



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

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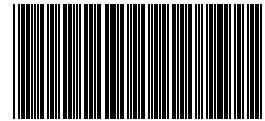
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Your Ref:



D000221EXB

11 December 2024

NOTICE OF ORDERS MADE

Case number	2023/00242901
Case title	Asia Digital Investments Pty Ltd v NORTHERN BEACHES COUNCIL

On 11 December 2024 the following orders (and/or directions) were made:

The Court orders that:

- (1) The written request seeking to justify the contravention of the height of buildings development standard at cl 4.3 of Pittwater Local Environmental Plan 2014, prepared by Boston Blyth Fleming and dated 19 June 2024, is upheld.
- (2) The appeal is upheld.
- (3) Development consent is granted to Development Application No. DA2022/0469 for construction of a shop top housing development above basement carparking at 1102 Barrenjoey Road, Palm Beach, subject to the conditions of consent in Annexure A.
- (4) All exhibits are retained except Ex B, Ex 1, 2, 3, 4 and 5.

For the Registrar

Annexure A**DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF
CONSENT**

Development Application No: DA2022/0469

Development: Construction of a shop top housing development above basement carparking

Site: 1102 Barrenjoey Road, Palm Beach NSW 2108

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

Date of determination: 11 December 2024

Date from which consent takes effect: Date of Determination.

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as 1102 Barrenjoey Road, Palm Beach NSW 2108.

The conditions of consent are as follows:

CONDITIONS**1. Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA.01 – Rev D – Site Plan Analysis	18/06/2024	Innovate Architects

DA.02a- Rev D – Massing Height Control	18/06/2024	Innovate Architects
DA.03 – Rev D - Demolition Plan	18/06/2024	Innovate Architects
DA.04 – Rev D – Site Plan	18/06/2024	Innovate Architects
DA.05 – Rev D – Basement Plan	18/06/2024	Innovate Architects
DA.06 – Rev E – Ground Floor Plan	18/06/2024	Innovate Architects
DA.07 – Rev D – First Floor Plan	18/06/2024	Innovate Architects
DA.08 – Rev D – Second Floor Plan	18/06/2024	Innovate Architects
DA.10 – Rev D – West Elevation	18/06/2024	Innovate Architects
DA.11 – Rev D – North, South and East Elevation	18/06/2024	Innovate Architects
DA.15 – Rev D – Sections	18/06/2024	Innovate Architects
DA.16 – Rev D – Sections	18/06/2024	Innovate Architects
DA.60 – Rev D – Materials and finishes	18/06/2024	Innovate Architects
DA.70 – Rev E – GFA & Landscape Calcs	18/06/2024	Innovate Architects
DA.73 - Rev D – Overlooking Analysis	18/06/2024	Innovate Architects
DA.74 - Rev D – Nat Ventilation/Adaptable	18/06/2024	Innovate Architects
DA.78 - Rev C – Perspectives	18/06/2024	Innovate Architects
DA.80 - Rev C – Clerestory Imagery	18/06/2024	Innovate Architects
DA.81 - Rev B – Waste Management Access	18/06/2024	Innovate Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
C000 Rev B – Cover Sheet	20/06/2024	Van Der Meer Consulting
C111 Rev B – Erosion & Sediment Control	20/06/2024	Van Der Meer Consulting
C151 Rev B – Erosion & Sediment Control	20/06/2024	Van Der Meer Consulting
C201 Rev B – Bulk Earthworks Plan	20/06/2024	Van Der Meer Consulting
C301 Rev B – Driveway 1 Plan	20/06/2024	Van Der Meer Consulting
C311 Rev B – Driveway 1 Long Section	20/06/2024	Van Der Meer Consulting
C351 Rev B - Driveway details	20/06/2024	Van Der Meer Consulting
C401 Rev B – Drainage Layout-Basement	20/06/2024	Van der Meer Consulting
C402 Rev B – Drainage Layout-Ground Floor	20/06/2024	Van der Meer Consulting
C451 Rev B – Drainage Details Sheet 1	20/06/2024	Van der Meer Consulting
S02-01 Rev 0 – Shoring Plan	18/06/2024	Van der Meer Consulting
S02-05 Rev 0 – Footing Plan	18/06/2024	Van der Meer Consulting
S02-11 Rev 0 – Shoring Elevations	18/06/2024	Van der Meer Consulting
S02-15 Rev 0 – Shoring Plan	18/06/2024	Van der Meer Consulting
S02-52 Rev 0 – Shoring & Footing Details	18/06/2024	Van der Meer Consulting

Landscape Plans		
Drawing No.	Dated	Prepared By

LCP-01 Rev J	20/06/2024	Fifth Season Landscapes
LCP-02 Rev H	20/06/2024	Fifth Season Landscapes
PLT-01 Rev G	20/06/2024	Fifth Season Landscapes
PLT-02 Rev I	20/06/2024	Fifth Season Landscapes

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Heritage Impact Statement	20/06/2024	Weir Phillips
SEPP 65 ADG Compliance Certification	18/06/2024	Cameron Rice Jones, Innovate Architects
Floodplain Management Report SY202- 105 Rev E	20/06/2024	Van Der Meer Consulting
Three-Dimensional(3D) Numerical Analysis 33618rpt2FEM	11/07/2024	JK Geotechnics
Structural Statement-Shoring Design	11/07/2024	Van der Meer Consulting
Geotechnical Monitoring & Contingency Plan	11/07/2024	JK Geotechnics
Three dimensional (3D) Numerical Analysis Geotechnical Monitoring and Contingency Plan	11/07/2024	
Updated Seepage Analysis and Geotechnical Assessment	22/03/2024	
Northern Beaches Geotechnical Risk Management Policy For Pittwater Form 1	17/10/2024	
Northern Beaches Geotechnical Risk Management Policy For Pittwater Form 1A	14/10/2024	
BASIX Assessment Report	20/06/2024	ESD Synergy
BASIX Certificate No.1186733M_05	20/06/2024	ESD Synergy
NatHERS Certificate 0005866650 & Plans	20/06/2024	ESD Synergy
BCA Compliance Assessment Statement	21/06/2024	Concise Certification
Waste Classification Report SC00089.01	21/04/22	Epic Environmental

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

In the event of any inconsistency between the 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. No Approval for Specific Use of Ground Floor Commercial Tenancies

No approval is granted under this Development Consent for any specific use of the ground floor commercial tenancies. The use of the ground floor commercial tenancies must be in accordance with the SEPP (Exempt and Complying Development Codes) 2008 or a separate development consent issued by Council.

Reason: To ensure the correct approval pathways are followed for the future use of the commercial tenancies.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the

- Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place. Reason: Legislative requirement.

4. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.
- Demolition and excavation works are restricted to:
- 8.00 am to 5.00 pm Monday to Friday only.
- (Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).
- (b) 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 of 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 centre.
- (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.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

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

5. Damage to Adjoining Structures

All precautions shall be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights shall be observed at all times. Where damage occurs to adjoining property, all necessary repairs or suitable agreements for necessary repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

Condition reason: Protection of adjoining property rights.

FEES/CHARGES/CONTRIBUTIONS

6. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$135,854.91 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 (as amended).

The monetary contribution is based on a development cost of \$13,585,491.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

7. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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 Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgment 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.

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

The applicant is to lodge a Bond of \$15 000 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.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**11. Amended landscape plan**

The specimen tree plantings within the courtyard and colonnade areas fronting Barrenjoey Road, shall be specified on the Landscape Plan as a low-height, deciduous species that, when at maturity, retains a naturally compact canopy and height so that oblique views to the adjoining heritage item (Barrenjoey House) are protected and maintained.

Amended plans demonstrating compliance with this condition and to include the following details shall be submitted prior to the issue of any Construction Certificate. Satisfactory plans will include the following:

- i) All pavement within the property frontage including the paved community area and footpath entries to the commercial tenancies and outdoor terraces shall satisfy the relevant slip resistance requirements of the relevant Australian Standards,
- ii) the minimum soil depth over the carpark basement for the planter works to the Barrenjoey Road frontage within the property shall be at least 600mm excluding drainage and waterproofing, and if required raised above ground level and finished with sandstone facing and capping,
- iii) the nominated *Rhapiolepis indica* shall not be planted and shall be substituted with a non- invasive species of similar size and form, however, the *Rhapiolepis indica* (Ri) nominated as screening hedge at the northern boundary of the community plaza is acceptable and shall achieve a mature height of 2 metres.
- iv) all proposed planting at the Barrenjoey Road frontage driveway shall not impeded pedestrian or driver visibility within the pedestrian/driver sight triangle identified on approved plans, and shall be limited to no more than 1.1 metres mature or maintained height.

Certification shall be provided to the Certifier that these amendments have been documented. Reason: Landscape amenity.

12. Amended Architectural Plans

Architectural plans DA.08, and DA.11 are to be amended to confirm all south facing windows on L2 to have obscure glazing to a height of 1.8m above FFL. Amended plans DA.08 and DA.11 shall be submitted prior to the issue of any Construction Certificate.

Architectural plan DA.60 is to be amended to stipulate that all trafficable areas on the roof visible from outside the property boundary are to be treated with light-coloured roof pebbles.

Reason: privacy and amenity of adjoining properties.

13. Public Domain Plan

As part of any works within the road reserve, a Public Domain Plan shall be submitted under a Section 138 application to Council, with sufficient detail design information including the following:

- i) alignment levels showing existing and proposed levels for altered driveway crossovers, and kerbs and gutters,
- ii) existing and proposed pavement levels, with proposed gradients no more than a 2.5% fall from building openings to top of kerb, and to match existing levels along adjoining properties,
- iii) details of any utility alignment and level changes,
- iv) details of the proposed pavement finish from building to kerb for the unpaved section, to match the existing paving unit,
- v) existing utility pit lids are to be altered to paver infill types to accommodate the proposed pavement type.

Reason: Compliance with Council standards for works on public land.

14. On Slab Landscape Works

Details shall be submitted to the Certifier 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 Certifier 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 on slab are required to support landscaping as proposed: 600mm minimum.

Design certification shall be submitted to the Certifier 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 ensure waterproofing and drainage is installed.

15. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water management for Development Policy. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification 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.

16. Purpose of Geotechnical Conditions

The geotechnical conditions below provide an appropriate level of rigour in the management and control of any risks posed by the geotechnical elements of the proposed development. This includes not only the design but also the sequencing and execution of the construction of the retention system, excavation, and appropriate monitoring and contingency plans.

Reference to 'Proposed Construction Methodology for Excavation of the Sandstone Boulders on the Southern Site Boundary' on Shoring Plan

The 'Shoring Construction Methodology' on Shoring Plan S02-01 is to be amended to reference the Proposed Construction Methodology for Excavation of the Sandstone Boulders on the Southern Site Boundary (Ref: 33618Ylet2rev4, dated 26 June 2023) as follows:

"SHORING CONSTRUCTION METHODOLOGY:

...

11. DEMOLISH THE TEMPORARY BUTTRESSES THEN POUR THE SLAB IN THE VOIDS WITHIN AND AROUND THE TEMPORARY BUTTRESS

NOTE: REFER TO PROPOSED CONSTRUCTION METHODOLOGY FOR EXCAVATION OF THE SANDSTONE BOULDERS ON THE SOUTHERN SITE BOUNDARY (REF: 33618YLET2REV4, DATED 26 JUNE 2023)"

Reason: Protection of adjoining properties.

Dilapidation Report – Council Assets

To assist with an assessment of claims for the refund of the security deposit over Council's property, a dilapidation report must be submitted to Council. The report must document and provide photographs and defect descriptions that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development. The defect descriptions must describe the location, length, width shape etc of the defect. Any damage not shown in this report will be taken to have been caused as a result of the site works undertaken, unless an alternative cause can be identified. Any damage must either be rectified at the Applicant's expense or deducted from the security deposit. The Dilapidation Report must be carried out prior to the issue of the Construction Certificate.

The Dilapidation Reports are to be prepared by a suitably Qualified Chartered (CPEng) Professional Civil, Structural or Geotechnical Engineer who is registered on the National Engineers Register (NER). A PDF copy of this Report must be submitted to Council as a record.

Dilapidation Report – Private Assets

Dilapidation Reports are to be undertaken on the properties at 1100, 1108, 11110 and 1110A Barrenjoey Road, Palm Beach. The report shall document and provide photographs and defect descriptions that clearly depict any existing damage. The defect descriptions shall describe the location, length, width, shape etc of the defect. Any damage not shown in these reports will be taken to have been caused as a result of the site works undertaken, unless an alternative cause can be identified. The Dilapidation Reports shall be carried out prior to the issue of the Construction Certificate.

The Dilapidation Reports are to be prepared by a suitably Qualified Chartered (CPEng) Professional Civil, Structural or Geotechnical Engineer who is registered on the National Engineers Register (NER). A copy of the relevant reports shall be submitted to the owners of all properties inspected and to Council as a record. Where two documented attempts have been made to gain access to a property and the owner has failed to respond, this is considered to represent refusal of access by the owner.

If an owner refuses access, or is deemed to refuse access for the purposes of this condition, this condition is deemed to be satisfied in respect of that property.

Condition reason: Protection of adjoining properties.

Vibration Limit Threshold

The vibration limit threshold for Barrenjoey House (1108 Barrenjoey Road) is to be 3mm/s unless alternative thresholds can be demonstrated following completion of dilapidation reports. The vibration limit threshold for the remainder the site shall be 5mm/s

Support and Protection for Adjoining Buildings

If an excavation associated with the approved development extends below the level of the base of the footings of a building on an adjoining allotment of land, the person having the benefit of the development consent shall, at the person's own expense, comply with the requirements of clause 74 of the Environmental Planning and Assessment Regulation 2021, articulated at Condition 4(e).

Details shall be submitted to the Certifier prior to the issue of a Construction Certificate.

Condition reason: Prescribed Condition

Numerical Analysis of Proposed Retention System

Following completion of dilapidation surveys and the Builder's Work Method Statement, if the dilapidation surveys reveal any pre-existing conditions in the adjoining buildings which are likely to be adversely impacted by predicted movements, or the Builder's work methodology assessed is different from methodologies assessed in the geotechnical reports, the numerical analysis (Ref 1) and associated documentation must be reviewed and updated, if required. The review and any further analysis must be completed by a suitably Qualified Chartered (CPEng) Professional Structural or Geotechnical Engineer who is registered on the National Engineers Register (NER). The results of the analysis must be presented in a report and must assess the potential impact of the proposed development on adjoining structures and demonstrate the suitability of the proposed retention system and construction sequencing.

The numerical analysis and report must be carried out **prior to the issue of the Construction Certificate.**

Condition reason: To confirm the design intent remains valid for protection of adjoining structures.

Geotechnical Monitoring and Contingency Program

Following completion of dilapidation surveys and the Builder's Work Method Statement, if the dilapidation surveys reveal any pre-existing conditions in the adjoining buildings which are likely to be adversely impacted by predicted movements, or the Builder's work methodology assessed is different from methodologies assessed in the geotechnical reports, the Geotechnical Monitoring and Contingency Plan (Ref 2) and associated documentation must be reviewed and updated, if required. The review and updating of the Geotechnical Monitoring and Construction Plan must be prepared by a suitably Qualified Chartered (CPEng) Professional Geotechnical Engineer who is registered on the National Engineers Register (NER). The results of the review must be presented in an updated report and take account of dilapidation survey and the Builders Work Method Statement.

The review of the Geotechnical Monitoring and Construction Plan must be carried out prior to the issue of the Construction Certificate.

Condition reason: To confirm that the design intent is realised during construction for the protection of adjoining properties.

Retention and Excavation Methodology

A retention and excavation methodology shall be prepared to clearly define the proposed retention and excavation techniques that will be

adopted during construction. This methodology shall be prepared by the builder in conjunction with the retention and excavation contractors and shall clearly specify the proposed staging of the works and the equipment proposed to be used. This methodology shall also incorporate the requirements of the Geotechnical Monitoring and Construction Plan.

The preparation of the Retention and Excavation Methodology shall be carried out prior to the issue of the Construction Certificate.

Condition reason: To confirm that the design sequencing will be adopted during construction and to manage the constructability risks associated with the construction of the retention system and the completion of excavation.

Conditions which must be Satisfied During any Development Work

Compliance with Geotechnical Monitoring and Contingency Plan

The Geotechnical Monitoring and Contingency Plan must be complied with during construction.

Amendment of the program may be made where agreed to by the author and documented by the author. If amendment is required, a copy of the amendments to the Geotechnical Monitoring and Contingency Plan shall be submitted to Council, and made publicly available by Council.

Condition reason: To confirm that construction requirements are being met.

Review of Excavation and Retention Methodology

The excavation and retention methodology shall be reviewed by a suitably Qualified Chartered (CPEng) Professional Geotechnical Engineer who is registered on the National Engineers Register (NER).

The review and approval of the retention and excavation methodology shall be carried out prior to the issue of the Construction Certificate.

Condition reason: To confirm that the design sequencing will be adopted during construction and to manage the constructability risks associated with the construction of the retention system and the completion of excavation.

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 Geotechnical Report prepared by JK Geotechnical (Ref:

33618Yrpt2, dated 11 July 2024) are to be incorporated into the construction plans. A detailed construction methodology for the retention of the southern boundary is to be included in the structural drawings. 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.

17. Flooding

In order to protect property and occupants from flood risk the following is

required: Flood Effects Caused by Development – A2

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 2.7 m AHD.

Building Components and Structural Soundness – B1

All new development below the Flood Planning Level of shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the Flood Planning Level (RL 3.2m AHD), taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Floor Levels – C1

New floor levels within the development shall be set at or above the Flood Planning Level (FPL) of RL 3.2m AHD. The front area can be below the FPL as long as it is within the first 5m of the commercial shop front entrances.

Car parking – D6

All access, ventilation and any other potential water entry points, including entry ramp crests to the basement car park shall be at or above the Flood Planning Level of RL 3.2m AHD.

Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards.

Recommendations

The development must comply with the recommendations outlined in the Floodplain Management Report Palm Beach Mixed Use Development 1102 Barrenjoey Road Palm Beach prepared by van der meer dated 20/06/2024.

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.

18. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- i Site Boundaries and contours
- i Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- i Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- i Existing and proposed drainage patterns with stormwater discharge points
- i Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- i North point and scale.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval

prior to the issue of the Construction

Certificate. Reason: Protection of the

receiving environment.

19. Detailed Design of Stormwater Treatment Measures

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the Stormwater plan (van der Meer Consulting, SY202-105 rev B C111, C151, C201, C301, C311, C351, C401, C402, C451 20.06.2024) and Council's Water Management for Development Policy.

The certificate shall include the results of the water quality model (MUSIC or equivalent). The water quality is to meet (as a minimum) table 5 (General Stormwater Quality Requirements) of the water Management for Development policy.

The certificate shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

20. Car Parking Standards

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

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

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

21. Construction Traffic Management Plan

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

Due to traffic congestion issues in peak period truck movements should be limited during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

The CTMP must address following:

- i The proposed phases of construction works on the site, and the expected duration of each construction phase
- i The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- i Make provision for all construction materials to be stored on site, at all times
- i The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- i The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed

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

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

“Traffic Control at Work Sites”.

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

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

22. Removal of Redundant Driveways

All redundant driveways shall be removed and reinstated to Transport for NSW standard kerb and gutter. Suitably prepared plans shall be submitted to Council for an approval under the Roads Act prior to the issue of the Construction Certificate. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

23. Vehicle Access & Parking

All internal driveways, vehicle turning areas, garages and vehicle parking space/loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken;

- Swept path plots shall be provided to demonstrate that forwards access to and from the site to/from space C10 is achievable by a B85 vehicle in compliance with the requirements of AS2890.1

All internal driveways and vehicle access ramps must have ramp grades and transitions complying with AS 2890.1. To ensure the gradient requirements and height clearances are satisfied, a driveway profile must be prepared for all internal ramps showing ramp lengths, grades, surface RL's and overhead clearances, taken from the crest of the ramp to the base. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

Plans prepared by a suitably qualified Engineer shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

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

24. Acoustic Treatment

The common walls between the bedrooms of one unit and the living rooms or bathrooms of an adjoining unit are to be constructed to a minimum of 10Rw (sound reduction index) units above the minimum requirement specified in the

Building Code of Australia for separating wall construction applicable to this building. Details are to be provided to the Certifier prior to the issue of a Construction Certificate.

Reason: To provide for internal acoustic amenity.

25. Building Code of Australia Fire Safety Requirements

The Building Code of Australia fire safety measures for the building as detailed and recommended in the BCA Assessment Report prepared by Code Consultancy Group, dated 5/3/2022, Report Ref No. 22007-1 and including any proposed Performance Solutions are to be considered as part of the assessment of the Construction Certificate. 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.

26. Building Code of Australia Access

Access and facilities to and within the building are to be provided for Persons with a Disability and are to comply with the Building Code of Australia and AS 1428.1. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

27. Submission Roads Act Application for Civil Works in the Public Road

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of vehicular crossing and civil works in the road reserve 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. The design must include the following information:

1. A vehicular crossing 5.5 meters wide to be constructed in accordance with concept plans by Van der Meer Consulting, job number SY202-105 B, drawing number C301, C311, dated 20/06/2024 and council specifications.
2. Sight distances are to be in accordance with AS/NZS2890.1.
3. Kerb and gutter construction along the frontage of the site.
4. Reconstruction of the footpath along the frontage of the site as required.
5. Site stormwater connection to the new kerb inlet pit in Barrenjoey Road.
6. Concurrence from TfNSW for the drainage works and gutter crossing.
7. Road reserve along the southern edge of the proposed drive to be graded to match existing levels of the adjacent driveway.

8. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

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

28. 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.

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.

29. Noise - Design of Mechanical Plant and Exhaust Riser

Prior to the issue of a Construction Certificate, the design, specifications and location of noise generating mechanical plant are to be provided to the Principal Certifier. An acoustic assessment is to be undertaken by a suitably qualified professional such as an acoustic engineer to determine any acoustic treatments to control noise emissions from all rooftop mechanical plant and the exhaust riser in accordance with *Noise Policy for Industry 2017*.

Any design recommendations made by the consultant must be implemented into the plans prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of this consent.

Details demonstrating compliance are to be submitted to the satisfaction of the Principal Certifier.

Reason: To maintain residential acoustic amenity.

30. 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.

31. Surrender of Existing Consent

The applicant shall surrender to Council Development Consent N0119/14 in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

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

Reason: To prevent inconsistencies between consent applying the site.

32. 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.

33. Structural engineering assessment

Prior to the issue of any Construction Certificate, a Structural Engineering assessment report accompanied by working drawings and specifications, must be submitted to the satisfaction of Council and must demonstrate the measures that will be implemented, together with the methodology for undertaking excavation works both within the vicinity and adjacent to the Barrenjoey House, 1108 Barrenjoey Road, Palm Beach NSW 2108

The Structural Engineering assessment report, working drawings and specifications, to be deemed satisfactory, must:

- a) Be prepared by a suitably qualified Structural Engineer with demonstrated experience in dealing with items of heritage significance and heritage fabric; and
- b) Demonstrate that the heritage item can be retained in a safe manner that will not require material affectation (such as deconstruction, new penetrations or the like) to otherwise underpin, support or ensure the retention; and
- c) Demonstrate and certify that the excavation works will not cause the collapse in part or in full of any section of the building of Barrenjoey House, its footings or substrate, as shown on the approved to be retained.

Reason: Heritage conservation.

34. Tanking of Basement Level

The basement area is to be permanently tanked. The Applicant is to submit structural details of the tanking, prepared by a suitably qualified Engineer to the Certifier.

Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage, unless an alternate method for temporary dewatering works is proposed that does not require a bore license. Any bore license required to be obtained must be obtained prior to commencement of dewatering works. All requirements of Water NSW are to be complied with and a copy of the approval must be submitted to the Certifier.

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

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements.

35. Sewer line on adjacent property

Prior to the issue of any Construction Certificate, notification of the following documentation must be issued to Sydney Water:

- a) Copies of all construction plans;
- b) Geotechnical Monitoring and Contingency Plan (ref 33618Yrptrev GMP or as updated per Condition 15); and
- c) Conditions of Consent.

Reason: To prevent adverse impacts to the cast iron sewer main running through 1100 Barrenjoey Road, Palm Beach.

36. Substation Land

Architectural plan DA.04 Rev D dated 18/06/2024 (Site Plan) identifies work and structures, endorsed by Council, intended to be completed over a road reserve along Barrenjoey Road identified in the red square below in Figure 1:

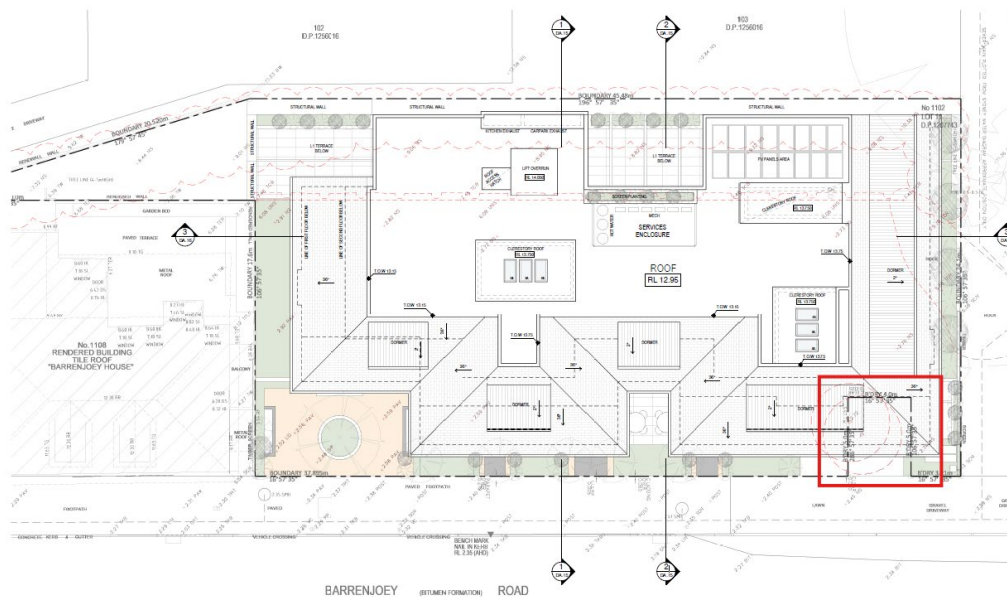


Figure 1: Extract from Architectural plan DA.04 Rev D dated 18/06/2024 (Site Plan)

Insofar as the works approved by this Consent require work to be undertaken in the road reserve along Barrenjoey Road, the Applicant is to submit an application for approval for structures over the road reserve with Council in accordance with Section 138 of the Roads Act 1993.

Consent required by this condition 43 is to be registered as a positive covenant over Lot 11 in DP1207743, 1102 Barrenjoey Road, Palm Beach NSW 2108.

The fee associated with the assessment and approval of the Section 138 application required by this condition 43 is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifier prior to the issue of a Construction Certificate. Reason: To facilitate structures over the former substation land.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

37. Not Used

38. Work Zones and Permits

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

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and Transport for NSW consent shall be obtained in advance of a Work Zone on State Roads a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

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

39. Road Occupancy Licence

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from the Transport for NSW Transport Management Centre for any works that may impact on traffic flows on Barrenjoey Road.

Reason: Requirement of TMC for any works that impact on traffic flow.

40. Demolition Prior to Construction Certificate

No demolition works are to occur prior to the issuing of a construction certificate.

41. Heritage site induction ('toolbox talks')

Prior to the commencement of any works, all contractors, tradesmen and the like, shall be given a heritage site induction ('toolbox talk').

The heritage site induction shall be delivered by a suitably qualified Heritage Consultant and shall ensure that all contractors, tradesmen and the like, are made aware that:

- a) The site immediately adjoins an item of heritage significance; and
- b) There are statutory obligations under the National Parks and Wildlife Act 1974 and Heritage Act 1977 for all works to cease and Council to be notified of any unexpected built archaeological or Aboriginal archaeological finds during works.

Reason: To ensure all persons undertaking works on the site are aware of the heritage restrictions and obligations.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

42. Protection of Rock Outcrops

The existing rock outcrop outside of the area of approved works is to be preserved and protected, proposed as a elevated rock outcrop, at all times during demolition excavation and construction works.

Reason: Preservation of significant environmental features.

43. 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.

44. Wildlife Protection

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

Reason: To protect native wildlife.

45. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared prior to commencement of any other works on site.

Erosion and sediment controls 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 vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

46. Substitution of Stormwater Treatment Measures

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must be submitted to the Principal Certifying Authority for approval prior to installation.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

47. Dewatering Management

A permit from Council is required for any dewatering of groundwater (contact catchment@northernbeaches.nsw.gov.au).

The construction dewatering must be compliant with the General Terms of Approval and approvals issued by WaterNSW, Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Reason: Protection of the receiving environment and groundwater resources.

48. Staff and Contractor Parking

All Staff and Contractors are to use the basement parking once available, and if safe to do so. All necessary facilities are to be provided to accommodate this requirement including lighting in the basement, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity.

49. Implementation of Construction Traffic Management Plan

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

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

50. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

51. 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.

52. 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 Certifier.

Reason: To protect human health and the environment.

53. Assessment of excavated soil before removal from site and disposal

In accordance with the Waste Classification report recommendations, dated 21st April 2022, prepared by EPIC Environmental Pty Ltd excavated soil is to be assessed by a suitably qualified person for contamination (and appropriate storage/treatment/disposal) before removal from site. Documentation being provided to the Principle Certifier before further work proceeds of site.

Reason: To protect the Environment

54. Noise from dewatering pump during construction

The pump required for any dewatering of the basement shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

55. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated Waste Management Plan prepared by Reform Projects, as submitted with this application .

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

56. Waste/Recycling Requirements (Materials)

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, 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.

57. Compliance with Monitoring Program

The monitoring program prepared to fulfil Condition 15 Monitoring Program shall be complied with during construction. Amendments of the program may be made where agreed and documented by the author.

Condition reason: To confirm that construction requirements are being met.

58. Compliance with Retention and Excavation Methodology

The retention and excavation methodology prepared to fulfil Condition 15 Retention and Excavation Methodology shall be complied with during construction.

Amendment of the methodology may be made where agreed and documented by a suitably Qualified Chartered (CPEng) Professional Civil, Structural or Geotechnical Engineer who is registered on the National Engineers Register (NER).

Condition reason: To confirm that the methodology is being followed.

59. Archaeology

As required by the National Parks and Wildlife Service Act 1974 and the Heritage Act 1977, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately, and Council and Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including any the statutory requirements under the Heritage Act 1977.

Note: The National Parks and Wildlife Service Act 1974 and the Heritage Act 1977 impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

Reason: Statutory requirements for the protection of archaeology.

60. Temporary storage of materials, equipment and waste during works

All construction materials, equipment and demolition / construction waste shall be stored wholly within the allotment boundaries and shall be stored, contained or stockpiled in such locations that do not cause any impacts to existing built structures including ancillary structures, walls or fences, or established gardens.

Reason: Protection of significant features of the site.

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

61. Landscape Completion

Landscape works are to be implemented in accordance with the approved Amended Landscape Plans.

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

Reason: Landscape amenity

62. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

63. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

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

Reason: To protect wildlife habitat.

64. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

65. Priority Weed Removal and Management

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) within the development footprint are to be removed.

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

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

66. Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands.

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 is to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

67. Stormwater Treatment Measures Operation and Maintenance Plan

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
 - a) Work as executed drawings
 - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
 - c) Site detail showing catchment for each device
 - d) Vegetation species list associated with each type of vegetated stormwater treatment measure
 - e) Impervious area restrictions to maintain the water balance for the site
 - f) Funding arrangements for the maintenance of all stormwater treatment measures
 - g) Identification of maintenance and management responsibilities
 - h) Maintenance and emergency contact information
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
 - a) Activity description, and duration and frequency of visits Additionally for vegetated devices:
 - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure
3. Maintenance schedule and procedure – ongoing
 - a) Activity description, and duration and frequency of visits

- b) Routine maintenance requirements
- c) Work Health and Safety requirements
- d) Waste management and disposal
- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

68. Works as Executed Drawings - Stormwater Treatment Measures

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

69. Strata Management Statement

The Strata Management Statement must specifically list the stormwater treatment measures that will be maintained under strata title. The statement must also include the Stormwater Treatment Measure Operation and Maintenance Plan.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To ensure maintenance of all stormwater management assets and protection of the receiving environment.

70. Allocation of parking spaces (strata title)

All carparking spaces are to be assigned to individual units. All residential units must be assigned two parking spaces. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure adequate parking availability for residents.

71. Allocated Parking Spaces (retail/commercial)

Commercial parking allocated to this development must be clearly signposted and linemarked as being for the exclusive use of this development. Details

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

Reason: To ensure parking availability.

72. Disabled Parking Spaces

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

73. Shared Zone Bollard

A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

74. 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:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- 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.

75. Mechanical Ventilation certification

Prior to the issuing of an Occupation Certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and

installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To ensure that the mechanical ventilation system complies with the design requirements.

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

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

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

77. 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.

78. 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.

79. Acoustic Report Certification

Prior to any Occupation Certificate being issued, a further acoustic assessment is to be undertaken by a qualified and experienced person(s) to confirm compliance with any recommendations within the acoustic report used for release of the Construction Certificate.

Any recommendations made by the consultant must be implemented prior to issuing the Occupation Certificate in order to achieve compliance with noted conditions of this consent. The updated acoustic assessment is to be submitted to Council at the satisfaction of the Principal Certifier.

Reason: To protect residential acoustic amenity.

80. 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.

81. Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)

The units within the development are to be numbered in accordance with NSW Address Policy and User Manual.

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

Reason: To ensure consistent numbering for emergency services access.

82. 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 any interim / final Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided.

83. 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 any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

84. Positive Covenant for Council and Contractor Indemnity

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities at street level. 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.

85. 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.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**86. 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 approved Landscape Plans and any conditions of consent.

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.

The approved landscape area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

87. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

88. Maintenance of Stormwater Treatment Measures - Major

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

89. Sight lines within carparks

The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

90. Transfer of bins between the basement binroom and the street level holding bay.

The vehicular driveway must not be used to transfer bins between the basement binroom and the street level holding bay.

Reason: To prevent conflict between vehicles and pedestrians on the vehicular driveway.

91. Commercial Waste and Recycling Storage

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

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

92. Amenity

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997.