



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

Level 4 225 Macquarie Street SYDNEY NSW 2000
Level 4 GPO Box 3565 SYDNEY NSW 2001
DX 264, Sydney

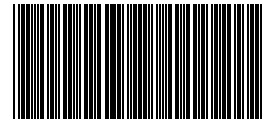
Telephone: 02 9113 8200
Facsimile:
02 91138208

Email: lecourt@justice.nsw.gov.au
Website: <https://www.lec.nsw.gov.au>

ABN: 52 659 114 436

Christopher Gough
chriscgough@sglaw.com.au

Your Ref:



D0001MQJ83

20 October 2022

NOTICE OF ORDERS MADE

Case number 2022/00199709
Case title ARMADA AVALON PTY LTD v NORTHERN BEACHES COUNCIL

On 20 October 2022 the following orders (and/or directions) were made:

The Court Orders that:

- (1) The Appeal is upheld.
- (2) The Modification Application seeking to modify Development Consent No. DA2019/1260 is approved and the Development Consent is modified as set out in Annexure "A".
- (3) The Modification Application to Development Consent No. DA2019/1260, as approved by the Court, is subject to the consolidated conditions of Development Consent set out in Annexure "B".

For the Registrar

ANNEXURE B**DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF
CONSENT****Development Application No:** DA2019/1260**Development:** Demolition of existing structures and construction of a seniors housing development comprising 10 dwellings**Site:** 27 and 29 North Avalon Road, Avalon Beach (Lot 32 DP 8394, Lot 33 DP 8394)**Schedule of Modifications:**

Date approved	Modification Application Number	Decision maker	Proceedings Name and Number
20 October 2022	MOD2022/0397	Land and Environment Court of NSW	Armada Avalon Pty Ltd v Northern Beaches Council LEC No. 2022/199709

Date of determination: 26 August 2021**Date from which consent takes effect:** 26 August 2021**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 27 and 29 North Avalon Road, Avalon Beach.

The consolidated 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

Approved Plans			
Drawing No.	Revision	Date	Prepared By
Site Plan -030	J	16.06.2022	Environa Studio
Basement Plan - 101	J	16.06.2022	Environa Studio
Level 1 - 102	N	21.06.2022	Environa Studio
Level 2 - 103	M	21.06.2022	Environa Studio
Roof Level - 110	L	16.06.2022	Environa Studio
Sections AA+BB - 120	I	21.04.2022	Environa Studio
Basement Ramp - 121	R	21.09.2020	Environa Studio
North + East Elevations - 130	K	19.05.2022	Environa Studio
South + West Elevations - 131	L	16.06.2022	Environa Studio
North + South Internal Elevations - 132	M	21.06.2022	Environa Studio
Materials and Finishes Schedule - 210	L	19.05.2022	Environa Studio
Existing Tree Plan 2604 LP-00	04	10.06.2022	John Lock & Associates
Landscape Plan 2604 LP-01	04	10.06.2022	John Lock & Associates
Stormwater Management Plan Cover Sheet & Notes C1	B	22.09.2020	ACOR Consultants Pty Ltd
Stormwater Management Plan – Basement C2	B	22.09.2020	ACOR Consultants Pty Ltd
Stormwater Management Plan – Level 1 C3	B	22.09.2020	ACOR Consultants Pty Ltd
Stormwater Management Plan – Details Sheet No.1 C4	B	22.09.2020	ACOR Consultants Pty Ltd
Stormwater Management Plan – Details Sheet No.2 C5	B	22.09.2020	ACOR Consultants Pty Ltd
PMF Flood Mitigation Works C6	B	22.09.2020	ACOR Consultants Pty Ltd

Approved Public Works Plans			
Drawing Schedule	C	24.09.2020	NB Consulting Engineers
Civil Access Plan Sheet 1	C	24.09.2020	NB Consulting Engineers
Civil Access Plan Sheet 2	C	24.09.2020	NB Consulting Engineers
Civil Access Plan Sheet 3	C	24.09.2020	NB Consulting Engineers
Longitudinal Sections Sheet 1	C	24.09.2020	NB Consulting Engineers
Longitudinal Sections Sheet 2	D	25.09.2020	NB Consulting Engineers
Longitudinal Sections Sheet 3	D	25.09.2020	NB Consulting Engineers
Longitudinal Sections Sheet 4	D	25.09.2020	NB Consulting Engineers

Sections & Details	C	24.09.2020	NB Consulting Engineers
Cover Sheet and Notes	F	06.07.2021	ACOR Consultants Pty Ltd
P2 – Site Plan	F	06.07.2021	ACOR Consultants Pty Ltd
P3 – Path Detail Plan Sheet No.1	F	06.07.2021	ACOR Consultants Pty Ltd
P4 - Path Detail Plan Sheet No.2	F	06.07.2021	ACOR Consultants Pty Ltd
P5 - Path Detail Plan Sheet No.3	F	06.07.2021	ACOR Consultants Pty Ltd
P6 - Path Detail Plan Sheet No.4	F	06.07.2021	ACOR Consultants Pty Ltd
P7 – Path Detail Plan Sheet No.5	F	06.07.2021	ACOR Consultants Pty Ltd
P8 - Path Detail Plan Sheet No.6	F	06.07.2021	ACOR Consultants Pty Ltd
P9 - Path Detail Plan Sheet No.7	F	06.07.2021	ACOR Consultants Pty Ltd
P10 - Path Detail Plan Sheet No.8	F	06.07.2021	ACOR Consultants Pty Ltd
P11 - Path Detail Plan Sheet No.9	F	06.07.2021	ACOR Consultants Pty Ltd
P12 – Long Section Sheet No.1	F	06.07.2021	ACOR Consultants Pty Ltd
P13 - Long Section Sheet No.2	F	06.07.2021	ACOR Consultants Pty Ltd
P14 - Long Section Sheet No.3	F	06.07.2021	ACOR Consultants Pty Ltd
P15 – Cross Section Sheet No.1	F	06.07.2021	ACOR Consultants Pty Ltd
P16 – Cross Section Sheet No.2	F	06.07.2021	ACOR Consultants Pty Ltd
P17 – Cross Section Sheet No.3	F	06.07.2021	ACOR Consultants Pty Ltd
P18 – Details Sheet No.1	H	19.07.2021	ACOR Consultants Pty Ltd
P19 – Details Sheet No.2	F	06.07.2021	ACOR Consultants Pty Ltd
P21 - Details Sheet No.3	F	06.07.2021	ACOR Consultants Pty Ltd
P22– Details Sheet No.4	F	06.07.2021	ACOR Consultants Pty Ltd

Approved Documents			
Reference	Revision	Date	Prepared By
BCA 2019 Indicative Compliance Report	2.0	27.09.2019	Building Innovations Australia
Access Report	D	22.09.2020	Vista Access Architects Pty Ltd
Operational Waste Management Plan	E	22.09.2020	Elephants Foot Recycling Solutions
Geotechnical Risk Management Report	-	20.10.2020	STS Geotechnics Pty Ltd
Geotechnical Risk Management Report	-	07.04.2021	EI Australia
Nathers and BASIX	G	01.07.2022	Sustainable Building Consultants

Assessment Report Issue G File Ref 22-3328			
Stormwater and Flood Impact Assessment Ref CC200310:BAK\kcd		20.01.2022	ACOR Consultants Pty Ltd

Arboricultural Impact Assessment Report	-	27.03.2021	Rain Tree Consulting
Arborist Report Tree 24 Grevillea Moonlight file 7322		09.06.2022	Rain Tree Consulting

- 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 \$45,191.54 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 \$4,519,150.00.

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

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).

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

6. 6A_Construction, Excavation and Associated Works Bond (Drainage works)

The applicant is to lodge a bond of \$40,200 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: Protection of Council's infrastructure

7. Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)

The applicant is to lodge a Bond of \$35,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: Protection of Council's infrastructure.

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

The developer/applicant must lodge with Council a maintenance bond of \$5,000 for the construction of stormwater drainage works and footpath in 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.

8A. Construction, Excavation and Associated Works Security Bond (Footpath Widening)

The developer/applicant must lodge with Council a bond of \$25,000 as security against any failure of the adhesive method (Bondall Bondcrete) proposed by the Approved Public Works Plans in Condition 1, specifically the new concrete extension to the widening of the existing footpath on the southern side of North Avalon Road that runs immediately adjacent to the kerb (in front of 5, 7, 9, 11 and 13 North Avalon Road and 64 Tasman Road) to achieve a width of 1.5m. The maintenance bond or any balance thereof will only be refunded to the developer/applicant upon completion of the two year maintenance period, and if Council are satisfied that the new extension works remain bonded to the existing footpath in accordance with the approved plans.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure adequate protection of Council infrastructure.

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

9. Amended Landscape Plan

The Approved Landscape Plan referenced in Condition 1 of this consent shall be amended to include the following details:

- a. to soften the built form within the side boundaries to the west and east, an additional eight (8) small native trees capable of attaining 5 metres in height at maturity shall be included with four (4) each to the west and east boundaries, planted at a pre-ordered 100 litre container size, and planted greater than 2 metres from building structures,
- b. the nominated Angophora along the western boundary shall be replaced with a small native trees capable of attaining 5 metres in height at maturity, planted at a pre-ordered 100 litre container size, and planted greater than 2 metres from building structures.

The Amended Landscape Plans are to be submitted to the Certifying Authority

prior to the issue of the construction certificate.

Reason: Landscape amenity.

10. DELETED

10A. Private open space of Dwelling 5

The plans are to be amended to provide an accessible area of private open space with an area of 15 square metres and minimum dimensions of 3m is to be provided to the rear of Dwelling 5 between the rear of the dwelling and the retaining wall shown on Drawing 102. The accessible area is to adjoin the western boundary of the private open space of Dwelling 5.

Reason: To provide adequate solar access an accessible area of private open space in Dwelling 5.

10B. Private open space of Dwelling 5

The dividing fence between Dwelling 5 and 9 is to be 1.8m in height.

Reason: To provide visual privacy between the two adjacent areas of private open space.

10B. Amendment to window design

The north facing window adjoining the kitchen space of Dwellings 4, 5, 9 and 10 is to be a full height window, extending from the FFL of the kitchen to the underside of the ceiling. Plans showing windows that comply with these requirements are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maximise the daylight and direct sunlight to the main living space of Dwellings 4, 5, 9 and 10.

11. 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.

12. Building Code of Australia Access requirements

The Building Code of Australia requirements as detailed in the Approved Access Report referenced in Condition 1 of this consent are to be carried out to the building.

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.

13. Flooding

In order to protect property and occupants from flood risk the development is to be constructed in accordance with the plans and documents prepared by ACOR and listed in Condition 1. The development must be constructed to ensure the structural integrity of the development in accordance with the approved plans.

Structural certification confirming the above, with details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

14. 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.

15. 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 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.

16. 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. 25 North Avalon Road, Avalon Beach
- b. 31 North Avalon Road, Avalon Beach

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report 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 rising 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.

17. On-Site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's 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.

The drainage plans must address the following:

- a. OSD to be provided in accordance with Clause 9.3.1 of Council's Water management for development Policy.
- b. OSD must be free draining.
- c. An overflow pipe shall be provided above the TWL within the overflow chamber and connected to the outlet pipe to prevent backflow.

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.

18. 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 roadway, for so much of the approved plans in Condition 1.

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, generally in accordance with the approved plans, for the design of the driveway crossing, footpath, reinstatement of existing driveway crossing, and stormwater connections from the site to new inlet pit which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer and access consultant.

- a. A 6.0 meter wide vehicular crossing in accordance with Northern Beaches Council Drawing No A4-3330/ 3NL.
- b. The construction of a 1.5m wide concrete footpath between the three proposed pedestrian pathways at the frontage of the site and the Tasman Road/North Avalon Road intersection, including the necessary kerb ramp at the corner.
- c. The widening of the existing footpath on the southern side of North Avalon Road that runs immediately adjacent to the kerb (in front of 5, 7, 9, 11 and 13 North Avalon Road and 64 Tasman Road) to achieve a width of 1.5m.
- d. The upgrade of the existing footpath on the southern side of North Avalon Road, from the western alignment of the existing building at 2 North Avalon Road to the intersection of North Avalon Road and Catalina Crescent, including the upgrade of the kerb ramp connecting to the pedestrian crossing to ensure safe access for seniors and people with a disability.
- e. The overall average gradient of any footpath shall be no more than 1:14, although the following gradients along the pathway are also acceptable;
 - i. a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
 - ii. a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
 - iii. a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.
- f. The footpath levels are to match the existing levels along the boundary of the site and adjoining properties.
- g. Junction/blind pit on the Council pipeline in front of 27-29 North Avalon Road with 900mm x 900mm Solid Gatic Cover – Class D at surface level to be constructed in accordance to Council's standard drawings; No lintel to be constructed within the nature strip.

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.

A Public Domain Plan for landscaping within the road reserve is to be submitted to the Certifying Authority, with sufficient detail design information including the following:

- a. alignment levels showing existing and proposed levels for altered driveway crossovers, new footpath and new kerb ramp,
- b. details of any utility alignment and level changes,
- c. details of the proposed pavement finishes,
- d. existing street trees to be removed,
- e. proposed street tree planting of minimum 75 litre container size, with a 1m x 1m x 700mm depth tree pit, backfilled with suitable planting medium. Trees are to be appropriately supported by four stakes (minimum 50mm x 50mm), top and mid rails, and hessian tied to the posts,
- f. existing grass areas are to be made good and replaced as necessary,
- g. any other design requirements under a Section 139 application
- h. the installation of two public benches in the locations shown on the Approved Public Works Plans referenced in Condition 1 of this consent.

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.

19. Further Arboricultural Assessment

The footpath works along North Avalon Road, as shown on the Approved Public Works Plans referenced in Condition 1 of this consent, are located within close proximity of existing canopy trees. An Amended Arborist Report is required to assess the potential impact of these works upon any existing tree within 5m of the works proposed, with recommendations to ensure the safe retention of all existing trees where possible.

The recommendations of Amended Arborist Report should not preclude compliance with the necessary access requirements prescribed by Condition 18, above.

Reason: To ensure the safe retention of existing street trees and tree on adjoining private property.

20. Works to Barrenjoey Road

The proposed pedestrian refuge on Barrenjoey Road shall be designed to meet TfNSW's requirements, and endorsed by a suitably qualified practitioner. The

design requirements shall be in accordance with AUSTRROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of the Construction Certificate by the Certifying Authority and commencement of road works.

The developer is required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to TfNSW's assessment of the detailed civil design plans.

Reason: To ensure compliance with the requirements of TfNSW.

20A. Amendments to Barrenjoey Road upgrade works

The Applicant is to amend the Public Work Plans in Condition 1 in respect of the Barrenjoey Road works, to upgrade the intersection of Barrenjoey Road / North Avalon Road as per Annexure C in the Supplementary Joint Traffic Report dated 20 July 2021 in Condition 1 with the right turn bay and eastern edgeline for the southbound travel lane of Barrenjoey Road required to be relocated to the south-east by 300mm.

21. Pre-Construction Stormwater Assets Dilapidation Report

The Applicant is to submit a pre-construction/demolition Dilapidation Survey of Council's Stormwater Assets in the road reserve is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The pre-construction/demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

22. Stormwater Drainage Application (Decommissioning Works)

The Applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the decommissioning of the existing DN600mm pipeline traversing through 27, 29, and 31 North Avalon Road, which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The application must include the design and methodology for the following works:

- a. The decommissioning, removal and disposal of the existing DN600mm pipeline within the site boundary of 27 and 29 North Avalon Road.
- b. Capping off the downstream section of the existing DN600mm pipeline at the Western boundary of 27 North Avalon Road. The pipeline shall be

- permanently capped off/plugged with concrete at the boundary.
- c. Capping upstream section of the DN600mm pipeline terminating at the Eastern boundary of 29 North Avalon Road. The pipeline shall be permanently capped off/plugged with concrete at the boundary
 - d. The Council pipeline section within 31 North Avalon Road shall be decommissioned and filled with concrete-sand slurry mix.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure decommissioning works are carried out to Council specifications.

23. 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 Reports referenced in Condition 1 of this consent are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

24. Traffic Management and Control

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

25. 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.

26. Sub-Soil Seepage

The Applicant is to submit plans demonstrating that all sub-soil seepage drainage is discharged via a suitable silt arrester pit, directly to Council's nearest stormwater drainage line being the proposed inlet pit in North Avalon Road and is to be carried out in accordance with relevant Australian Standards. (Note: At the time of determination the following (but not limited to) Standards applied:

- a. Australian/New Zealand Standard AS/NZS 3500.3 - 2003 Plumbing and drainage – Stormwater drainage
- b. Australian/New Zealand Standard AS/NZS 3500.3 - 2003 / Amdt 1 - 2006 Plumbing and drainage - Stormwater drainage.

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

Reason: To ensure appropriate drainage and stormwater management on site to protect amenity of residents.

27. Design and Certification of Stormwater Disposal from 31 North Avalon Road to the Council System

The applicant shall demonstrate how stormwater from 31 North Avalon Road is redirected to the Council System in North Avalon Road. Detailed drainage plans and certification are to be prepared by a suitably qualified Civil Engineer, demonstrating that the existing site stormwater can be redirected to the Council system in North Avalon Road in accordance with Council's Water Management for Development Policy.

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

Reason: To ensure appropriate drainage and stormwater management on site to protect amenity of residents.

28. 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:

- a. 600mm for shrubs
- b. 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).

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

29. Transplanting Methodology Plan

A Transplanting Methodology Plan, prepared by an Arborist with AQF minimum Level 5 qualifications in arboriculture, shall be documented to demonstrate the requirement for transplanting the proposed palm identified in the Arboricultural Impact Assessment as Number 16: *Livistona australis* (Cabbage Tree Palm), including:

- a. preparation of the site area including trenching techniques and schedule of works,
- b. preparation works of the palms to be transplanted,
- c. transplanting methodology and installation works,
- d. post-transplanting care and duration,
- e. ongoing maintenance program,
- f. replacement strategy if transplanting fails in the long term.

The Transplanting Methodology is to be submitted to the Certifying Authority for approval prior to issue of a construction certificate.

Reason: Tree protection.

30. 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.

31. 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

32. 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.

33. 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.

34. Tree removal within the property

This consent approves the removal of the following tree(s) within the property (as recommended in the Approved Arboricultural Impact Assessment and identified by the following ID number):

- a. 15 She Oak,
- b. 17 Spotted Gum,
- c. 18 Paperbark,
- d. 25 Swamp Mahogany,
- e. 26 Macadamia,
- f. 27 Paperbark,
- g. 29 She Oak,
- h. 30 Lillypilly,
- i. 40 Southern Mahogany,
- j. 52 Cheese Tree,
- k. 53 Swamp Mahogany,
- l. 54 Spotted Gum,
- m. 55 Swamp Mahogany,
- n. 56 Brushbox, and
- o. 58 Swamp Mahogany.
- p. 24 Grevillea Moonlight.

The following existing exempt trees by species type or under 5 metres in height require removal (as recommended in the Approved Arboricultural Impact Assessment and identified by the following ID number):

- a. 19 Paperbark,
- b. 28 Silky Oak,
- c. 32 Bottlebrush,
- d. 36 Bangalow Palm x 4,
- e. 39 Bottlebrush,
- f. 41 Banana Trees,
- g. 42 Hibiscus,
- h. 47 Mulberry, and
- i. 51 Mulberry.

Exempt species not to be removed include:

- a. 22 Gordonia, and
- b. 38 Fiddle Leaf Fig.

Reason: To enable authorised building works.

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.

(A) Replacement Tree Planting

One (1) locally native small tree shall be planted in the vicinity of the dead tree to be removed identified on plans and reports as tree 24, to achieve at least 6 metres height at maturity, and shall be selected from Northern Beaches Council's Native Plant Species Guide - Pittwater Ward, or Council's Tree Guide, and in accordance with the following:

- i) tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- ii) 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 watered until established.

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

Reason: To maintain environmental amenity.

35. Tree removal within the road reserve

This consent approves the removal of the following tree(s) within the road reserve (as recommended in the Approved Arboricultural Impact Assessment and identified by the following ID number):

- a. 5 Southern Mahogany,
- b. 7 Bauhinia,
- c. 8 Hibiscus,
- d. 9 She Oak,
- e. 10 Swamp Mahogany, and
- f. 14 She Oak.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services Section prior to removal.

Reason: Public liability.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

36. 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.

37. 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.

38. 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.

39. 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.

40. 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.

41. 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.

42. Notification of Inspections (Decommissioning Works)

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

- a. Pipeline removal within the site boundary of 27 and 29 North Avalon Road.
- b. Capping of downstream section of the DN600mm pipeline at the western boundary of 27 North Avalon Road.
- c. Capping of upstream section of DN600mm pipeline terminating at the eastern boundary of 29 North Avalon Road.

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 decommissioning works are carried out to Council standards.

43. 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/technicalmanuals/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.

44. Protection of existing street trees

All existing street trees (not otherwise permitted to be removed by this consent) in the vicinity of the works shall be retained during all construction stages, and the street trees fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites, and in accordance with Appendix F - Tree Protection Plan of the Approved Arboricultural Impact Assessment.

All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

Should any problems arise with existing trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Tree protection.

45. 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.

46. 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.

47. 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

48. 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.

49. Accessibility

A suitably qualified and accredited Access Consultant is to provide written certification that the design approved under MOD2022/0397 maintains compliance with the Access Report prepared by Vista Access Architects dated 22 September 2020.

A further certification shall be submitted to confirm that the as built development has 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 4 (Standards applying to hostels and independent living units) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Details demonstrating compliance are to be submitted to the Principal Certifying

Authority prior to the issue of the occupation certificate.

Reason: To ensure that the proposal maintains accessibility in accordance with legislative requirements.

50. Access to services

The upgrades to footpaths and landscaping in the public domain, as required by this consent (Condition 18 'Submission Roads Act Application for Works in the Public Road' and Condition 20 'Works to Barrenjoey Road') 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

51. External Materials and Finishes

The project builder & architect are to confirm that the as-built finishes of the development are consistent with the Amended Materials and Finishes Schedule required by 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 that the visual impact of the development is minimised.

52. 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.

53. 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).

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.

54. 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> 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.

55. 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.

56. 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.

57. 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.

58. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on title a positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. 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 positive covenant and restriction as to user for the pump out facility is to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard.

59. Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)

The Applicant shall submit a post-construction Dilapidation Survey of Council’s Stormwater Assets in the road reserve is to be prepared by a suitably qualified person in accordance with Council’s Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council’s Guidelines are available at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council’s stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council’s acceptance of the Dilapidation Survey is to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: Protection of Council’s infrastructure.

60. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the occupation certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

61. Positive Covenant for Geotechnical Maintenance

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council.

The Applicant shall create on title a positive covenant in respect to the ongoing maintenance in accordance with the recommendations of the Approved Geotechnical Report referenced in Condition 1 of this consent, as follows:

Structure	Maintenance/Inspection Item	Frequency
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Stormwater Drains	Owner to inspect to ensure that the drains and pipes are free of debris & sediment build-up. Clear surface grates and litter.	Every year or following each major rainfall event.
Retaining Walls or remedial measures	Owner to inspect walls for deviation from as constructed condition or for excess deterioration/rotation or signs of soil settlement/erosion or significant cracking adjacent to crest.	Every two years or following major rainfall events. Replace existing non-engineered walls as required.
Large Trees on or adjacent to site	Arborist to check condition of trees and remove branches and dead trees as required.	Every five years.

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 positive covenant and restriction as to user for the geotechnical maintenance recommendations is to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure the safe is maintained safe from geotechnical hazard.

62. Certification of Drainage Works and Works as Executed Data for 31 North Avalon Road

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 plans. Works as Executed data (details overdrawn on a copy of the approved drainage plans) certified by a registered surveyor prepared in accordance with Council’s ‘Guideline for preparing Works as Executed data for the redirection of stormwater from 31 North Avalon Road shall be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

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

63. Certification of Decommissioning Works

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 68 plans. Certification for the removal of the DN600mm pipeline within the subject site and the capping of the downstream and upstream sections 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.

64. 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.

65. Landscape completion

Landscaping is to be implemented in accordance with the Amended Landscape Plans required by this consent.

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.

66. 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.

67. 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.

68. 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.

69. 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.

70. 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.

71. 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.

72. 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.

73. 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.

ON-GOING CONDITIONS

74. Maintenance/Inspections to Minimise Geotechnical Risk

The site is to be maintained in accordance with the recommendations of the Approved Geotechnical Risk Management Report referenced in Condition 1 of the consent, specifically the following maintenance and inspection program:

Structure	Maintenance/Inspection Item	Frequency
Stormwater Drains	Owner to inspect to ensure that the drains and pipes are free of debris & sediment build-up. Clear surface grates and litter.	Every year or following each major rainfall event.
Retaining Walls or remedial measures	Owner to inspect walls for deviation from as constructed condition or for excess deterioration/rotation or signs of soil settlement/erosion or significant cracking adjacent to crest.	Every two years or following major rainfall events. Replace existing non-engineered walls as required.
Large Trees on or adjacent to site	Arborist to check condition of trees and remove branches and dead trees as required.	Every five years.

Reason: To ensure the site is maintained safe from geotechnical hazard.

75. 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.

76. 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.

77. Presentation of Waste and Recycling Bins for Collection

It is the responsibility of the owners' corporation to transfer the waste bins between the basement binroom and the street level holding bay. The bins must be stacked in the holding bay in a manner that allows collection staff unimpeded access to each material type separately.

Bins are to be transferred from the basement binroom to the holding bay no earlier than the evening prior to the scheduled day of collection and returned from the holding bay to the basement binroom no later than the evening of the scheduled day of collection.

Reason: To allow for efficient servicing of waste bins and preserve the public amenity of the area by ensuring waste bins are not left on the naturestrip for collection.

78. 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.

Annexure A

DETERMINATION OF APPLICATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Modification Application No:	MOD2022/0397
Development Consent modified:	2019/1260
Description of development to be carried out under the consent (as previously modified):	Demolition of existing structures and construction of a Seniors Housing development comprising 10 self-contained dwellings and site consolidation
Address and particulars of title of land on which development to be carried out:	Lot 33 DP 8394, 29 North Avalon Road, AVALON BEACH NSW 2107 Lot 32 DP 8394, 27 North Avalon Road, AVALON BEACH NSW 2107
Description of modification to the development consent:	Modifications to the footprint of each of the four buildings, glazing, the configuration of waste and hydrant booster, location of heating and cooling units, tree removal, and materials and finishes, roof over the central staircase, landscaping, and amendments to condition 1a, 10B and 34, with the deletion of condition 10.

Determination: The development consent is modified as follows:

1. Insert new conditions as follows:

1A. Modification of Consent - Approved Plans and supporting Documentation to read as follows (inserted by MOD2022/0397):

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By

Drwg 030 Rev J Site Plan	16.06.2022	Environa Studio
Drwg 101 Rev J Basement Plan	16.06.2022	Environa Studio
Drwg 102 Rev N Level 1 Plan	21.06.2022	Environa Studio
Drwg 103 Rev M Level 2 Plan	21.06.2022	Environa Studio
Drwg 110 Rev L Roof Plan	16.06.2022	Environa Studio
Drwg 120 Rev I Sections	21.04.2022	Environa Studio
Drwg 130 Rev K Elevations	19.05.2022	Environa Studio
Drwg 131 Rev L Elevations	16.06.2022	Environa Studio
Drwg 132 Rev M Elevations	21.06.2022	Environa Studio
Drwg 210 Rev L Materials and Finishes Schedule	19.05.2022	Environa Studio

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Nathers and BASIX Assessment Report Issue G File Ref 22-3328	01.07.2022	Sustainable Building Consultants
Stormwater and Flood Impact Assessment Ref CC200310:BAK\kcd	20.01.2022	ACOR Consultants
Arborist Report Tree 24 Grevillea Moonlight file 7322	09.06.2022	Rain Tree Consulting

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Drwg 2604LP-00 Existing Tree Plan Rev 04	10.06.2022	John Lock & Associates

Drwg 2604 LP-01 Landscape Plan Rev 04	10.06.2022	John Lock & Associates
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Reason: To ensure the work is carried out in accordance with the determination and approved plans.

2. Amend Conditions 10B, 34 & 49 to read as follows:

Amend Condition 10B – Private open space of Dwelling 5 – to read as follows (amended by MOD2022/0397):

The dividing fence between Dwelling 5 and 9 is to be 1.8m in height.

Reason: to provide visual privacy between the two adjacent areas of private open space.

Amend Condition 34 - Tree removal within this property - to read as follows (amended by MOD2022/0397):

This consent approves the removal of the following tree(s) within the property (as recommended in the Approved Arboricultural Impact Assessment and identified by the following ID number):

- a. 15 She Oak,
- b. 17 Spotted Gum,
- c. 18 Paperbark,
- d. 25 Swamp Mahogany,
- e. 26 Macadamia,
- f. 27 Paperbark,
- g. 29 She Oak,
- h. 30 Lillypilly,
- i. 40 Southern Mahogany,
- j. 52 Cheese Tree,
- k. 53 Swamp Mahogany,
- l. 54 Spotted Gum,
- m. 55 Swamp Mahogany,
- n. 56 Brushbox,
- o. 58 Swamp Mahogany, and
- p. 24 Grevillea Moonlight.

The following existing exempt trees by species type or under 5 metres in height require removal (as recommended in the Approved Arboricultural Impact Assessment and identified by the following ID number):

- a. 19 Paperbark,
- b. 28 Silky Oak,
- c. 32 Bottlebrush,
- d. 36 Bangalow Palm x 4,
- e. 39 Bottlebrush,
- f. 41 Banana Trees,

- g. 42 Hibiscus,
- h. 47 Mulberry, and
- i. 51 Mulberry.

Exempt species not to be removed include:

- a. 22 Gordonia, and
- b. 38 Fiddle Leaf Fig.

Reason: To enable authorised building works.

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.

(A) Replacement Tree Planting

One (1) locally native small tree shall be planted in the vicinity of the dead tree to be removed identified on plans and reports as tree 24, to achieve at least 6 metres height at maturity, and shall be selected from Northern Beaches Council's Native Plant Species Guide - Pittwater Ward, or Council's Tree Guide, and in accordance with the following:

- i) tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- ii) 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 watered until established.

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

Reason: To maintain environmental amenity.

Amend Condition 49 (Accessibility) to read as follows (amended by MOD2022/0397):

A suitably qualified and accredited Access Consultant is to provide written certification that the design approved under MOD2022/0397 maintains compliance with the Access Report prepared by Vista Access Architects dated 22 September 2020.

A further certification shall be submitted to confirm that the as built development has 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 4 (Standards applying to hostels and independent living units) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 that relates 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 that the proposal maintains accessibility in accordance with legislative requirements.

- 3. Delete condition 10 (Amended Schedule of Colours and Finishes) (deleted by MOD2022/0397)**