

2 November 2021

Ces Koutsos  
Level 3 Suite 3 273 Alfred Street  
NORTH SYDNEY NSW 2060

Dear Sir/Madam

**Application Number:** Mod2021/0039  
**Address:** Lot CP SP 31058 , 11 Victoria Parade, MANLY NSW 2095  
Lot 1 DP 77358 , 9 Victoria Parade, MANLY NSW 2095  
**Proposed Development:** Modification of Court Consent DA0220/2013 under s4.56 of the  
EP&A Act, granted for demolition works, construction of a mixed  
use development and strata subdivision

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

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

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

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

Regards,



Rebecca Englund  
**Manager Development Assessments**

## NOTICE OF DETERMINATION

<b>Application Number:</b>	Mod2021/0039
<b>Determination Type:</b>	Modification of Development Consent

### APPLICATION DETAILS

<b>Applicant:</b>	Ces Koutsos
<b>Land to be developed (Address):</b>	Lot CP SP 31058 , 11 Victoria Parade MANLY NSW 2095 Lot 1 DP 77358 , 9 Victoria Parade MANLY NSW 2095
<b>Proposed Development:</b>	Modification of Court Consent DA0220/2013 under s4.56 of the EP&A Act, granted for demolition works, construction of a mixed use development and strata subdivision

### DETERMINATION - APPROVED

<b>Made on (Date)</b>	20/10/2021
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The request to modify the above-mentioned Development Consent has been approved as follows:

#### **A. Add Condition No.DA1A - Modification of Consent - Approved Plans and supporting Documentation, to read as follows:**

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

##### a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A1.00 Site Plan - Revision 2	Jul 2020	Platform Architects
A1.01a Second Basement Plan - Revision 2	Jul 2020	Platform Architects
A1.01b First Basement Plan - Revision 2	Jul 2020	Platform Architects
A1.02 Ground Floor Plan - Revision 4	21.7.2021	Platform Architects
A1.03 First Floor Plan - Revision 4	21.7.2021	Platform Architects
A1.04 Second Floor Plan - Revision 4	21.7.2021	Platform Architects
A1.05 Third Floor Plan - Revision 4	21.7.2021	Platform Architects
A1.06 Fourth Floor Plan - Revision 4	21.7.2021	Platform Architects
A1.07 Fifth Floor Plan - Revision 4	21.7.2021	Platform Architects
A1.08 Sixth Floor Plan - Revision 4	21.7.2021	Platform Architects
A1.09 Roof Plan - Revision 4	21.7.2021	Platform Architects
A1.10 Adaptable Layouts - Revision 2	Jul 2020	Platform Architects
A2.01 Southeast Elevation - Revision 4	21.7.2021	Platform Architects

A2.02 Southwest Elevation - Revision 4	21.7.2021	Platform Architects
A2.03 Northwest Elevation - Revision 4	21.7.2021	Platform Architects
A4.04 Northeast Elevation - Revision 4	21.7.2021	Platform Architects
A3.02 Cross Section - Revision 4	21.7.2021	Platform Architects
External Finishes Schedule - Revision 3	21.7.2021	Platform Architects

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
C-0000 Locality Plan and Drawing Index - Revision A	1.9.2020	BG & E
C-0200 Concept Stormwater Management Plan - Revision C	22.7.2021	BG & E

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate 499050M_02	30.11.2020	AGA Consultants
Report on Geotechnical Site Investigation 2013-141.2 (All report recommendations with Sections 5 and 6)	11.9.2020	Crozier Geotechnical Consultants
Heritage Impact Statement (Sections 8.6 to 8.21 and Sections 9.1 to 9.4)	Dec 2019	Architectural Projects

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Sheet 1 of 2 Landscape Plan Ground Floor and Level 1 - Issue A	23.9.2020	Paul Scrivener Landscape Architecture
Sheet 2 of 2 Landscape Plan Level 4 and 5 - Issue A	23.9.2020	Paul Scrivener Landscape Architecture

<b>Waste / Sediment Erosion Management Plan</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
C-0700 Erosion and Sediment Control Plan - Revision A	1.9.2020	BG & E
C-0710 Erosion and Sediment Control Details	1.9.2020	BG & E

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

**B. Delete Condition No. ANS01, to read as follows:**

"ANS01 - DELETED"

**C. Modify Condition No.ANS08, to read as follows:**

"ANS08 Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The design and construction recommendations and risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by *Crozier Geotechnical Consultants* dated 11.9.2020 are to be incorporated into the construction plans prior to issue of the Construction Certificate.

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."

**D. Modify Condition No. ANS10, to read as follows**

" ANS10 Requirements of Other Department, Authority or Service Providers

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	11.3.2021
Natural Resource Access Regulator	NRAR Referral Response	18.3.2021

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies."

**E. Delete Condition No. ANS13, to read as follows:**

"ANS13 - DELETED"

**F. Modify Condition No.ANS15, to read as follows:**

"ANS15 Acid Sulfate Soils

As recommended in the report 11.9.2020 submitted by *Crozier*, project number: 2013-141.2, additional soil testing is to occur after demolition. Should these test results identify the presence of Acid Sulfate Soils an Acid Sulfate Soils Management Plan in accordance with the *Acid Sulfate Soils Manual* is to be submitted to Council / Accredited Certifier prior to the commencement of bulk excavation.

Reason: Manage the risks associated with bulk excavation."

**G. Delete Condition No.5 (2BM03), to read as follows:**

"5 (2BM03) - DELETED"

**H. Modify condition No.15 (2DS01), to read as follows:**

**"15. 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 MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003, and generally in accordance with the concept drainage plans prepared by BG& E consultant, project noS20059, Drawing no. C-0000, C- 0200 and C-0700 as per condition DA1A.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development"

**I. Modify condition No. 16 (2DS02), to read as follows:**

**"16. Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the *Roads Act 1993*. 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 facilitate suitable vehicular access to private property."

**J. Modify condition No.20 (2FP02), to read as follows:**

**"20. Vehicle Crossings**

The Applicant is to construct a vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

**K. Modify condition No. 24 (2HT02), to read as follows:**

**24. Heritage Consultation**

The applicant at their cost is to commission an experienced heritage architect to work with the consultant team throughout the design development, contract documentation and construction stages of the project.

The heritage architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition.

The heritage architect is to be provided with full access to the site, including during the demolition phase of the development, and must respond directly to Northern Beaches Council where Council requires information or clarification regarding the resolution of heritage issues throughout the project.

Written details of the engagement of the experienced heritage architect must be submitted to Council prior to issuing any Construction Certificate works on the site.

Reason: To ensure that all matters relating to significant fabric and spaces are resolved using best practice for heritage conservation."

**L. Modify Condition No.26 (2HT04), to read as follows:**

**"26. External Finishes**

The external finishes used for construction are to be in accordance with drawing reference: External Finishes Schedule s4.55 Updated Revision 3. On the heritage building the external colour scheme for surfaces intended for painting is to be based where possible on physical and documentary evidence in keeping with the architectural style and period of the original building.

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

Reason: To ensure the proposed colour scheme is appropriate to the type and style of the building and the surrounding area."

**M. Delete Condition No.32 (2MS03), to read as follows:**

"32 (2MS03) -DELETED"

**N. Delete Condition No.42 (2WM05), to read as follows:**

"42 (2WM05) -DELETED"

**O. Modify condition No.43A (2US01), to read as follows:**

"43A Residential Development Contributions

A development contribution is to be paid for the provision of or increase to the demand for public amenities and public services as a consequence of the residential development of the site. The contribution for the residential component of this development is **\$240,000.00** being \$20,000 per additional dwelling (based on 12 additional dwellings).

This contribution shall be paid to Council prior to the release of the Construction Certificate.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from this development."

**P. Modify condition No.43B (2US02), to read as follows:**

"43B Commercial Development Contributions.

A development contribution is to be paid for the provision, extension or augmentation of traffic and parking, environmental programs, streetscape and landscaping, community facilities and administration that will, or are likely to be, required as a consequence of the non-residential development of the site.

The non-residential contribution for this development is **\$5,222.84**. This contribution will be adjusted by CPI at time of payment in accordance with the Manly Section 94 Contributions Plan.

The calculation for this contribution is as follows:

(Additional floorspace = 19.8sqm  
\$26,378.20 x 19.8sqm divided by 100 = \$5,222.84)

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from this development."

**Q. Add condition No.43C Basement carparking, to read as follows:**

"43C Basement carparking

The basement carparking layout is to be reconfigured to ensure a minimum of:

- Six (6) visitor car spaces (including 1 x AS1428 compliant space) shared for the building; and
- Fifteen (15) residential car spaces (allocated as one (1) for each apartment, with at least one (1) of the 15 residential car spaces being AS1428 compliant).

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

Reason: Maintain consistency with the parking requirements including the Apartment Design Guide."

**R. Add condition No.43D Bicycle Racks and Storage, to read as follows:**

"43D Bicycle racks and Storage

Provision of bicycle racks and storage:

- A fifteen (15) slot bicycle rack in the basement (being a minimum for 1 bicycle per apartment); and
- Fifteen (15) storage cages in the basement (being a minimum 8 cubic metres storage for each apartment); and
- One (1) 'visitor' bike rack to be provided in front of "Retail 1".

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

Reason: Maintain consistency with the parking requirements including the Apartment Design Guide."

**S. Add condition No.43E 13 Terrace Areas - Unit 12 and 13, to read as follows:**

"43E Terrace Areas - Unit 12 and 13

- The eastern side terrace area, planter box structures and balustrade for Unit 12 (RL17.45) is to be setback 5.0m from the side boundary with No.13 Victoria Parade; and
- The eastern side terrace area, planter box structures and balustrade for Unit 13 (RL17.45) is to be setback 3.5m from the side boundary with No.13 Victoria Parade.

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

Reason: To minimise view impacts toward St Patricks Estate from No.2 Wentworth Parade and minimise amenity (privacy & natural light impacts) on living areas / bedroom areas within No.13 Victoria Parade."

**T. Add condition No.43F Window Glazing, to read as follows:**

"43F. Window Glazing

- All windows marked "FIX" for Units 15, 14, 12, 8, and 1 on the western side elevation facing No.5-7 Victoria Parade are to use translucent glazing or fixed privacy treatment.

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

Reason: To minimise privacy impacts between adjacent dwellings."

**U. Add condition No.43G Light Well, to read as follows:**

"43G. Light Well

- The wall alignment position / shape for the light well (Units 6, 7, 11, & 13) is to remain as per the



approved plans.

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

Reason: To maintain the same light / air well alignment for amenity to kitchen / bathroom area windows within No. 5-7 Victoria Parade"

**V. Add condition No.43H Level 1 and 2 Street Facade, to read as follows:**

"43H. Level 1 and 2 street facade

The forward corner of the curved front balcony and centre (inner corner) curved wall corner fronting Victoria Parade for Unit 6 and Unit 7 are to be straightened to the satisfaction of the Council's Executive Manager of Development Assessment in order to better complement the adjacent heritage element; and

The front balcony for Unit 10 is required to have a 2.0m minimum depth dimension. The compliant width is to be provided without further intrusion forward into the hipped roof section of the heritage building retained.

Details are to be provided to the satisfaction of the Executive Manager of Development Assessment prior to the issue of a Construction Certificate. The Construction Certificate is to be amended to incorporate this design.

Reason: Heritage and streetscape considerations."

**W. Modify condition No.79 (5DS03), to read as follows:**

"79. Works Supervision

The Applicant shall ensure all civil works, including excavation, approved in this consent are supervised by an appropriately qualified and practising Civil Engineer and Geotechnical Engineer.

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

Reason: To ensure compliance of building and safety standard."

**X. Modify condition No.80 (5DS02), to read as follows:**

"80. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

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 restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures 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 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 the on-site stormwater disposal system is maintained to an appropriate operational standard."

**Y. Add Condition No.99A Landscape Completion, to read as follows:**

"99A Landscape Completion

Landscaping is to be implemented in accordance with the approved Landscape Plan.

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

Reason: Environmental amenity."

**Z. Add Condition No.99B Landscape Maintenance, to read as follows:**

"99B. Landscape Maintenance

a) 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.

b) 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.

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

Reason: To maintain local environmental amenity."

**AA. Add Condition No. 99C Study / Office Rooms, to read as follows:**

"99C Study / Office Rooms

Any rooms marked as "Study" or "Office" rooms within the residential apartments on the approved plans dated 21.7.2021, are not to be used / converted for use as bedrooms. This is to be enforced in

the building by-laws.

Details are to be provided to the satisfaction of the Principal Certifying Authority prior to final occupation / completion.

Reason: Compliance with approved plans and limited available natural light / ventilation as per National Construction Code standards."

**AB. Add Condition No.99D Commercial Waste and Recycling Storage, to read as follows:**

"99D 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."

**AC. Add Condition No.99E Access to Residential Waste Storage Room for Service Staff, to read as follows:**

"99E Access to Residential Waste Storage Room for Service Staff

The external door (service door) must be able to open flat against the wall of the building and be able to be latched open in this position.

Reason: To ensure unimpeded access to the bin storage room whilst servicing bins."

**AD. Add Condition No.99F Garbage and Recycling Facilities, to read as follows:**

"99F. 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."

**AE. Add Condition No.99G Waste and Recycling Facilities Certificate of Compliance, to read as follows:**

"99G 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 final Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided."

**AF. Add Condition No.99H Waste/Recycling Compliance Documentation, to read as follows:**

"99H 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."

**AG. Add Condition No.99I Positive Covenant for Council and Contractor Indemnity, to read as follows:**

"99I. 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. 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."

**AH. Add Condition No.99J Authorisation of Legal Documentation Required for Waste Services, to read as follows:**

"99J. 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."

## **Important Information**

This letter should therefore be read in conjunction with DA220/2013 dated 13 August 2015.

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and

relevant conditions of the Development Application have been carried out.

## Right to Review by the Council

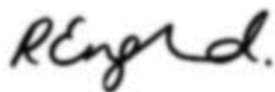
You may request Council to review this determination of the application under Division 8.2 of the Environmental Planning & Assessment Act 1979. Any Division 8.2 Review of Determination application must be submitted to Council within 28 days of this determination, to enable the assessment and determination of the application within the 6 month timeframe.

## Right of Appeal

Section 8.10 of the Environmental Planning and Assessment Act confers on an applicant who is not satisfied with the determination of the Consent Authority a right of appeal to the Land and Environment Court within 6 months of determination.

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

**Signed** On behalf of the Consent Authority



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**Name** Rebecca Englund, Manager Development Assessments

**Date** 20/10/2021