inspection by a Council Officer where:
  - the development is complete
  - damage has not been caused to council assets during the works
  - conditions of development consent have been met.

The bond will be released to the person or business who paid the bond to Council (The name that appears on the original receipt)

## **Acceptable Form of Security Bonds**

Council will accept bank guarantee (in a form acceptable to Council) in lieu of cash and is required prior to the issue of a construction certificate.

## **Modifications to the consent**

If you seek to make any changes to the development (which may include internal / external configuration of the building, variation to facades, site layout or any changes to the proposed operation or use), the modifications may require the submission and approval of an application to modify the development consent prior to the issuing of a Construction Certificate and prior to the works being



carried out. The proposed changes should be discussed with the PCA.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action.)

### **Other Matters not detailed within the Notice of Determination**

The Notice of Determination does not stipulate every requirement that must be completed to satisfy New South Wales and Commonwealth legislation.

You should check, as may be relevant, with other authorities including but not limited to:

- Workcover NSW for work safety and asbestos requirements
- Sydney Water – Quick Check Agent for the provision of water and sewer services
- Energy & Gas suppliers for utility services
- Department of Fair Trading for advice about builders and licensing
- Building Professionals Board for advice about private certifiers
- NSW Roads and Maritime Services for works on state roads only
- Human Rights and Equal Opportunity Commission for access issues
- NSW Land and Property Information for Land Title matters
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;

### **Dial Before You Dig**

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

### **Telecommunications Act 1997 (Commonwealth)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact :Telstra's Network Integrity Team on Phone Number 1800810443.

(1) if the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted

to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and

(2) The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

### **Model**

If you submitted a model with the application it must be collected from the Council offices within fourteen (14) days of the date of this determination. Models not collected will be disposed of by Council.

### **Trade waste agreement**

A Trade Waste Agreement must be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Trade wastewater is defined as 'discharge water containing any substance produced through industrial or commercial activities or operation on the premises'.

### **Waste collection**

Liquid and solid wastes generated on the site must be collected, transported and disposed of in accordance with the requirements of the Protection of the Environment Operations Act 1997. Records must be kept of all waste disposal from the site.

Material to be removed from the site must be source separated on site to maximise recycling, and the material disposed of to an appropriate disposal and recycling facility in accordance with the approved Waste Management Plan.

### **Aboriginal Heritage**

If in undertaking excavation or works and any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Warringah Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

### **On-Site Sewage Management System**

This approval does not authorise the installation or operation of a new or modification of an existing on-site wastewater management system. An On-Site Sewage Management System must not be installed or operated unless an 'Approval to Install an On Site Sewage Management System' is obtained from Warringah Council.

### **Cost of Works**

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

### **Relocation of stormwater drainage**

Council is not responsible for the cost of relocating Council's stormwater drainage pipes through the subject property.

### **Tree preservation**

Where tree work has not been approved by this Development Consent the developer is notified that a general Tree Preservation Order applies to all trees in the Northern Beaches Local Government Area. This order prohibits the ringbarking, cutting down, topping, lopping, pruning, transplanting, injuring, or wilful destruction of such trees except without the prior written consent of Council.

### **Storage bins on footpath and roadway**

Approval is required from Council prior to the placement of any storage bin on Council's footpath and/or roadway.

### **Protection of Public Places**

- (1) If the work involved in the erection or demolition of a building:
- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - (b) building involves the enclosure of a public place,

a hoarding and site fencing must be erected between the work site and the public place.

- (2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- (5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained.

### **Road Opening Permit**

The developer/applicant is to obtain a "Road Opening Permit" from Council and pay all appropriate charges prior to commencement of any work on Council property. The developer/applicant shall be responsible for all public utilities and services in the area of the work, and as such shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

### **Special Permits**

Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely on the property. The applicant, owner or builder must apply for specific permits available from Council. A minimum of forty-eight (48) hours notice is required for all permits except work zones, which may require additional assessment time.

- Permit for on-street mobile plant

Restrictions apply to the hours of operation and the area of operation for on street mobile plant equipment (for example cranes, concrete pumps, cherry pickers). Separate permits are required for each occasion and each piece of equipment. It is the responsibility of the applicant, owner and builder to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

- Hoarding Permit

Permits are required to erect Class A, Class B and Class C hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

- Storage of building materials and building waste containers (skips) on Council's property

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given.

- Kerbside restrictions, work zones

Existing kerbside restrictions apply. An application must be made to Council for the alteration of existing kerbside restrictions or the provision of a construction zone. Other permits may include out of construction hours permits.

### **Licensing requirements for removal of bonded asbestos**

Anyone who removes, repairs or disturbs bonded asbestos must hold a bonded or a friable asbestos licence, or a demolition licence in accordance with Workcover requirements and the Occupational Health and Safety Act 2000.

### **Pool Access**

Access to pools are required to be restricted by a child resistant barrier in accordance with the regulations prescribed in all relevant Acts, Regulations and Australian Standards including:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2012;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

It is your responsibility as a land owner to ensure any fencing is maintained.

### **Dewatering**

Where dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Department of Water and Energy. The bore license must be obtained prior to commencement of dewatering works.

### **Requirement to Notify about New Contamination Evidence**

Any new information revealed during works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to Council and the Principal Certifying Authority.

### **Flood Evacuation Plan**

If your site is on flood prone land you may wish to consider the preparation of a flood evacuation plan.

Generally a Flood Evacuation Plan would be prepared by suitably qualified Engineer (e.g. Hydraulic) with a number of years experience in flood management and who is eligible for Membership to the Australian Institute of Engineers.

Some matters that you may wish to consider (but not limited to) include:

- (i) a route of evacuation to higher ground and / or point of shelter
- (ii) depth of water for a Possible Maximum Flood event surrounding the building
- (iii) details of 'last chance' evacuation water levels / times for evacuation prior to floodwaters surrounding the building
- (iv) provide details of flood warning systems and protocols
- (v) details of how this information will be distributed and people educated for users of the site.

You may seek to discuss this with the State Emergency Service of NSW.

### **Utility Service Requirements**

Where development requires the installation of, or the relocation of utility services being (but not limited to) gas, water, electricity and telecommunications, the installation of, or the relocation of utility services shall be conducted in accordance with the requirements of the relevant service provider / authority (unless stipulated by any other condition of the consent or will result in damage to threatened or endangered species defined under the Threatened Species Conservation Act 1995).

### **Plant & Equipment Kept Within Site**

All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries. This does not prevent any requirement to comply with the Protection of the Environment Operations Act.

### **Lighting**

Illumination of the site is to be arranged in accordance with the requirements of Australian Standard 4282 - 1997 Control of the obtrusive effects of outdoor lighting so as not to impact upon the amenity of the occupants of adjoining and nearby residential premises.

### **Silt and Sediment Control**

During any onsite demolition, excavation and construction works, the site should be maintained in accordance with "The Blue Book - Managing Urban Stormwater (MUS): Soils and Construction".

In managing the site provision shall be made throughout the period of works to prevent transmission of soil to the public road, drainage system, any riparian lands or off site in any manner. Upon completion of the development, any measures to prevent the transition of soil off site to remain in place until the site is stabilised.

A failure to prevent the transmission of silt and sediment and / or causing, water pollution, air pollution, noise pollution or land pollution may result in a breach of the Protection of the Environment Operations Act and orders, penalties and prosecutions may occur.

**Maintenance of Sediment and Erosion Control** Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain.

Reason: To avoid erosion and sedimentation impacts that will result in an adverse change in watercourse or riparian land condition

### **Installation and Maintenance of Sediment and Erosion Control**

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

### **Dividing Fences Act 1991**

The construction and maintenance of side boundary fences is to be agreed upon by all adjoining property owners of the fence. Works are to be in accordance with the Dividing Fences Act 1991.

### **OTHER MATTERS**

### **Child Care Centres**

A license to operate a child care centre must be obtained from the NSW Department of Community Services prior to the commencement of the use of the child care centre.

### **Disability Access**

This decision does not ensure compliance with the Commonwealth Disability Discrimination Act 1992. Applicants are strongly advised to investigate their requirements under that Act

### **Food Premises**

Food premises are required to comply with the requirements of the Food Act 2003, the Food Standards Code and Australian Standards.

The proprietor of a food business must notify the NSW Food Authority of the details of the business. Notification may be done either online at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) or by lodging a completed NSW Food Authority notification form to the NSW Food Authority or Council.

### **Wheel washing facility**

All trucks leaving the site, having had access to unpaved or contaminated areas, shall depart via a wheel wash facility in order to prevent mud, dust or debris from being deposited on Council's roads. The wheel wash facility shall be constructed prior to any truck movements occurring. Water from the wheel wash facility must not cause pollution. Any direction of Council with regard to cleaning trucks or the clean up of road pavements adjoining the site shall be complied with immediately.

### **Monitoring State of Roadways**

The applicant shall monitor the state of roadways leading to and from the site and shall take all necessary steps to clean up any adversely impacted road pavements as directed by Council.

### **Storage of Dangerous Goods**

Prior to the storage of any "dangerous goods" on the premises, a copy of a license obtained from the Chemical Safety Branch of Work Cover Authority must be submitted to Council.

### **Storage of Flammable and Combustible Liquids**

Flammable and combustible liquids must be stored in accordance with Australian Standard 1940 The Storage and Handling of Flammable and Combustible Liquids.

### **Noise and Vibration**

The premises, including operation of vehicles, shall be conducted so as to avoid offensive noise or vibration and cause no interference to adjoining or nearby occupants. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

### **Hairdressing/Beauty Treatment/ Skin penetration Requirements**

The premises must comply with the following requirements before the commencement of business:

- i) A hand wash basin with warm water delivered through a common spout must be provided in the treatment area. The hand wash basin must be provided with liquid soap and paper towel.
- ii) The wall behind the hand wash basin from the floor to a height of 450mm above the top of the washbasin and from the centre of the washbasin to a distance of 140mm beyond each side of the wash basin, must be finished with a material that is durable, smooth, impervious to moisture and capable of being easily cleaned (eg tiles).
- iii) The premises must be provided with washing, drainage, ventilation and lighting that are adequate for the carrying out of hairdressing/beauty treatment/skin penetration procedures.
- iv) The floor coverings must be smooth and impervious.

- v) All furniture, shelves and fittings must be constructed of, or covered with a material that is smooth, impervious to moisture and capable of being easily cleaned.
- vi) Adequate lockers must be provided for the storage of employees clothing and personal effects.
- vii) The premises must be provided with facilities that are adequate for the purpose of storing of hairdressing/beauty treatment/skin penetration appliance and utensils.
- viii) The premises must be provided with a sink sullied with hot and cold water for washing equipment.

### **Food Premises Construction Requirements**

The food premises must comply with the following specific construction requirements:

Solid walls must be provided in all food handling areas (solid includes brick, cement and foam filled preformed panels);

- ix) Walls in food preparation and wash up areas must be finished with a smooth and impervious surface to a height of at least 2 metres.
- x) Hand wash basins must be provided with warm water delivered through a common spout with taps that are hands free operation;
- xi) Coving with a radius of 25mm must be provided between all floor and wall joints in food handling areas;
- xii) The open space between the top of the coolroom and the ceiling must be fully enclosed and kept insect and pest proof;
- xiii) The coolroom must be able to be opened from the inside with out a key and fitted with an alarm that can only be operated from within the coolroom;
- xiv) The doors to the toilet air lock and toilet compartment must be tight fitting and self closing;
- xv) The rear external door must be self closing or be provided with a fly screen that is self closing;
- xvi) Where cooking or extensive heating processes or such other processes as may be specified are carried out in food preparation areas, an approved mechanical ventilation system shall be installed and operated in accordance with AS 1668 part 1 & 2.

### **Legionella Control**

Cooling towers, warm water systems, water cooling systems must be registered with the Council. Details of registration are to be provided to the Council prior to operation.

### **Pool/Spa Safety**

Owners of properties with swimming pools and spa's must meet safety compliance and registration requirements. Provisions also apply when renting/selling properties. Details are available from the Division of Local Government.

### **Grease Trap**

Contact Sydney Water to determine what trade waste provisions you are required to provide to your food premises. Should a grease trap be required by Sydney Water, it must be located in an area that is easily accessible for the removal of waste water and must not be installed in any kitchen, food preparation or food stage area. The design and location of the grease trap should also not impede on any commercial right of way or pedestrian access.

### **Bandicoot/Penguin**

Long-nosed Bandicoots & Little Penguins – Best Practices for Residents Residents are encouraged to follow a number of *Best Practices* to assist with the protection and management of the endangered populations of Long-nosed Bandicoots and Little Penguins:

- Long-nosed Bandicoots, Little Penguins and other native animals should never be fed as it may cause them nutritional problems, hardship if supplementary feeding is stopped, and it may increase predation.
- Feral cats or foxes should never be fed or food left out where they can access it, such as rubbish bins without lids or pet food bowls, as these animals present a significant threat to Long-nosed Bandicoots, Little Penguins and other wildlife.
- The use of insecticides, fertilisers, poisons and/or baits should be avoided on the property.

Garden insects will be kept in low numbers if Long-nosed Bandicoots are present.

- When the North Head Long-nosed Bandicoot Recovery Plan is released it should be implemented where relevant.
- Dead Long-nosed Bandicoots or Little Penguins should be reported by phoning Manly Council on 9976 1500 or Department of Environment and Conservation on 9960 6266.
- Please drive carefully as vehicle related injuries and deaths of Long-nosed Bandicoots and Little Penguins have occurred in the area. Care should also be taken at night in the drive way when moving cars as bandicoots will seek shelter beneath vehicles.
- Cat/s and or dog/s that currently live on the property should be kept indoors at night to avoid disturbance/death of native animals. Ideally, when the current cat/s and/or dog/s that live on the property no longer reside on the property it is recommended that they not be replaced by new dogs or cats.
- Report all sightings of feral rabbits, feral or stray cats and/or foxes to N B Council.