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Reference: 2017/531346
Enquiries: Development Assessment

Total Pages: 25

JVUrban Pty Ltd
44 Bay Vista Lane
EWINGSDALE NSW 2481

Dear Sir/Madam,

NOTICE OF DETERMINATION

Pursuant to Section 81(1)(a) of the *Environmental Planning and Assessment Act 1979*

Development Application No.	105/2013
Proposed Development	Section 96(1) Modification of Development Consent No. 105/2013
Land to be developed	Lot 1 DP 62531; 112 Sydney Road, Fairlight
Date of Original Determination	19 September 2013 19 May 2015 – Part 2 26 July 2017 – Part 3
Determination of Modification	Approved by DEL
Date of Determination of Modification	8 December 2017

Council determined this application under delegated authority on 8 December 2017 when it was determined:

That pursuant to Section 96(1) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 105/2013 for Section 96(1) Modification of Development Consent No. 105/2013 at 112 Sydney Road, Fairlight be **approved** subject to:

GENERAL CONDITIONS

1. The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and reference documentation;



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Plans affixed with Council's stamp relating to Development Consent No. 105/13

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA01 Site Plan/Roof Plan	Revision A dated 13/05/13	14 May 2013.
DA02 Site Analysis	Revision A dated 13/05/13	14 May 2013.
DA03 Shadow Diagrams	Revision A dated 13/05/13	14 May 2013.
DA04 Sediment Control & Demolition Plan	Revision A dated 13/05/13	14 May 2013.
DA05 Open Space & Landscape Calculation	Revision A dated 13/05/13	14 May 2013.
DA06 Nett Room Floor Areas for Studio (Levels 2-3)	Revision A dated 13/05/13	14 May 2013.
DA11 Plan - Level 1 &2	Revision A dated 13/05/13	14 May 2013.
DA12 Plan - Level 3&4	Revision A dated 13/05/13	14 May 2013.
DA21 East & West Elevations	Revision A dated 13/05/13	14 May 2013.
DA22 North & South Elevations	Revision A dated 13/05/13	14 May 2013.
DA31 Sections	Revision A dated 13/05/13	14 May 2013.
Landscape Planting Plan - Dwg No. LPP/01/A	Revision B dated 09/05/13	14 May 2013

Documentation affixed with Council's stamp relating to Development Consent No./105/13

- *Statement of Environmental Effects by Provincial Planning dated May 2013 received by Council on 14 May 2013.*
- *Plan of Management dated 1 March 2013.*
- *Social Impact Report by Judith Stubbs received by Council on 14 May 2013.*
- *Survey Plan by Teca Pty. Ltd. Reference No.1868 dated 29/11/2004, received by Council on 14 May 2013.*
- *Basix Certificate No.435472M dated July 2012, received by Council on 14 May 2013.*
- *Waste Minimisation and Management Plan & Checklist dated 14/05/12 received by Council on 14 May 2013.*
- *Geotech report by Assett Geotechnical received by Council on 14 May 2013.*
- *Stormwater drainage Plan by Thomas Lau dated 07/12 received by Council on 14 May 2013.*

Except as amended by:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA 01 Site Plan/Roof Plan	A Section 96 dated 31.01.14	19 02.14
DA 05 Open Space & Landscape Calculation	A Section 96 dated 31.01.14	19 02.14

t 1300 434 434
e council@northernbeaches.nsw.gov.au
northernbeaches.nsw.gov.au
PO Box 1336 Dee Why
ABN 57 284 295 198

Dee Why Office:
725 Pittwater Road
Dee Why NSW 2099
DX 9118 Dee Why
f 02 9971 4522

Mona Vale Office:
1 Park Street
Mona Vale NSW 2103
DX 9018 Mona Vale
f 02 9970 1200

Manly Office:
1 Belgrave Street
Manly NSW 2095
f 02 9976 1400



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DA 11 Plan Level 1 & 2 (to be amended to show correct property boundaries)	A Section 96 dated 07.02.14	19 02.14
DA 12 Plan Level 3 & 4	A Section 96 dated 31.01.14	19 02.14
DA 21 East & West Elevations	A Section 96 dated 31.01.14	19 02.14
DA 22 North & East Elevations	A Section 96 dated 31.01.14	19 02.14

Except as amended by:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA 01 Site Plan/Roof Plan	E dated 12.05.15	12.05.15
DA 11 Plan Level 1 & 2	E dated 12.05.15	12.05.15
DA 12 Plan Level 3 & 4	E dated 12.05.15	12.05.15
DA 21 East & West Elevations	E dated 12.05.15	12.05.15
DA 22 North & East Elevations	E dated 12.05.15	12.05.15
DA31 Sections	E dated 12.05.15	12.05.15

Except as amended by:

Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(2) Application – Part 3 – determined 26 July 2017:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA01 Site Plan / Roof Plan	Rev. G 16 May 2017	17 May 2017
DA11 Plan – Level 1 & 2	Rev. F 2 March 2017	8 March 2017
DA12 Plan – Level 3 & 4	Rev. G 16 May 2017	17 May 2017
DA21 East & West Elevations	Rev. G 16 May 2017	17 May 2017
DA22 North & South Elevations	Rev. G 16 May 2017	17 May 2017
DA31 Sections	Rev. F 2 March 2017	8 March 2017

Reference Documentation affixed with Council's stamp relating to this Section 96(2) Application – Part 3 – determined 26 July 2017:

- Statement of Environmental Effects prepared by JVUrban Pty Ltd dated 16 May 2017 and received by Council on 17 May 2017

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council



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2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

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.



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- (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 (DACPLB09)

The following Condition No. ANS01 is to be deleted as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS01
DELETED

The following Condition No. ANS02 is to be amended as per Section 96(1) Application – Part 4 – determined on 8 December 2017:

ANS02 (2US01)

A Section 94 contribution is to be paid for the provision of or increase the demand for public amenities and public services as a consequence of the development in the area. The total contribution for this development is \$116,000.50. This contribution shall be paid to Council prior to the release of the Occupation Certificate.

Note: The Section 94 Contribution fees are indexed annually in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

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

The following Condition No. ANS03 was deleted as per Section 96(2) Application – Part 3 – determined 26 July 2017:

ANS03
DELETED

The following Condition No. ANS04 was deleted as per Section 96(2) Application – Part 3 – determined 26 July 2017:

ANS04
DELETED



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The following Condition No. ANS05 was amended as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS05

The proposed Stratum Subdivision plans are to be amended to be consistent with the approved development consent plans and consent conditions. The statutory application fees of \$400 (\$330 plus \$70 for one additional Lot) is to be paid to Council prior to the issue of the Construction Certificate.

Reason: To ensure orderly development in accordance with Planning Legislation.

The following Condition No. ANS06 is to be deleted as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS06

DELETED

ANS07

Stormwater Management Plan must be prepared and certified by a chartered professional engineer with NPER number, name and date of signature.

Reason: To protect the amenity of neighbouring properties and comply with local stormwater requirements.

ANS08

That when the boarding house is seeking tenants at the outset of its operations, and when a vacancy arises at the premises, the Owner/Manager must contact the Manly Community Centre or other suitable NGOs to establish if there are any local suitable tenants in need of accommodation that could be referred to them.

Reason: To improve the availability of affordable long term housing options for local people identified as being in need.

ANS09

The following health conditions are to apply:

1. Separate waste and recycling containers are to be included in the kitchen.

Reason: To facilitate source separation of waste and recycling.

2. Information regarding waste management system and materials to be recycled must be provided to all occupants as part of induction process.

Reason: To ensure the boarders are aware of the different bins and their correct use.

3. Only one standard set of domestic waste bins will be provided by Council. A private waste contractor must be engaged to provide and service additional waste bins and recycling bins.

Reason: To ensure adequate waste and recycling bin capacity is provided and to facilitate recycling at boarding houses.



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4. This boarding house should investigate opportunities to recycle food waste through composting or worm farming: Compost bins and worm farms are available from Council's customer service.

Reason: To encourage recycling of food waste and minimise waste to landfill.

5. All boarding houses are to designate a non-paved area (min 80cm x 80cm) on site as space for communal or individual composting and worm farming.

Reason: To encourage recycling of food waste and minimise waste to landfill.

6. Signage on the correct usage of waste management system and materials to be recycled must be posted in the communal waste storage cupboard/room or bin bay prior to the receiving of Occupation Certificate.

Reason: To facilitate the correct use of bins.

7. Adequate provision for the disposal of cigarette butts must be provided.

Reason: To prevent litter from cigarette butts.

The following Condition No. ANS10 was amended as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS10

Pre – commencement dilapidation report

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties No.116 Sydney Road and No.1 Parkview Road, Manly and public infrastructure (including roads, gutters footpaths, etc). A copy of the report must be provided to Council and any other owners of public infrastructure and owners of No.116 Sydney Road and No.1 Parkview Road, Manly.

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

ANS11

Post-construction dilapidation report:

The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

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

ANS12

The Plan of Management and House Rules must be easily made available to all lodgers and at least a copy must be in the common rooms at all times.

Reason: To ensure all boarders are familiar with the Plan of Management



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ANS13

The plan of management be modified to include provision for any resident complaint to be made directly to the manager of the boarding house so that such complaints can be addressed promptly and appropriate responses can be made. This access shall be available on a 24 hour a day basis. The contact details of the manager shall be prominently displayed at the entry to the building. The Plan of Management should also provide a register of complaints be kept by the manager and this register shall be available to Council upon request.

Reason: To ensure that neighbouring residents can complain to the manager and their complaint will be actioned.

The following Condition No. ANS14 was added as per Section 96(2) Application – Part 2 – Determined 19 May 2015:

ANS14

At least three (3) car spaces shall be allocated to the residential units and at least six (6) car spaces being allocated to the boarding house.

Reason: To ensure orderly development in accordance with the relevant Planning legislation and Council's Development Control Plans.

The following Condition No. ANS15 was deleted as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS15

DELETED

The following Condition No. ANS16 was deleted as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

ANS16

DELETED

The following Condition No. ANS17 (3MS01) was amended as per Section 96(2) Application – Part 3 – determined 26 July 2017:

ANS17 (3MS01)

Works in connection with this Section 96 modification are not to be commenced/carried out until a new Construction Certificate is issued.

Reason: The Environmental Planning and Assessment Act 1979 requires a new updated Construction Certificate to cover any or all approved Section 96 modifications involving changes in the design of the development.



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The following Condition No. ANS18 was added as per Section 96(2) Application – Part 3 – determined 26 July 2017:

ANS18

An Erosion and Sediment Management Plan which provides adequate measures for erosion and sediment control, must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier. The Erosion and Sediment Management Plan shall comply with the requirements for Erosion and Sediment Management plans contained with Clause 2.1.11 of the Manly Development Control Plan, 2013 and Manly Council's Guidelines for Sediment and Erosion Controls on Building Sites, 2005.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

The following Condition No. ANS19 was added as per Section 96(2) Application – Part 3 – determined 26 July 2017:

ANS19

Prior to the issue of the Construction Certificate, a Building Code of Australia (BCA) Assessment Report is to be prepared, demonstrating compliance with the relevant requirements of the BCA.

Reason: To ensure compliance with the Building Code of Australia.

The following Condition No. ANS20 was added as per Section 96(2) Application – Part 3 – determined 26 July 2017:

ANS20

Prior to the issue of a Construction Certificate, a construction traffic management plan is to be prepared and submitted to the satisfaction of the Certifying Authority.

Reason: To ensure construction traffic impacts are appropriately managed.

The following Condition No. ANS21 was added as per Section 96(2) Application – Part 3 – determined 26 July 2017:

ANS21

Prior to the issue of the Occupation Certificate, a carpark management plan is to be prepared and submitted to the satisfaction of the Certifying Authority. This plan is to outline how use of the off street parking spaces will be managed.

Reason: To ensure use of the off street parking spaces is appropriately managed.



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The following Condition No. ANS22 was added as per Section 96(2) Application – Part 3 – determined 26 July 2017:

ANS22

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.

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

The following Condition No. ANS23 was added as per Section 96(2) Application – Part 3 – determined 26 July 2017:

ANS23

Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Drawings must be submitted with the Construction Certificate application.

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

The following Condition No. ANS24 was added as per Section 96(2) Application – Part 3 – determined 26 July 2017:

ANS24

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

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

1 (2AP01)

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.



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2 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

3 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$29,400. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

4 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

5 (2CD08)

A Geotechnical Survey, on the stability of the subject site, is to be prepared by a suitably qualified geotechnical engineer in accordance with the guidelines contained in the current Manly Development Control Plan 2013. All recommendations of the report are to be complied with during the construction process. The report is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure structural integrity of the works maintained.



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The following Condition No. 6 (2DS01) was amended as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

6 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for Stormwater Drainage for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council/Accredited Certifier prior to the issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

The following Condition No. 7 (2DS02) was amended as per Section 96(2) Application – Part 2 – Determined 16 October 2014:

7 (2DS02)

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) is to be provided within the property in accordance with Council's Specification for On-site Stormwater Management 2003. The design and details must be submitted to Council/Accredited Certifier prior to the issue of the Construction Certificate. The stormwater management plan and designs must be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

8 (2FP02)

Detailed drawings and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by Council under the Roads Act 1993, before the issue of any Construction Certificate. Specific works include:

- 1) Full width vehicular crossings having a maximum width, at the back of layback, of 4.5m, and in accordance with the current policy of Council and Specifications for the construction of vehicle crossings; and
- 2) Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway must be provided for assessment. Gradients and transitions must be in accordance with Australian Standard AS 2890.1 – 2004, Part 1 – Off-Street Car Parking. The driveway profile submitted to Council must be to scale at 1:25 (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.



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Driveway to be designed to provide for existing or future footpaths across driveway, in accordance with Council's Specification for Civil Infrastructure Works, Developments & Subdivisions 2003 and Australian Standard AS 1428.1:2001 - Design for access and mobility.

Reason: To facilitate suitable vehicular access to private sites.

Internal Note: This condition is to be imposed in conjunction with 3FP01, 4FP01 and 5FP01.

9 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the Local Government Act 1993. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

10 (2LD01)

Details must be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate indicating the proposed method of water proofing and drainage of the concrete slabs over which landscaping is being provided.

Reason: To ensure the appropriate type of water proofing is carried out and descriptive information about drainage is provided.

11 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

Internal Note: This condition is be imposed in conjunction with 4MS04.



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12 (2PT01)

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.

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

13 (2PT02)

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

14 (2TC01)

Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements must be submitted to the Council / Accredited Certifier prior to issue of the Construction Certificate. Attention is drawn to the provisions of Australian Standard AS 3660.1 - 2000 Termite management – New building work, and to the Manly Code for the Protection of Buildings Against Termite Attack 1996.

Reason: To protect the building from possible termite damage.

15 (2WM01)

Details of waste management facilities are to be submitted with the application for a Construction Certificate in accordance with the Manly Development Control Plan 2013.

Reason: To ensure appropriate management of waste.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

16 (3BM01)

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with Australian Standard AS 3740. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Reason: To prevent the penetration of dampness through walls and floors.

17 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

18 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.



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19 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

20 (3FP01)

The applicant must complete an application form and pay applicable fees for an application to Council for the construction of a Vehicular Crossing, for the design, specification and inspection by Council. Applications are to be made a minimum of two (2) working days prior to commencement of proposed works on Council's property.

Reason: To provide suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic.

Internal Note: This condition is to be imposed with 2FP02, 4FP01 AND 5FP01.

21 (3LD01)

All healthy trees and shrubs identified for retention on the submitted landscape drawing are to be suitably marked for protection before any construction works start.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works.

Internal Note: This condition is to be imposed with 4LD02.

22 (3LD02)

All trees on the site clear of the building are to be retained, and those trees within 7.5m of the building are to be provided with a tree guard and a notice on each guard reading: 'This tree is the subject of a Tree Preservation Order by Manly Council'. This notice is to be in position prior to any work being commenced on the site. This does not include trees which have Council approval to be removed.

Reason: To ensure trees clear of the building are retained and those within 7.5m of the building are protected.

23 (3LD03)

Where trees greater than 5 metres in height which are not within the proposed footprint (i.e. not directly affected by the development) and are proposed for removal, a tree permit is required subject to the Tree Preservation Order 2001 criteria.

Reason: Retain the number of existing trees on site which are protected by the Tree Preservation Order and not directly in the way of development.

24 (3PT01)

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.



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CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

26 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 11) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 12) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 13) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.



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- 14) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 15) Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 16) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 17) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

27 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday. No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

28 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

29 (4CD05)

Retaining walls being constructed in conjunction with excavations must be in accordance with structural engineer's details. Certification by a suitably qualified structural engineer that the constructed works comply with the structural detail must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure the structural adequacy of the retaining walls.

30 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.



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All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Occupational Health and Safety Act 2000,
- The Occupational Health and Safety Regulation 2001,
- The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)],
- The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>], and
- The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. Those involved with work to asbestos should be made aware of the requirements by visiting www.workcover.nsw.gov.au or one of Workcover NSW's offices for further advice.

Reason: To ensure the health of site workers and the public.

31 (4FP01)

The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

Internal Note: This condition is to be imposed with 2FP02, 3FP01 and 5FP01.

32 (4FR01)

The building is to be erected in Type A construction for a Class A building in accordance with the Fire Resistance Provisions of the Building Code of Australia.

Reason: To specify the standard of construction and the level of fire safety required by the Building Code of Australia.

33 (4LD01)

Landscaping is to be carried out in accordance with the approved Landscape Drawing No LPP/01/A Revision B dated 09/05/2013 prepared by ARTIVA architects and JCA Urban Designers Landscape Architects

Reason: To ensure appropriate landscaping is carried out on the development site.

Internal Note: This condition is to be imposed with 5LD01.

34 (4LD02)

All healthy trees and shrubs identified for retention on the drawing are to be:

- (a) suitably protected from damage during the construction process, and
- (b) retained unless their removal has been approved by Council.

Reason: This is to ensure that the trees on the site which do not have approval to be removed on the site are suitably protected during any construction works.



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Internal Note: This condition is to be imposed with 3LD01.

35 (4LD03)

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited.

Reason: To prohibit the unnecessary damage or removal of trees without permission from Council during any construction.

36 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

37 (4LD05)

Trees and shrubs liable to damage (including, but not limited to street trees) are to be protected with suitable temporary enclosures for the duration of the works. These enclosures are to only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground and spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

Reason: To ensure protection of the trees on the site which could be damaged during any development works and to outline the type of protection.

38 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be revegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

39 (4LD07)

Where development/construction necessitates the pruning of more than 10% of existing tree canopy, a permit application must be lodged with the Council's Civic Services Division, subject to the Tree Preservation Order 2001.

Reason: To ensure those trees are maintained appropriately and compliance with Australian Standard AS 4373:2007 – Pruning of Amenity Trees.



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40 (4MS01)

Should you appoint Council as the Principal Certifying Authority (PCA) to undertake inspections during the course of construction, then the following inspection/certification are required:

- Footing inspection - trench and steel,
- Framework inspection,
- Wet area moisture barrier,
- Final inspection.

The cost of these inspections by Council is \$1180. (being \$295 per inspection inclusive of GST). Payment of the above amount is required prior to the first inspection. Inspection appointments can be made by contacting the Environmental Services Division on 9976 1414.

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$165.

Reason: To ensure that the development is completed in accordance with the terms of the development consent and with the Building Code of Australia.

41 (4MS04)

The Sediment Control Plan is to be implemented from the commencement of works and maintained until completion of the development.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

Internal Note: This condition is to be imposed with 2MS02.

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

42 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard.



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43 (5DS02)

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) drawing showing Works as Executed (WAE) details must be submitted to Council for approval prior to the issue of the Occupation Certificate. The WAE drawing is to be in accordance with Council's standards and Specification for Stormwater Drainage 2003 and Specification for On-site Stormwater Management 2003.

Reason: Compliance with the consent and Council standards and specifications.

44 (5DS03)

A restriction on the use of land and a positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit.

The detailed information for a restriction on the use of land and a positive covenant is shown in Council's Specification for On-site Storm Water Management 2003.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

45 (5FP01)

All surplus vehicular crossings and/or kerb laybacks must be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

Reason: To provide on-street parking, suitable vehicular access to private sites, and infrastructure protection.

Internal Note: This condition is to be imposed in conjunction with 2FP01, 3FP01 and 4FP01.

46 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately

47 (5LD02)

Evidence of an agreement for the maintenance of all plants for a period of twelve (12) months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the final Occupation Certificate.

Reason: To ensure landscaping will be appropriately maintained.

Internal Note: This condition is to be imposed in conjunction with 4LD01.



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48 (5TC01)

Prior to issue of the Occupation Certificate, a durable termite protection notice must be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with the Manly Code for the protection of Buildings against Termite Attack.

Reason: To inform owners and future owners of the type of termite protection installed and of the need for regular inspections.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

49 (6FC01)

The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. More than 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1 800 990 777 or at <http://www.cjc.nsw.gov.au/>.

Reason: To ensure the applicant is aware the Dividing Fences Act 1991 may be used to resolve disputes about dividing fences.

50 (6LP01)

No existing street trees can be removed without Council approval. Where such approval is granted, the trees must be replaced at full cost by the applicant with an advanced tree of a species nominated by Council's relevant officer.

Reason: To encourage the retention of street trees.

51 (6LP02)

No tree other than on land identified for the construction of buildings and works as shown on the building drawing can be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.

Reason: To prevent the destruction of trees on other properties adjoining the development site.

52 (6LP03)

Landscaping is to be maintained in accordance with the approved Landscaping Drawing.

Reason: This is to ensure that landscaping is maintained appropriately.



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53 (6LP04)

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

54 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

55 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

56 (6WM01)

Activities must not detrimentally affect impact existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.

Reason: To protect existing and future amenity of the adjoining occupations from excessive waste emissions.

57 (6WM02)

Waste collection from the premises must not occur between the hours of 10:00pm and 7:00am Monday to Sunday, without the prior approval of Council.

Reason: To minimise disruption to neighbouring properties.

58 (6WM03)

Waste bins used for commercial premises are to be left on public footpaths for the minimum time necessary for waste collection and then promptly removed. Lids should be closed to prevent littering.

Reason: To ensure waste and bins are promptly removed from public places following collection; to limit obstruction of footpaths or roads; and to minimise public amenity impacts.

59 (6WM04)

All non-recyclable waste from commercial premises must be presented for collection in a lidded receptacle. Waste receptacles are not to be stored in public spaces such as footpaths.

Reason: Public amenity and litter minimisation.



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60 (6WM05)

No waste generated on site from any commercial operation is to be placed in public place bins. Commercial operators must maintain their commercial waste bins in an organised, clean and sanitary condition, preventing potential for litter from overflowing bins.

Reason: To communicate policy regarding illegal trade waste dumping in public bins; and maintenance of trade waste bins.

61 (6WM06)

Signage on the correct use of the waste management system and materials to be recycled must be posted in the communal waste storage cupboard/room or bin bay prior to receiving an occupation certificate. Signs are available from Manly Council's Customer Service.

Reason: To ensure all residents are aware of Council's waste and recycling system with regard to their dwelling.

62 (6WM08)

This commercial premises should investigate opportunities to compost food waste wherever practicable and recycle commonly recycled (non-putrescible) items such as paper and cardboard, steel and aluminium cans and recyclable plastic containers.

Reason: To promote waste minimisation in accordance with Manly Council's waste policies, the Waste Avoidance and Resource Recovery Act 2001 and the Manly Development Control Plan 2013.

63 (6WM09)

Cigarette butt receptacles are to be provided and maintained within these premises.

Reason: To ensure appropriate management of cigarette butt waste.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building works is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is also a criminal offence which attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

Please note that all building work must be carried out fully in accordance with this development consent and conditions of approval. It is an offence to carry out unauthorised building work or building work that is not in accordance with this consent.

In accordance with Clause 284 of the *Environmental Planning and Assessment Regulation 2000*, non-compliance with the above conditions may result in Council issuing a Penalty Notice which may incur a fine.



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Notes:

If you are dissatisfied with this decision, Section 97AA of the *Environmental Planning and Assessment Act 1979* gives the applicant the right to appeal to the Land and Environment Court of New South Wales (their address being Level 4, 225 Macquarie Street, Sydney NSW 2000).

Should you have any questions in relations to the matter, please contact Council's Planning, Place & Community, on (02) 9976 1414, during business hours.

Signed below on behalf of the consent authority.

Yours faithfully,

Date: 20 December 2017

Rodney Piggott
Planning Assessment Manager
Northern Beaches Council