

**NSLPP MEETING HELD ON 04/12/2024****Attachments:**

1. Site Plan
2. Architectural Plans & Survey
3. View Impact Assessment

ADDRESS/WARD: 1 Ben Boyd Road, Neutral Bay (C)**APPLICATION No:** DA 106/24 (PAN-434660)

PROPOSAL: Alterations and additions to an existing commercial building. Internal and external refurbishment, including the provision of a new passenger lift and entry foyer building.

PLANS REF:

Plan No.	Revision	Description	Prepared by	Dated	Received
A01	B	Site Plan	EJE	06/09/2024	13/09/2024
A03	A	Demo Sub Floor Plan	EJE	03/09/2024	13/09/2024
A04	A	Demo Ground Floor Plan	EJE	03/09/2024	13/09/2024
A05	A	Demo First Floor Plan	EJE	03/09/2024	13/09/2024
A06	A	Demo Second Floor Plan	EJE	03/09/2024	13/09/2024
A07	A	Demo Third Floor Plan	EJE	03/09/2024	13/09/2024
A08	A	Sub Floor Plan	EJE	03/09/2024	13/09/2024
A09	A	Ground Floor Plan	EJE	03/09/2024	13/09/2024
A10	A	First Floor Plan	EJE	03/09/2024	13/09/2024
A11	A	Second Floor Plan	EJE	03/09/2024	13/09/2024
A12	A	Third Floor Plan	EJE	03/09/2024	13/09/2024
A13	A	East & West Elevations	EJE	03/09/2024	13/09/2024
A14	A	South Elevations	EJE	03/09/2024	13/09/2024
A15	A	North Elevations	EJE	03/09/2024	13/09/2024
A16	A	Sections	EJE	03/09/2024	13/09/2024
A19	A	Schedule of Materials	EJE	03/09/2024	13/09/2024
A20	A	Schedule of Materials	EJE	03/09/2024	13/09/2024
L102	-	Site Landscape Plan	Terras Landscape Architects	03/09/2024	13/09/2024

OWNER: Department of Finance (Commonwealth)**APPLICANT:** Emma Mason, De Witt Consulting**AUTHOR:** Andrew Beveridge, A/Team Leader Assessments**DATE OF REPORT:** 25 November 2024**DATE LODGED:** 7 June 2024**SUBMISSIONS:** 12**RECOMMENDATION:** Approval

EXECUTIVE SUMMARY

This development application seeks NSLPP approval for alterations and additions to an existing commercial building on the site at 1 Ben Boyd Road, Neutral Bay, which currently functions as the Australian Border Force (ABF) training college. This proposal includes a substantial internal and external refurbishment of the existing main building on the site, including the provision of a new passenger lift and entry foyer building.

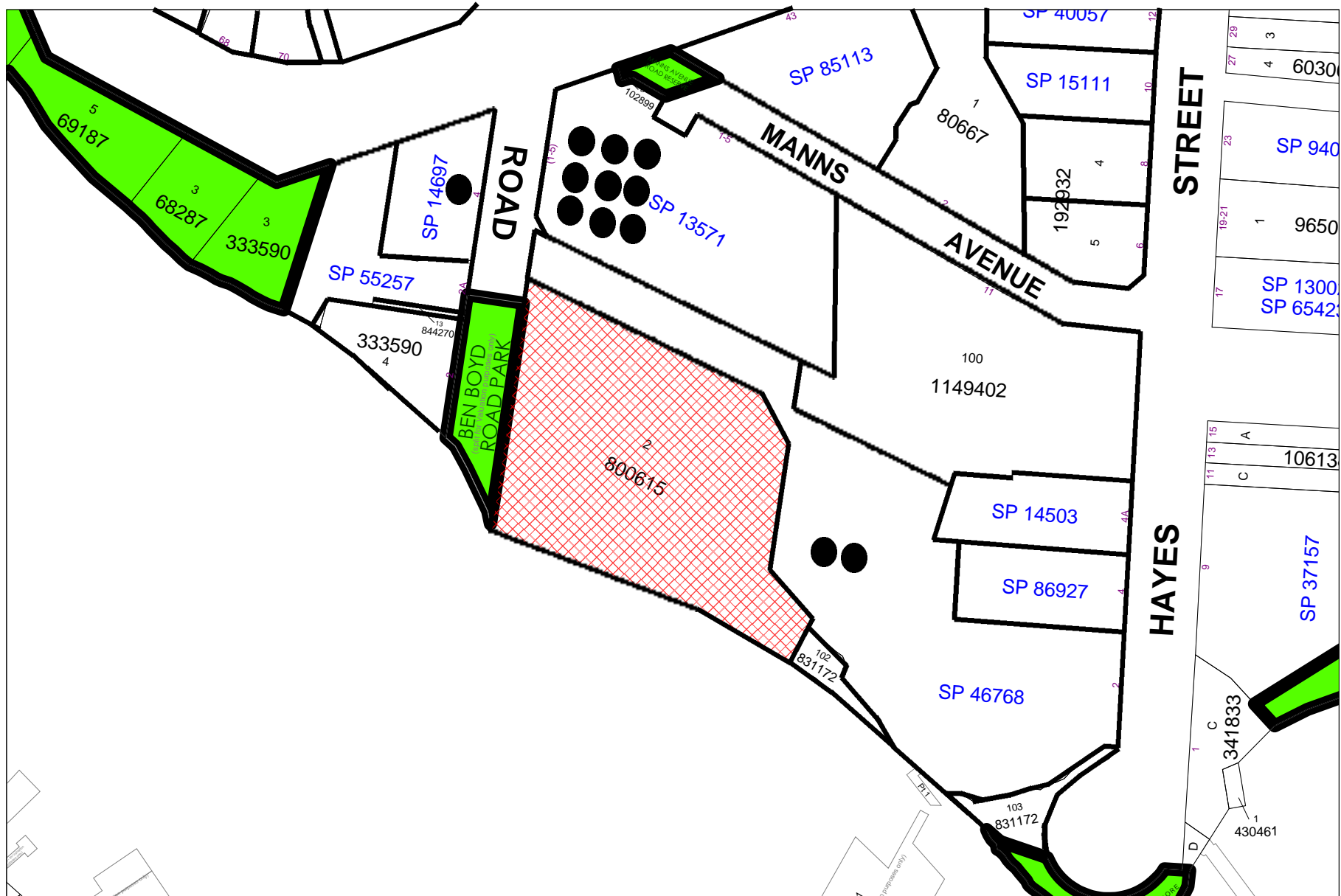
The application is reported to the North Sydney Local Planning Panel for determination as the application has received more than ten (10) objecting submissions.

The application was notified in accordance with the North Sydney Community Engagement Protocol and Council received twelve submissions. The amenity impacts, particularly regarding view loss, bulk and scale, and overshadowing, upon adjoining sites have been assessed and are considered to be relatively minor and acceptable within the site circumstances. The works will also maintain a sympathetic scale that is consistent with the existing building and surrounding buildings, and accords with the built form of the neighbourhood and the sloping topography of the site.

Subject to the satisfaction of conditions, it is considered that the proposal is acceptable as it will not result in significant adverse impacts upon the locality or adjoining properties, and the streetscape/area character will be maintained. The proposed development would therefore be in the public interest.

Having regard for the potential impacts upon the amenity of adjoining properties and the surrounding neighbourhood, and subject to conditions, the development application is considered to be satisfactory and is recommended for **approval**.

LOCATION MAP



□ Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The development application seeks consent for alterations and additions to an existing commercial building on the site at 1 Ben Boyd Road, Neutral Bay, which currently functions as the Australian Border Force (ABF) training college. No works are proposed within the waterfront area and/or below the median height water mark. The proposed works include:

- Partial demolition works to the existing main administration building, including to reconfiguring of the floor layouts to improve functionality. The ground floor level will include various functional and storage spaces, including gender separated toilets/showers/lockers, a gym, a laundry/mud room, first aid room, and equipment store. The first floor will include offices and training rooms, and a large communal kitchen/dining/lounge area.
- Addition of solar panels and services enclosure on the building roof.
- Addition of a new accessible external lift at the eastern side of the building adjacent to the existing top floor building access, with associated ramp to the lift from the parking area.
- Removal of a non-functional crane adjacent to the ramp leading to the lift.
- The existing external stairs and bridge on the second floor level connecting the building with the parking area will be removed and replaced with a new stairs and bridge in the same location, with adjustments to connect to the new accessible ramp and lift connection.
- New site landscaping to enhance the appearance of the site and soften the built form. Relocation of the existing ABF site sign to minimise view impacts.



Figure 1. Proposed site plan.

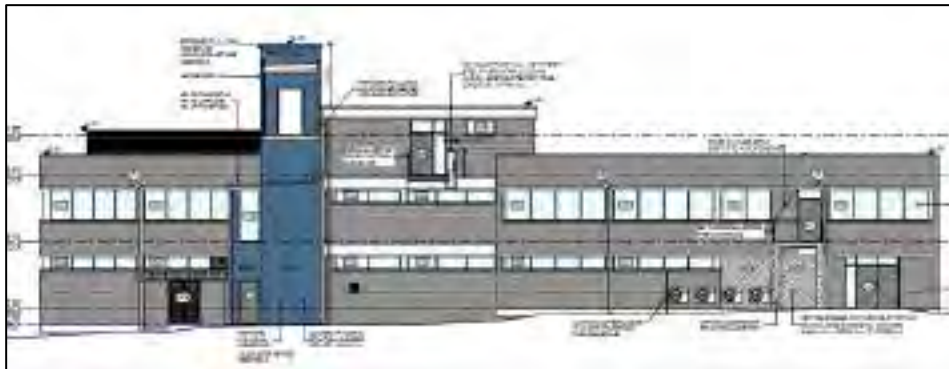


Figure 2. Proposed northern elevation.



Figure 3. Proposed southern elevation.

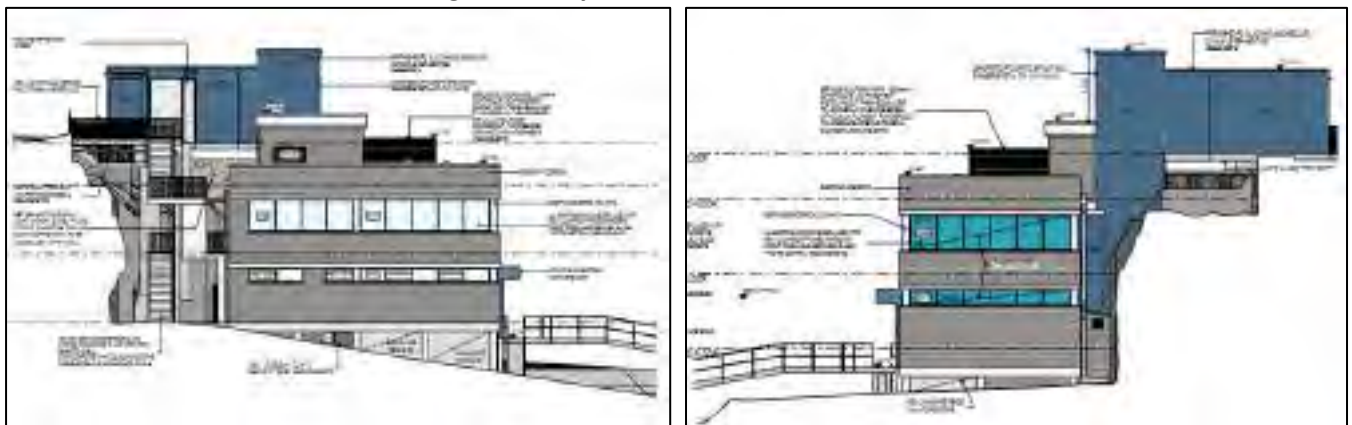


Figure 4. Proposed western (L) and eastern (R) elevations.

STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013

- Zoning – SP2 Infrastructure (Commonwealth Government)
- Item of Heritage – Yes ('Customs Marine Centre', I0576)
- In Vicinity of Item of Heritage – Yes (64 Carabella, I0200; 66 Carabella, I0201; 119 Carabella, I0210; 29 Burton St, I0188)
- Conservation Area – No
- Foreshore Building Line – Yes

Environment Protection and Biodiversity Conservation Act 1999 (Cth)

- Commonwealth Heritage List ('Customs Marine Centre', 105249)

Environmental Planning and Assessment Act 1979

SEPP (Biodiversity and Conservation) 2021

- Chapter 2 – Vegetation in non-rural areas
- Chapter 6 – Water Catchments (Foreshores and Waterways Area)

SEPP (Resilience and Hazards) 2021

- Chapter 2 – Coastal Management
- Chapter 4 – Remediation of Land

SEPP (Sustainable Buildings) 2022

SEPP (Planning Systems) 2021

SEPP (Transport and Infrastructure) 2021

- Chapter 2 (Infrastructure)

Local Development

POLICY CONTROLS

North Sydney Development Control Plan 2013 (NSDCP 2013)

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

North Sydney Local Infrastructure Contributions Plan 2020

Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024

DESCRIPTION OF LOCALITY

The site (Lot 2 DP 800615), known as the Australian Border Force College, is a waterfront property at the southern termination of Ben Boyd Road located south of Kurraba Road, and has a total site area of 3,275.5m². The site falls to the south east towards Neutral, with the site being divided through its centre by a large sandstone cliff face of approximately 5-9m in height.

The site is located on the northern foreshore of Neutral Bay to the west of Hayes Street and the Hayes Street Ferry Wharf. It is accessed via a vehicular right of way to the north, shared with the development at 2 Hayes Street, with the driveway being zoned R4 High Density Residential. Surrounding development is predominately residential, with residential flat buildings being typical for the immediate vicinity in line with the R4 High Density zoning which encloses the site on three sides, with some smaller single and semi-detached dwellings located to the east and north-east.

The site has various structures, including the three-storey administration and training building, a large boat storage building at the western end, and associated stairs and ramps, car parking, landscaping, and security fencing. There are also various associated structures on leased foreshore land, including jetties, which do not form part of the proposed area of works.

In 1952, the site was purchased by the Commonwealth of Australia from boat builders Lars Halvorsen Sons Pty Ltd, for use by the Royal Australian Air Force's Air/Sea Rescue Unit. The Australian Border Force and its predecessor agencies have been on this site since taking over from the RAAF in 1963, with the majority of buildings including the main Administration Building on the site dating from 1968 (commissioned by the Commonwealth Department of Works in 1966). The western boatshed was fully refurbished/extended in 1987.



Figure 5. Aerial photograph of subject site (outlined yellow).

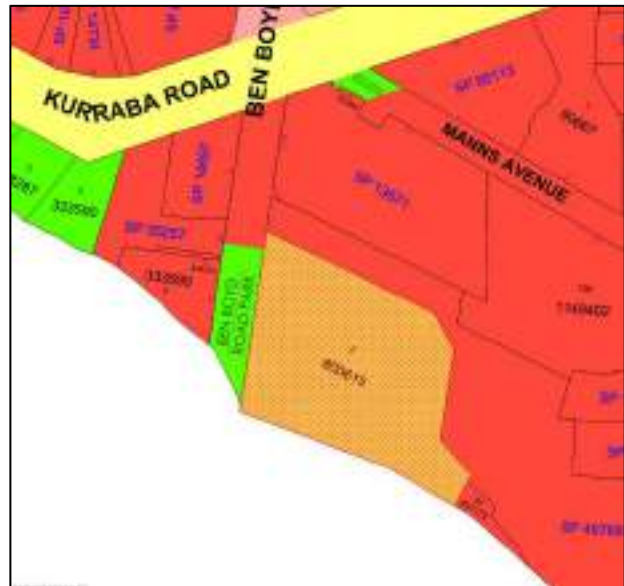


Figure 6. NSLEP Zoning Map with the subject site hatched red in the SP2 Zone.



Figure 7. NSLEP and NSDCP Heritage map with the subject site (10576).



Figure 8. View of the site from the top parking area.



Figure 9. View of the existing administration building from the southern jetty.



Figure 10. View of the site from the southern side of Neutral Bay.

RELEVANT DEVELOPMENT HISTORY

A search of Council's files has not revealed any recent development approval history from Council for this site.

On 5 May 1966, the *Commonwealth of Australia Gazette* published the awarding of a contract by the Department of Works to Costain (Australia) Pty Ltd of Milsons Point, for carrying out the erection of a brick administration building and the conversion of existing buildings on the site for the use of the Australian Customs Service.¹ The erection of a 5-ton gib crane on the site by Favalle Industries Pty Ltd was also announced on 23 June 1966.²

On 4 March 1987, the Commonwealth Department of Housing and Construction informed Council of their intention to undertake works to the existing boatshed building, including a general reconstruction of the building and associated refurbishment works.

On 25 May 2000, the NSW Waterways Authority approved works to extend and rebuild the existing wharfs of the Customs site, located within the waters of Neutral Bay.

RELEVANT APPLICATION HISTORY

Date	Action
7 June 2024	The application was lodged with Council.
12 June 2024	The subject application was notified to adjoining properties and the Neutral Precinct Committee (Hayes Precinct Committee being inactive) between 21 June 2024 and 19 July 2024. Ten (10) submissions were received.
31 July 2024	A visit to the subject site and two adjoining properties (2 & 21/1-5 Manns Ave) was undertaken by Council Officers.
6 August 2024	A visit to an adjoining property (17/1-5 Manns Ave) was undertaken by Council Officers.
9 August 2024	A visit to an adjoining property (8/1-5 Manns Ave) was undertaken by Council Officers.
13 August 2024	A visit to three adjoining properties (4, 6, & 8/2 Hayes St) was undertaken by Council Officers.
19 August 2024	A letter was sent to the applicant raising concerns regarding the comprehensiveness of the submitted information, and requesting additional information including additional view impact analyses, shadow diagrams, site coverage calculations, and landscaping details. An extension of time for response was subsequently granted to 13 September 2024.
23 August 2024	A visit to an adjoining property (22/1-5 Manns Ave) was undertaken by Council Officers.
13 September 2024	The previously requested additional information/amended documents were submitted on the NSW Planning Portal.
27 September 2024	The amended application was readvertised between 18 October 2024 and 1 November 2024. Additional comments were received from eight previous submitters, and two new submissions were received.

1 <http://nla.gov.au/nla.news-article241009539> (p. 2291).

2 <http://nla.gov.au/nla.news-article241010255> (p. 3277).

REFERRALS

Building

Council's Building Surveyor has assessed the application and provided the following comments, raising no objection:

The building will be classified by the NCC BCA 2022 as a class 5 and 9b building of Type A construction.

A search of Council's records revealed the building is not listed on Council's Annual Fire Safety Statement (AFSS) Register and the Property has been referred to Council's Compliance Department for adding to the AFSS Register however this will not affect the determination of the application.

*The Development Application is supported by a BCA Assessment Report, Revision O, dated 8 September 2023 prepared by BM&G (the Report) which concludes the proposed development can comply with the NCC via a combination of satisfying the deemed to satisfy provisions of the NCC/BCA and use of Performance based & fire engineering solutions. The Report also contains a recommended fire safety upgrade strategy for the existing building. Given the building is part of a heritage item it is recommended that Council's Conservation Planner provide comment on the recommendations within the Report prior to any Development Consent adopting the proposed Upgrade Condition **C14**.*

The application is further supported by an Accessibility Compliance Statement dated 20 November 2023 prepared by Purple Apple Access which concludes that the proposed development can comply with the BCA. It is noted that a Performance Based Solution Report is contained within the Accessibility Compliance Statement that is proposed to be adopted to address non-compliance with the Deemed to Satisfy provisions of the NCC BCA with regards to the use of stairs providing the only means of access between levels of the Ground Floor. Acceptance of any Performance based Solution is a matter for the consideration of the accredited certifier during their assessment of the Construction Certificate.

A review of the Drawings accompanying the application revealed the proposed works can likely comply with the NCC BCA, Volume 1.

Given that the Report identifies upgrade to the buildings fire safety is proposed and the scope of the proposed works building works, upgrade of the building is recommended pursuant to Clause 64 of the Environmental Planning & Assessment Regulation 2021.

A detailed assessment of compliance with the National Construction Code - Building Code of Australia will be undertaken by an appropriately Registered Building Surveyor at the Construction Certificate Stage of the proposed development. Additionally, a Fire Safety Schedule is to be prepared by the certifier and accompany the Construction Certificate.

The above comments are supported. It is noted that Council's Conservation Planner has also reviewed the works and raised no objections, as detailed elsewhere in this report. Several conditions are recommended based upon the above comments (see conditions **C14**, **C15**, and **F1**).

Engineering

The proposal was referred to Council's Development Engineer, who raised no objection nor recommended the imposition of any special conditions.

Heritage

Council's Conservation Planner has reviewed the proposal and provided the following comments:

The subject site is a local heritage item scheduled in NSLEP 2013 as well as being listed on the Commonwealth Heritage List (ID105249). The Customs Marine Depot is described as "a significant working harbourside industrial site" associated with the entrepreneur Ben Boyd who built a wool store and wool-scourer on the site. He lived adjacent to his business in 'Craignathan' built in 1831. Part of his mansion is now incorporated into the building now known as 'Hastings' at 2 Hayes Street which is attributed to architect Edward Jeaffreson Jackson and was disposed by the Australian Government in the late 1980s. The site is significant as one of the few remaining maritime industrial sites on the north side of the harbour. It has links to boat building with the Halvorsen family as well as maritime, RAAF Air/Sea Rescue and wartime facilities. Limited evidence of the 19th century activities remain on site, with an 1840s pump, wooden pump barrel and associated concrete apron being the only noted remaining item in the boat shed/workshop. The pump is identified as an item of exceptional interest due to its connection with Ben Boyd's wool industry although not entirely intact. The heritage value of the site is related to its working waterfront industrial use.

The significance of the site, however, relates not to the buildings, but to the boat slips and its working harbourfront industrial use. The proposed works will therefore have little impact upon the heritage significance of the site and will allow it to continue its current use. There are two large cranes on the site that have been assessed by the heritage consultant, Environmental Resources Management Australia, as having no heritage significance. The eastern crane will be removed (refer to Drawing A107 Revision A) and is not specifically mentioned in the statement of significance for any of the heritage listings for the site. It was requested that the applicant provide clarification about the replacement of the brick ties to clarify whether the building will look pock-marked and then require painting or rendering/painting. It has subsequently been advised that this will not have a negative impact upon the aesthetics of the building.

There are other heritage items located nearby at 2, 4 and 6 Hayes Street, which will not be detrimentally impacted by the works in terms of heritage as they are physically separated by a late twentieth century infill apartment building. Clause 5.10 of NSLEP 2013 and Part B Section 13.4 'In the Vicinity of Heritage Items' is therefore considered to be satisfied.

The above comments are broadly supported. Consequently, several standard conditions have been recommended to ensure compliance and that the works are sympathetic to the heritage item and nearby heritage items (see conditions **A4, C18, E6, and E19**).

Landscaping

A referral to Council's Landscape Development Officer, who raised no general objection to the works subject to additional details being provided in the form of a landscape plan with additional planting and trees. Consequently, the applicant has submitted an acceptable landscape plan for consideration, and several conditions have been recommended to ensure the protection of significant trees and maintaining an appropriate landscaped context (see conditions **C11, C12, D1, D2, D3, E10, E24, G5, G6, G7, I1**).

SUBMISSIONS

On 12 June 2024, the subject application was notified to adjoining properties and the Neutral Precinct Committee between 21 June 2024 and 19 July 2024. Ten (10) submissions were received. Amended plans were subsequently readvertised from 18 October 2024 to 1 November 2024. Additional comments were received from eight previous submitters, reiterating previous concerns on view impacts and bulk/scale but raising no new issues, and two additional pro-forma submissions were received raising the same issues, with the total number of submissions coming to 12. The issues raised in the submissions are summarised below and addressed later in this report.

Basis of Submissions

- The proposal will have a significant impact upon the views to Neutral Bay.
- The view impact modelling has not been made easily available to the public to review the potential impacts.
- The applicant has not adequately considered options that would not impact upon views.
- Concern that the proposal is likely to have a significant impact upon the views to Neutral Bay.
- Request that the lift be moved further west or reduced in size.
- The view impact modelling has not been made easily available to the public to review the potential impacts.
- The proposal is likely to have a significant impact upon the views to Neutral Bay.
- The view impact modelling has not been made available to the public to review the potential impacts.
- The existing Border Force sign at the northern boundary of the site significantly obstructs views and should be relocated as part of the works.
- The proposal is likely to have a significant impact upon the views to Neutral Bay.
- The view impact modelling has not been made available to the public to review the potential impacts.
- The applicant has not adequately considered options that would not impact upon views.
- The proposed lift structure will result in significant overshadowing to adjoining open space.
- The lift has an excessive bulk and scale and is too close to the boundary with 2 Hayes Street.
- The applicant has not adequately considered options that would not impact upon views.
- Council issued notifications to strata rather than individual owners.
- It is difficult to assess the proposal as many documents are locked from public access.
- The height of the proposed lift appears to be excessive.
- The street boundary fence of the site is unsightly and has not been addressed as part of the proposal to improve the appearance.
- The proposed lift has an excessive bulk and scale that has the potential to overshadow adjoining properties.

- The proposed lift has the potential to block views of adjoining properties.
- Concern that the proposal is likely to have a significant impact upon the views to Neutral Bay.
- The applicant has not adequately considered options that would not impact upon views.
- The lift has an excessive bulk and scale and is too close to the boundary with 2 Hayes Street.
- The applicant has not adequately considered options that would not impact upon views.
- Concern that the proposal is likely to have a significant impact upon the views to Neutral Bay.
- The applicant has not adequately considered options that would not impact upon views.
- Concern that the proposal is likely to have a significant impact upon the views to Neutral Bay and beyond.
- The applicant has not adequately considered options that would not impact upon views.
- Concern that the proposal is likely to have a significant impact upon the views to Neutral Bay and beyond.
- The applicant has not adequately considered options that would not impact upon views.
- Concern that the proposal is likely to have a significant impact upon the views to Neutral Bay and beyond.
- The applicant has not adequately considered options that would not impact upon views.

CONSIDERATION

Environmental Planning and Assessment Act 1979

The relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

SEPP (Biodiversity and Conservation) 2021 – Chapter 2 – Vegetation in non-rural areas

The proposed development would not require the removal of any significant vegetation defined under this SEPP or have any impact upon any bushland areas. The proposal includes a landscape plan for additional trees and new plantings to enhance the landscaped context of the site. Appropriate conditions have been recommended for the protection of the significant trees and the maintenance of an appropriate landscaped context.

SEPP (Biodiversity and Conservation) 2021 – Chapter 6 – Water Catchments

The subject site is entirely within the Foreshores and Waterways Area, with roughly half the site, including the entire administration building that is the subject of the application, included within the Foreshore Building Line under NSLEP 2013.

Chapter 6, Division 3 – Development in Foreshores and Waterways Area

Consideration has been given to the relevant requirements under Division 3 of the SEPP:

Section 6.28 – General

The proposal is generally consistent with Section 6.28 of the SEPP because the proposed works would not materially impact on public access to Neutral Bay as the subject site does not provide public access. The proposal would not affect the existing access points from the public domain to the waterway. In addition, the proposal would have no material impact on the natural asset of the harbour given the scale and location of the works to be undertaken.

Section 6.31 – Dredging

The proposal does not offend the provisions as contained in Clause 6.31 of the SEPP because no dredging of the seafloor is proposed.

Section 6.32 – Rocky Foreshores and Significant Seagrasses

The subject site is located on land identified as a rocky foreshores and significant seagrasses area as identified on the Rocky Foreshores and Significant Seagrasses Map. The proposal is considered to be acceptable as the works are relatively minor and are unlikely to result in any adverse impacts upon nearby rocky foreshores or seagrass areas. The works will serve to maintain and refurbish the existing administration building with the new works to create the new lift and associated access located away from these areas.

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

The *Sydney Harbour Foreshores and Waterways Area DCP 2005* is required to be considered in the assessment of a development application within the Foreshores and Waterways Area. It is considered that the proposed development is generally acceptable with regard to the performance criteria for this area as the proposal is for alterations and additions to an existing building. All of the works are relatively low in scale, visually recessive, and will have no discernible impact upon the existing water and foreshore area.

Part 2 – Ecological Assessment

Part Two of the DCP identifies the guidelines for ecological assessment of developments. This policy identifies matters for consideration, which are intended to reinforce existing controls within other planning instruments with the specific purpose to ensure development is sympathetic to the ecological communities and environmental qualities of the area covered by the SEPP. The area of the proposed works is identified as being within the 'Urban Development with Scattered Trees', which has a low conservation value. The lower foreshore portion of the site is also identified as being in the 'Rocky Platform' ecological community, which has a high conservation value.

The relevant matters under the low and high value performance criteria have been reviewed and it is considered that the proposal will not result in any significant environmental impacts to the site, as they will not result in the removal of any significant vegetation, or any significant interference with the existing runoff or flows to and from the harbour.

Part 3 – Landscape Assessment

Part Three of the DCP identifies the guidelines the landscape assessment of developments. This policy identifies matters for consideration with the specific purpose to ensure development is sympathetic to the environmental qualities of the specific area's landscape character area. The area of the proposed works is identified as being within the Type 8 Landscape Character area:

These areas have a high level of built form with waterside commercial, industrial, and residential uses. The commercial and industrial uses play an important role in terms of tourism and maritime services which support water-based activities. There are special features in these areas that contribute to the visual character of the area that should be maintained.

The relevant matters under the Type 8 performance criteria have been reviewed and it is considered that the proposal will maintain and enhance the location's passive access to and utilisation of the foreshore frontage. The proposed works will also be of a submissive bulk, scale, and designed to maintain the existing ecological values of the site and will not result in any adverse impact upon the environmental significance of the harbour foreshore location.

SEPP (Resilience and Hazards) 2021 – Chapter 2 – Coastal Management

The provisions of this chapter do not apply as the site is within the Foreshores and Waterways Area identified within Chapter 6 (Water Catchments) of the *SEPP (Biodiversity and Conservation) 2021*. Nevertheless, it is considered that the proposed development is consistent with the objectives of the SEPP, as the proposal will not result in any removal of public access, or any other significant impacts upon the public foreshore.

SEPP (Resilience and Hazards) 2021 – Chapter 4 – Remediation of Land

The provisions of the SEPP require Council to consider the likelihood of land contamination and any remediation necessary to rehabilitate the site. Council's records indicate that the site has previously been used for commercial and then government purposes since the mid-19th century. While this long history of non-residential use raises the possibility for land contamination, the site is not listed in the NSW Environmental Protection Agency contaminated land register and in any case this proposal does not involve significant changes to the site in terms of excavation that are likely to disturb any potential contamination. Therefore, the requirements of the above SEPP have been satisfactorily addressed. Nevertheless, out of an abundance of caution, appropriate conditions are recommended for an asbestos/contaminated materials survey to be conducted prior to the issue of a construction certificate, and that any removal works be controlled (see conditions **C13**, **E23**, and **G4**).

SEPP (Sustainable Buildings) 2022

The proposal is not required to submit a BASIX certificate as the works are below the minimum estimated development cost \$10m (\$9.49m) for works involving alterations, enlargement or the extension of an existing non-residential building. Nevertheless, the works are likely to significantly enhance the sustainable future use of the existing building through the upgrading of openings and utility systems, the retention of the overall built fabric, and the addition of a substantial rooftop solar system.

SEPP (Planning Systems) 2021

Schedule 6 of the *SEPP (Planning Systems) 2021* requires that development carried out by or on behalf of the 'Crown' (within the meaning of Division 4.6 of the Act) that has an estimated development cost of more than \$5 million is regionally significant development and the consent authority would be the Sydney North Planning Panel (SNPP). However, it is considered that the Commonwealth Department of Finance (representing the Crown in right of the Commonwealth of Australia), does not represent the 'Crown' as defined within Division 4.6 of the *EPAA 1979*.

This is clarified in Section 13(b) of the *Interpretation Act 1987* (NSW), which states that "a reference to the Crown is a reference to the Crown in right of New South Wales". As the Commonwealth Department of Finance does not represent the Crown in right of New South Wales, it cannot be considered to be able to undertake crown development within the meaning of the *EPAA 1979*. Consequently, this proposal is not regarded as regionally significant development within the meaning of the act and does not require referral to SNPP.

SEPP (Transport and Infrastructure) 2021 – Chapter 2 – Infrastructure

Chapter 2, Division 14 of the SEPP applies to works to a public administration building, which is defined as follows:

***public administration building** means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.*

As demonstrated earlier in this report, the owner of the subject site and the building that is the subject of this application, being the Commonwealth Department of Finance, is not considered to be the 'Crown' within the meaning of the *EPAA 1979*, and therefore the subject site cannot be defined as a 'public administration building' within the meaning of the act. Consequently, Sections 2.88-2.90 of the SEPP do not apply to this development.

North Sydney Local Environmental Plan 2013

Permissibility

The subject site is Zoned SP2 Infrastructure (Commonwealth Government) under the provisions of the *NSLEP 2013*. The site and proposed works are permissible and appropriate for the zoning. Post-development, it will continue to be a Commonwealth Government site in accordance with the existing zoning.

Clause 4.3 – Height of buildings

The subject site does not have a maximum permitted building height pursuant to clause 4.3(2) in *NSLEP 2013*. The R4 High Density Residential zones to the north, east, and west of the subject site have a specified height limit of 12m. The highest proposed element is the proposed lift tower, which has an approximate height of 13.57m from existing ground level.

Clause 5.10 – Heritage conservation

It is considered that the works will be generally sympathetic to the existing heritage item by maintaining a relatively sympathetic character and scale that will maintain the existing Late Twentieth Century character of the existing building. The fabric of which the site's significance is tied, namely the evidence of former uses, will not be impacted. The proposed works will not have any impact upon any nearby heritage items.

Clause 6.9 – Limited development on foreshore area

With the existing administration building being almost entirely located within the foreshore building line area, the majority of the proposed works are located inside this area. Nevertheless, the proposed works will not significantly change the general character and form of the existing building and will not have a significant adverse impact upon the appearance, amenity, or environmental values, of the foreshore area. It is conserved that the works will serve to substantially upgrade the existing building and usability of the site through improved accessibility in a manner that is compatible with the surrounding area and is consistent with the existing character and appearance of the site.

Clause 6.10 – Earthworks

The proposal requires some excavation to facilitate the addition of the lift and associated access. Subject to conditions to ensure that site stability is maintained, these excavation works are unlikely to affect the stability and topography of the site and adjoining sites.

Council’s Development Engineer has raised no objection in this regard, subject to appropriate conditions to minimise any impacts upon adjoining sites (see engineer’s conditions on page 8 of this report). The works are therefore considered compliant in this regard.

North Sydney Development Control Plan 2013

Part B Section 3 – Non-Residential Development in Residential Zones		
Section	Complies	Comments
3.2 Environmental criteria		
Topography	Yes	The proposed excavation works are relatively minor and are unlikely to affect the stability and topography of the site and adjoining sites. The proposal does not include any removal or covering of any natural sandstone outcrops, overhangs, boulders, platforms or walls. The existing sandstone cliff face dividing the site will be retained with no significant fabric removed.
Properties in proximity to bushland	N/A	No bushland areas will be affected by the proposal. The proposed landscape plan includes a new part-native planting scheme that will enhance the landscaped context of the site.
Properties with a foreshore frontage	Yes	The majority of the works within close proximity to the foreshore are located within the existing building footprint, and excavation works are relatively minor in order to facilitate the development. No significant trees, stone elements, or public foreshore access will be impacted by the proposal.
Noise Acoustic privacy Visual privacy	Yes	The proposal will maintain the existing use of the site, and the proposal is not considered to be a significant intensification of the use that would give rise to significant additional noise impacts. The location of the works has been designed away from nearby residential uses, and it is unlikely that the works would create significant visual or acoustic privacy impacts for adjoining sites.
Reflectivity	Yes	The proposal will generally replace existing glazing with new glazing on the building, with the majority of new glazing to the entry foyer facing the centre of the site, which has been designed with a mixture of solid and open elements. It is unlikely that these changes would have a significant impact on solar glare/reflectivity.
Artificial Illumination	Yes	No significant elements of external illumination are proposed.
Views	Yes	There are a number of adjoining properties which have views and outlooks across the site which will be to varying degrees impacted by the development. The applicant has provided a View Impact Assessment. Council officers have carried out a view impact assessment for some of the affected properties below.

		<p>Planning Principle – View Sharing</p> <p>To understand whether the proposal will ensure a reasonable level of view sharing for adjoining properties, consideration is given to the four (4) step process adopted by Commissioner Roseth of the NSW Land and Environment Court in <i>Tenacity Consulting v Warringah Council</i> [2004] NSWLEC 140.</p> <p>1. Assessment of views to be affected; <i>“Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.”</i></p> <p>2. Consider from what part of the property the views are obtained. <i>“For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.”</i></p> <p>The below list describes the view to be affected, along with the part of the property from which the views are obtained:</p> <table border="1" data-bbox="794 1176 1444 2092"> <thead> <tr> <th>Address</th> <th>View</th> <th>Part of Property</th> </tr> </thead> <tbody> <tr> <td>Unit 2/1-5 Manns Ave</td> <td>Water view of Neutral Bay and Sydney Harbour foreground (S-SE)</td> <td>Outdoor balcony, lounge/dining window</td> </tr> <tr> <td>Unit 8/1-5 Manns Ave</td> <td>Water view of Neutral Bay and Sydney Harbour foreground (S-SE)</td> <td>Outdoor patio and garden.</td> </tr> <tr> <td>Unit 17/1-5 Manns Ave</td> <td>Water view of Neutral Bay foreground (S-SE)</td> <td>Balcony, lounge/dining window, kitchen window</td> </tr> <tr> <td>Unit 21/1-5 Manns Ave</td> <td>Water view of Neutral Bay foreground (S-SE)</td> <td>Balcony, lounge/dining window</td> </tr> <tr> <td>Unit 22/1-5 Manns Ave</td> <td>Water glimpses of Neutral Bay (SE)</td> <td>Outdoor patio and garden, lounge/dining, study window.</td> </tr> <tr> <td>Unit 6/2 Hayes St</td> <td>View of North Sydney CBD, partial view to Neutral Bay Waters, (SW-W)</td> <td>Lounge window, kitchen window, balcony.</td> </tr> </tbody> </table>	Address	View	Part of Property	Unit 2/1-5 Manns Ave	Water view of Neutral Bay and Sydney Harbour foreground (S-SE)	Outdoor balcony, lounge/dining window	Unit 8/1-5 Manns Ave	Water view of Neutral Bay and Sydney Harbour foreground (S-SE)	Outdoor patio and garden.	Unit 17/1-5 Manns Ave	Water view of Neutral Bay foreground (S-SE)	Balcony, lounge/dining window, kitchen window	Unit 21/1-5 Manns Ave	Water view of Neutral Bay foreground (S-SE)	Balcony, lounge/dining window	Unit 22/1-5 Manns Ave	Water glimpses of Neutral Bay (SE)	Outdoor patio and garden, lounge/dining, study window.	Unit 6/2 Hayes St	View of North Sydney CBD, partial view to Neutral Bay Waters, (SW-W)	Lounge window, kitchen window, balcony.
Address	View	Part of Property																					
Unit 2/1-5 Manns Ave	Water view of Neutral Bay and Sydney Harbour foreground (S-SE)	Outdoor balcony, lounge/dining window																					
Unit 8/1-5 Manns Ave	Water view of Neutral Bay and Sydney Harbour foreground (S-SE)	Outdoor patio and garden.																					
Unit 17/1-5 Manns Ave	Water view of Neutral Bay foreground (S-SE)	Balcony, lounge/dining window, kitchen window																					
Unit 21/1-5 Manns Ave	Water view of Neutral Bay foreground (S-SE)	Balcony, lounge/dining window																					
Unit 22/1-5 Manns Ave	Water glimpses of Neutral Bay (SE)	Outdoor patio and garden, lounge/dining, study window.																					
Unit 6/2 Hayes St	View of North Sydney CBD, partial view to Neutral Bay Waters, (SW-W)	Lounge window, kitchen window, balcony.																					

		<table border="1"> <tr> <td data-bbox="783 248 1023 387">Unit 8/2 Hayes St</td> <td data-bbox="1023 248 1233 387">Water view of Neutral Bay foreground (S-SW)</td> <td data-bbox="1233 248 1463 387">Loung room bay window, dining room window.</td> </tr> </table>	Unit 8/2 Hayes St	Water view of Neutral Bay foreground (S-SW)	Loung room bay window, dining room window.
Unit 8/2 Hayes St	Water view of Neutral Bay foreground (S-SW)	Loung room bay window, dining room window.			
<p>3. Assess the extent of the impact in qualitative terms as negligible, minor, moderate, severe, or devastating. <i>"This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating."</i></p> <p><u>Unit 2/1-5 Manns Avenue</u> The majority of the water view would be retained, including all of the more significant views to the wider harbour, Fort Denison and Garden Island, but would likely lose a small portion of the lower water view where it connects with the existing ABF building through the lift addition and foyer. Nevertheless, this overall view and general outlook will be retained by the proposal as the majority of the lower part of the water view and the entire land-water interface is already obstructed by existing buildings on the subject site and adjoining sites.</p> <div data-bbox="826 1234 1398 1653" data-label="Image"> </div> <p>Figure 11. The outlook/view from the balcony of Unit 2.</p> <p>Overall, the view impacts to this property are assessed as <u>minor</u>. Refer to Figure 11 above.</p> <p><u>Unit 8/1-5 Manns Avenue</u> The majority of the water view would be retained, including all of the more significant views to the wider harbour, Fort Denison and Garden Island. It should also be noted that the area most likely to be affected is largely obscured by the position of the current ABF site sign, which is proposed to be moved further to the west. By moving this sign, it is likely that Unit 8 may have a slightly improved view from existing, notwithstanding any minor loss to the lower foreground section of water view impacted by the lift shaft.</p>					



Figure 12. The outlook/view from the outdoor patio/garden of Unit 8.

The impacts for this property are assessed as negligible. Refer to **Figure 12** above.

Units 17-21/1-5 Manns Avenue

The majority of the water view would be retained, including all of the more significant views to the wider harbour, Sydney CBD, Sub-base Platypus, Fort Denison and Garden Island, but would likely lose a small portion of the lower water view where it connects with the existing ABF building through the lift addition and foyer. Nevertheless, this overall view and general outlook will be retained by the proposal as the majority of the lower part of the water view and the entire land-water interface is already obstructed by existing buildings on the subject site and adjoining sites.



Figure 13. View from the balcony of Unit 17.



Figure 14. View from the internal lounge/dining space of Unit 21.

Overall, the view impacts to these properties are assessed as minor. Refer to **Figures 13-14** above.

Unit 22/1-5 Manns Avenue

The very limited water glimpses accessed from the internal lounge/dining room, the outdoor patio, and the study room will be lost by this proposal. However, while these may be valued as the limited water glimpses available for this property, these views are very minor due to the elevation of this Unit, and the position of intervening trees, fences, and buildings, particularly those on the subject site. The remaining views towards the Sydney CBD over the Wurrabirri Point and the Sub-base Platypus will be largely retained as existing.



Figure 15. View from the internal lounge/dining window/outdoor patio of Unit 22.

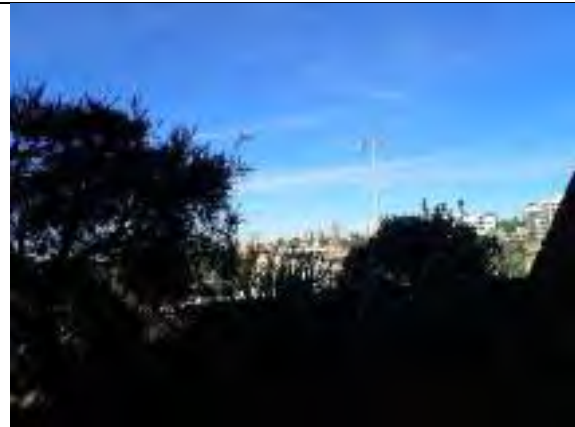


Figure 16. View from the study of Unit 22.

Overall, the view impacts to this property is assessed as negligible. Refer to **Figures 15-16** above.

Unit 6/2 Hayes Street

The majority of the water views would be unaffected, including all of the more significant views to the wider harbour, Sydney CBD, Sub-base Platypus, Fort Denison and Garden Island.

However, a small portion of the lower water view and North Sydney CBD foreground where it connects with the existing ABF building will be impacted to the SW-W. Nevertheless, the overall views enjoyed in the round by this unit will continue to be extensive and are retained by this proposed. Indeed, some of the internal views from the lounge and kitchen windows are likely to be improved through the proposed removal of the inactive crane.



Figure 17. View from kitchen/lounge window.



Figure 18. View from western balcony.



Figure 19. View from southern balcony.

Overall, the view impacts to this property is assessed as minor. Refer to **Figures 17-19** above.

Unit 8/2 Hayes Street

The majority of the water views would be unaffected, including all of the more significant views to the wider harbour, Sydney CBD, Sub-base Platypus, Fort Denison and Garden Island. The views from the kitchen window to the North Sydney CBD and Neutral Bay waters are unlikely to be affected.

However, a small portion of the lower water view foreground where it connects with the existing ABF building will be impacted to the S-SW. Nevertheless, the overall views enjoyed in the round by this unit will continue to be extensive and are retained by this proposal. Indeed, some of the internal views from the dining and lounge windows are likely to be improved through the proposed removal of the inactive crane.



Figure 20. View from the lounge room bay window



Figure 21. View from the dining room window.

Overall, the view impacts to this property is assessed as negligible. Refer to **Figures 20-21** above.

4. Assess the reasonableness of the proposal that is causing the impact.

“A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”

The view/outlook impacts for the affected properties are considered to be relatively minor due to the nature of the views impacted that are filtered through significant trees and the adjoining buildings and will have a minimal impact upon the overall views available for these dwellings elsewhere, with the majority of the overall views/outlooks being retained from these dwellings and only small marginal sections where the land meets the water being lost. The proposed lift shaft and entry foyer addition has been sited at the eastern end of the site to minimise view impacts, and its height and bulk is not significantly out of place in the surrounding area.

It is also considered that changes such as moving the shaft further west and/or undertaking significant excavation/regrading to reduce the height of the structures, would likely create greater/new impacts upon views and the environment of the site, requiring significant additional works to achieve what is considered to be a minimal improvement elsewhere. Given the above considerations, the proposal will result in a reasonable and acceptable level of view loss impact.

Solar access	Yes	<p>Due to the orientation of the site, the solar access impacts arising from the proposal is likely to be limited. Some minor additional shadows may be cast by the additions over the south-western corner wall of the western courtyard of Unit 4 of 2 Hayes Street to the east in the afternoon at 3pm on 21 June, but the majority of this space, being a primarily south facing recessed space, is already covered in shadows and the amenity impact is likely to be limited.</p> <p>The majority of the remaining shadows at the winter solstice will fall over the subject site and will not significantly affect any other neighbouring site.</p>
3.3 Quality Built Form		
Context	Yes	<p>The proposed works are consistent with the built form, massing, and scale within the Neutral Neighbourhood. The proposed additions will not result in a built form that is significantly out of scale with nearby developments or the foreshore area. While some minor view impacts are noted, as discussed earlier in this report, these impacts are considered to be relatively minor and will not significantly affect the overall views accessed from neighbouring properties.</p> <p>The works will enable the continued use of the site by Commonwealth Government agencies (ABF) through improved accessibility and amenity of the existing buildings, while preserving significant heritage and environmental assets, such as the sandstone cliff cutting.</p>
Streetscape	Yes	No streetscape elements will be impacted by the proposed modifications.
Laneways	Yes	The site does not adjoin a laneway. This site is however accessed via a private right of way along the northern side. The proposed works will not affect the usability of the right of way and will enhance its appearance through new plantings along the northern side.
Siting	Yes	The proposed works are consistent with the siting of the existing buildings on site.
Setbacks	Yes	The proposal is consistent with the setbacks of surrounding sites. The rear setback to the foreshore will not be altered. As this site does not have a specified height limit, the side setbacks for the most restrictive neighbouring zone (R4 High Density Residential), does not strictly apply to this site. Nevertheless, the proposed additions provide ample setbacks from the nearest neighbouring property at 2 Hayes Street, with a setback of approximately 167mm-1.9m for the link bright/airlock and 3.9m for the lift structure. As noted elsewhere in this report, it is unlikely that these additions will create significant adverse impacts on surrounding sites and accords with the objectives of this control.

Form, massing & scale	Yes	The proposed modifications are consistent with the built form, massing and scale within the area and the existing development on site and will not significantly alter the current footprint and scale of the building.								
Entrances and exits	Yes	The existing site entrances will be maintained. The proposed altered building entrance and new lift access to the main building on site will significantly improve the accessibility of the site and will enable equitable access to the site and its facilities.								
Colours and materials	Yes	The proposed materials and colours will be consistent with the existing building and is subject to condition (see conditions A4 and C18).								
Front fences	Yes	No changes to the site fences are proposed.								
3.4 Quality Urban Environment										
Accessibility	Yes	The proposed lift, ramp, and accessible parking space, will significantly improve the equitability of access, in accordance with Part B Section 12 of NSDCP 2013. The application is supported by an Accessibility Compliance Statement which concludes that the proposed development can comply with the BCA and will significantly improve the accessibility of the site.								
Safety and security	Yes	The existing site is highly secured as an operations location for the Australian Border Force with significant security measures. No additional measures are considered to be required. Natural surveillance will be maintained through the open fences and the recessed position of the buildings at the lower section of the site.								
Vehicular Access & Car Parking	Yes	The proposal does not result in a significant intensification of the use of the site that would require additional parking from existing levels. One additional accessible parking space is proposed near the new building/lift entrance, to enhance the accessibility of the site. The existing site access will be maintained.								
Site Coverage Landscaped Area	Yes/No (Acceptable on merit)	<p>While the proposal includes non-compliant levels of landscaped area and unbuilt-upon area, landscaped area is unchanged and further enhanced through a new planting scheme, and unbuilt-upon area is reduced slightly through the replacement of existing hard surface areas with new site coverage.</p> <p>The proposed and existing levels of site coverage, landscaped area and unbuilt-upon area are indicated in the table below:</p> <table border="1" data-bbox="805 1888 1437 2056"> <thead> <tr> <th>Site Area: 3,275.5m²</th> <th>Existing</th> <th>Proposed</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>Site Coverage (45% max)</td> <td>36.5% (1195.6m²)</td> <td>36.92% (1209.6m²)</td> <td>Yes (Increased)</td> </tr> </tbody> </table>	Site Area: 3,275.5m ²	Existing	Proposed	Complies	Site Coverage (45% max)	36.5% (1195.6m ²)	36.92% (1209.6m ²)	Yes (Increased)
Site Area: 3,275.5m ²	Existing	Proposed	Complies							
Site Coverage (45% max)	36.5% (1195.6m ²)	36.92% (1209.6m ²)	Yes (Increased)							

		Landscaped area (40% min)	23.54% (771.3m ²)	23.54% (771.3m ²)	No (Unchanged)
		Unbuilt-upon area (15% max)	39.95% (1308.6m ²)	39.52% (1294.6m ²)	No (Reduced)
Landscaping Front Gardens	Yes	The proposal includes a new planting scheme comprising a mixture of native and exotic species that will significantly enhance the landscaped context of the site. Significant trees on site and adjoining sites will be retained.			
Garbage storage	Yes	The existing arrangements for waste will be unchanged. The proposal does not change the existing use or intensify this use that would require further changes in this regard.			
3.5 Efficient Use of Resources					
Waste Management and minimisation	Yes	A waste management plan for the recycling and re-use of demolition materials and redundant equipment is recommended for condition (see Condition C6).			
Adaptive reuse	Yes	The proposal will enable the current building and other facilities to be used into the future and the floorplan reconfigurations increase the adaptability of the internal spaces without compromising heritage significance.			

Neutral Bay Planning Area (Neutral Neighbourhood)

Consideration has been given to the Character Statement for the Neutral Bay Planning Area in Part C of NSDCP 2013, including Section 7.2 (Neutral Neighbourhood) where this site is located.

The proposed works are consistent with the desired and characteristic built form, massing, and scale within the Neutral Neighbourhood. The proposed additions will not result in a built form that is significantly out of scale with nearby developments or the foreshore area. While some minor view impacts are noted, as discussed earlier in this report, these impacts are considered to be relatively minor and will not significantly affect the overall views accessed from neighbouring properties.

The works will enable the continued use of the site by Commonwealth Government agencies (ABF) through improved accessibility and amenity of the existing buildings, while preserving significant heritage and environmental assets, such as the sandstone cliff cutting.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

Under the North Sydney Local Infrastructure Contributions Plan 2020, the proposal would attract a levy under s7.11 of **\$353**, for the purpose of local infrastructure provision. This is due to an identified net increase of workers on the site of 0.1 due to a small increase in gross floor area. However, as the cost of works attracts a higher 7.12 contribution, the 7.12 figure is applicable per section 1.4 of the North Sydney Local Infrastructure Contributions Plan 2020.

Contribution amounts payable

Applicable contribution type		
s7.11 contribution details	Net increase of workers:	0.1 workers (33m ² /worker) 857m ² GFA existing 859m ² GFA proposed
<i>(payment amount subject to indexing at time of payment)</i>	Contribution:	\$353.00
s7.12 contribution details	Development cost:	\$9,490,000.00
<i>(payment amount subject to indexing at time of payment)</i>	Contribution:	\$94,900.00

A condition is recommended requiring payment under s.7.12 prior to issue of any Construction Certificate (refer to **Condition C16**).

HOUSING AND PRODUCTIVITY CONTRIBUTION

The Ministerial Order for Housing Productivity Contribution came into effect on 1 July 2024.

The order applies to land in that includes the Greater Sydney Region in which North Sydney Council is located.

The *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* (the 'Order') applies to this development as the proposal is considered to fall under the definition of 'commercial development' as an office premises, as defined in Schedule 1 of the Order and the Dictionary of NSLEP 2013. Schedule 2 outlines exemptions for this contribution, of which does not include the development as proposed.

Division 2, Clause 7 of the Order sets out the base contribution amounts for commercial development in the Greater Sydney Region as \$30 per new square metre of gross floor area. As noted in the infrastructure calculation above, the proposal results in 2m² of additional gross floor area, which therefore attracts a contribution of \$60 in accordance with Clause 7 of the Order.

A condition is recommended requiring payment under the order prior to issue of any Construction Certificate (refer to **Condition C20**).

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

- | | | |
|----|---|-----|
| 1. | Statutory Controls | Yes |
| 2. | Policy Controls | Yes |
| 3. | Design in relation to existing building and natural environment | Yes |

4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant S4.15 considerations of <i>Environmental Planning and Assessment (Amendment) Act 1979</i>	Yes

SUITABILITY OF THE SITE (Section 4.15 of the EPAA 1979)

The proposal involves residential development in a residential zone, so the proposal is considered to be suitable for the subject site.

SUBMISSIONS (Section 4.15 of the EPA&A 1979)

The application was notified to surrounding properties and the precinct committee. 12 submissions were received. The following matters were raised in the submissions (summarised, *in italics*):

- ***The proposal will have a significant impact upon the views to Neutral Bay.***
- ***The view impact modelling has not been made easily available to the public to review the potential impacts.***
- ***The applicant has not adequately considered options that would not impact upon views.***

See the discussion earlier in this report regarding view impacts, where it was considered on balance that the overall views impacted are relatively minor, with the majority of overall views and significant/iconic views from each affected dwelling likely to be retained. The additional view impact modelling has been made available to the public for comment, as demonstrated in the response to the amended plans. As noted elsewhere in this report, the proposal will result in a reasonable and acceptable level of view loss impact, and it is generally considered that alternatives are unlikely to create significant improvements without potentially creating additional impacts/issues.

- ***The existing Border Force sign at the northern boundary of the site significantly obstructs views and should be relocated as part of the works.***

The existing ABF sign is proposed to be moved further up the site to the west, where its visual impact is likely to be significantly reduced. Its height has also been reduced to no higher than the existing fence, which will further reduce its visual impact.

- ***The street boundary fence of the site is unsightly and has not been addressed as part of the proposal to improve the appearance.***

The existing site fence lies outside the scope of works. However, it is noted that the open design of the fence allows for a degree of natural surveillance as well as minimising bulk and scale and potential view impacts that a more solid/different fence could create. The appearance of the fence is likely to be further softened by the proposed landscaping scheme, which will provide additional landscaped screening of the fence.

- ***The proposed lift has an excessive bulk and scale that has the potential to overshadow adjoining properties.***
- ***The height of the proposed lift appears to be excessive.***

See the discussion earlier in the report regarding solar access and bulk and scale. The new additions will not result in significant new overshadowing for adjoining sites, with the orientation of the site meaning that the majority of new shadows will fall over existing shadows, walls, and roof planes. The proposed lift addition is relatively recessive and is unlikely to significantly affect the built form character and bulk and scale of the surrounding area.

PUBLIC INTEREST (Section 4.15 of the EPAA 1979)

The proposal would provide improved amenity for the users of the site without causing any significant unreasonable impacts to the area character, the streetscape, and/or the amenity of adjoining properties so the proposal would not be contrary to the public interest.

HOW THE COMMUNITY VIEWS WERE TAKEN INTO CONSIDERATION

The development application was notified in accordance with Council's Community Engagement Protocol and 12 submissions were received. Nevertheless, it is considered that, subject to conditions, the proposal would provide improved amenity for the users of the site without causing any significant unreasonable impacts to the streetscape, heritage items, and/or the amenity of adjoining properties.

CONCLUSION AND REASONS

The matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of *NSLEP 2013*. The proposed development is also generally in accordance with the provisions and objectives in *NSDCP 2013*.

The proposed additions are mostly compliant with Council's controls in *NSDCP 2013*, with alterations and additions to an existing office building that have been designed to generally minimise amenity impacts for the surrounding area, while also enabling a significant upgrade to the existing site facilities and accessibility that will ensure its continued present use.

There would be no significant or unreasonable overshadowing, view loss, privacy loss and/or excessive bulk and scale, for the surrounding area as a result of the proposal given that the majority of the works will be mostly contained within the overall footprint of the existing building and will be sympathetic to the surrounding area. While some view loss will be created for nearby residents as a result of the new lift shaft, the views impacted are partial and relatively minor, with the majority of significant views to water and iconic features retained.

On balance, the application is considered reasonable and is recommended for **approval** subject to site specific and standard conditions.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF *ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979* (AS AMENDED)

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning and Environment and **grant consent** to Development Application No. 106/24 for alterations and additions to an existing commercial building and associated works, on land at 1 Ben Boyd Road, Neutral Bay, subject to the following site specific and the attached standard conditions:-

Heritage Requirements

- C18. Details demonstrating compliance with the following are to be submitted with the Construction Certificate:
- a) The recommended management and mitigation strategies as documented in the Heritage Impact Statement dated 10 November 2023 prepared by Environmental Resources Management Australia (ERM) at Section 7.2 shall be undertaken.
 - b) Make good all holes in the natural cliff face to reflect the surrounding natural stone in colour and composition.
 - c) Re-use existing holes for new works where possible rather than creating new holes.
 - d) The lift shaft is to be painted a teal colour to minimise its visual impact.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To be sympathetic to the character of the conservation area)

Works to be Contained within Lot

- C19. The approved works must be wholly contained within the lot of the site (Lot 2 DP 800615) and must not result in any encroachment into or works upon neighbouring lots. Under no circumstances shall any works be extended or altered within adjoining lots without the prior written consent of the adjoining owner(s). No approval is given or implied for any works outside the subject lot.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, in order to fully satisfy the requirements of this condition.

(Reason: To ensure the access, protection and structural integrity of adjoining properties, and that common law property rights are recognised)

Housing and Productivity Contribution

C20. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with this condition, is required to be made:

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$60.00
Transport project component	\$0.00
Total housing and productivity contribution	\$60.00

The amount payable at the time of payment is the amount shown as the total housing and productivity contribution for each stage specified in the tables to condition 2, adjusted by multiplying it by:

Highest PPI number
consent PPI number

where:

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made, and consent PPI number is the PPI number last used to adjust HPC rates when consent was granted, and June quarter 2023 and PPI have the meanings given in clause 22 (4) of the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024*.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead. The HPC must be paid before the issue of any Construction Certificate. The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).

If the Minister administering the *Environmental Planning and Assessment Act 1979* agrees, the HPC may be made, instead of as a monetary contribution, in the following ways:

- a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
- b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with item (i) in this condition at the time of payment. Each part of an instalment that is to be made as a monetary contribution is also to be adjusted in accordance with item (i) in this condition at the time its payment.

Despite the requirement of this condition, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

(Reason: To provide a contribution as required by the *Environmental Planning and Assessment (Housing Productivity Contributions) Order 2024*)

Protection of Public Trees

D1. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Protection
4 x <i>Lagunaria pattersonii</i> (15m)	Council reserve – Southeastern boundary – 1 Ben Boyd Road	Existing boundary fence
1 x <i>Ficus rubiginosa</i> (8x8m)	Council reserve – Southeastern boundary – 1 Ben Boyd Road	Existing boundary fence

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Protection of existing environmental and community assets)

Biosecurity Matters/Priority Weeds

E24. All identified Biosecurity matters and Priority Weeds declared under the *Biosecurity Act 2015*, including but not limited to, *Lantana camara*, *Ageratina adenophora*, *Asparagus aethiopicus*, and other declared plants on the site, must be eradicated before the commencement of landscape works.

(Reason: To ensure that plants identified as weed species are not allowed to proliferate or interfere with a quality landscaping outcome)

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings endorsed with Council's approval stamp and other documentation listed in the table to this clause, or cited by other conditions, and as amended by other conditions of this consent.

Plan No.	Revision	Description	Prepared by	Dated	Received
A01	B	Site Plan	EJE	06/09/2024	13/09/2024
A03	A	Demo Sub Floor Plan	EJE	03/09/2024	13/09/2024
A04	A	Demo Ground Floor Plan	EJE	03/09/2024	13/09/2024
A05	A	Demo First Floor Plan	EJE	03/09/2024	13/09/2024
A06	A	Demo Second Floor Plan	EJE	03/09/2024	13/09/2024
A07	A	Demo Third Floor Plan	EJE	03/09/2024	13/09/2024
A08	A	Sub Floor Plan	EJE	03/09/2024	13/09/2024
A09	A	Ground Floor Plan	EJE	03/09/2024	13/09/2024
A10	A	First Floor Plan	EJE	03/09/2024	13/09/2024
A11	A	Second Floor Plan	EJE	03/09/2024	13/09/2024
A12	A	Third Floor Plan	EJE	03/09/2024	13/09/2024
A13	A	East & West Elevations	EJE	03/09/2024	13/09/2024
A14	A	South Elevations	EJE	03/09/2024	13/09/2024
A15	A	North Elevations	EJE	03/09/2024	13/09/2024
A16	A	Sections	EJE	03/09/2024	13/09/2024
A19	A	Schedule of Materials	EJE	03/09/2024	13/09/2024
A20	A	Schedule of Materials	EJE	03/09/2024	13/09/2024
L102	-	Site Landscape Plan	Terras Landscape Architects	03/09/2024	13/09/2024

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Plans on Site

- A2. A copy of all plans endorsed with Council's approval stamp, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifier.

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 2 of 30

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the Principal Certifier upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

No Demolition of Extra Fabric

A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

External Finishes and Materials

A4. External finishes and materials must be in accordance with the submitted schedule (Nos. A19 and A20, Revision A) dated 3 September 2024, prepared by EJE and received by Council on 13 September 2024.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)*

Dilapidation Report Damage to Public Infrastructure

C1. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 3 of 30

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Principal Certifier with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Dilapidation Report Private Property (Excavation)

- C2. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey are to be prepared by a consulting structural/geotechnical engineer and a copy to be given to the owner of any affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by the developer or affected property owners to assist in any action required to resolve dispute(s) over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/ies prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C3. A photographic survey and dilapidation report of adjoining properties No's. Units 4 and 6 of 2 Hayes Street detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, MUST BE submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person and a copy to be given to the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Principal Certifier, prior to the issue of any Construction Certificate.

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 4 of 30

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Structural Adequacy of Existing Building

- C4. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Principal Certifier for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

Sediment Control

- C5. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication Managing Urban Stormwater: Soils and Construction (4th Edition, Landcom, 2004) commonly referred to as the "Blue Book" or a suitable and effective alternative method.

An Erosion and Sediment Control Plan must be prepared and submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate and prior to any works commencing. The Erosion and Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 5 of 30

- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and
- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Sediment Control plan.

The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

Waste Management Plan

- C6. A Waste Management Plan is to be submitted for approval by the Principal Certifier prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and
 - c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Roofing Materials - Reflectivity

- C7. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 6 of 30

Work Zone

- C8. If a Work Zone is required a Work Zone permit is to be obtained from Council prior to the issue of any Construction Certificate.

Note: For major development an application for work zone permit must be considered by the North Sydney Local Traffic Committee.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Principal Certifier to enable issue of the Construction Certificate.

Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Stormwater Disposal

- C9. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the NCC and current plumbing standards and guidelines. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure appropriate provision for disposal and stormwater management arising from the development)

Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

- C10. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$2,500.00 to be held by Council for the payment of cost for any/all of the following:

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 7 of 30

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
- c) remedying any defects in any such public work that arise within 6 months after the work is completed.
- d) Council reserves the right to retain all bonds on infrastructure works relating to the completion of required Infrastructure work for a 12-month defect liability period. Council may elect to provide a lesser period for minor residential work.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of six months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Development Engineers or Manager of Development Services.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Principal Certifier must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Protection of Trees

C11. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree Species	Location	Height
1 x <i>Ficus rubiginosa</i>	Northwestern corner – 1 Ben Boyd Road	12x12m
1 x <i>Melaleuca quinquenervia</i>		12x8m

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 8 of 30

<i>Plumeria sp.</i>	Adjacent to the driveway entrance, northern boundary – 1 Ben Boyd Road	2.5x5m
<i>Murraya paniculata</i> (hedge)	Eastern boundary, car park – 1 Ben Boyd Road	2m
1 x <i>Ficus rubiginosa</i>	Atop rock outcrop – southeastern corner – 1 Ben Boyd Road	
4 x <i>Lagunaria pattersonii</i>	Council reserve – Southeastern boundary – 1	15m
1 x <i>Ficus rubiginosa</i>	Ben Boyd Road	8x8m

Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition. No canopy pruning shall be permitted to any protected tree. All scaffolding and associated building works shall be designed such that no canopy pruning is required.

(Reason: Protection of existing environmental and community assets)

Pruning of Trees

- C12. All pruning works shall to the following tree(s) shall be undertaken under the guidance of an appropriately qualified arborist/tree surgeon in accordance with Australian Standard AS 4373-2007 - Pruning of Amenity Trees:

Tree Species	Location	Height
<i>Olea europaea var. africanus</i>	Atop rock outcrop – southeastern corner – 1 Ben Boyd Road	Various

A report detailing the measures to be employed during construction shall be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

All measures required by the said report must be complied with at all times in the carrying out of the development.

Branches of protected trees shall be carefully tied back rather than pruned where required.

Should any trees noted for protection under this consent require pruning for the installation of scaffolding or any other ancillary construction works, marked-up pictures prepared by an AQ5 arborist and detailing precisely which limbs are to be pruned shall be lodged for approval by Council's Landscape Development Officer before any such pruning is permitted.

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 9 of 30

No more than 10% canopy shall be pruned, minor branches only shall be removed.

(Reason: To ensure the protection and longevity of existing significant trees)

Asbestos and Contaminated Materials Survey

- C13. A report must be prepared by a suitably qualified person in relation to the existing building fabric/ground cover to be demolished and/or disturbed identifying the presence or otherwise of contamination and, if contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos/other contaminated materials must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos/contaminated materials and any Work Safe Australia requirements.
- c) during the removal of any asbestos/contaminated materials a sign stating "DANGER ASBESTOS/CONTAMINATED MATERIALS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos/contaminated materials laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily)

Upgrade of existing building – Fire Spread and Safe Egress

- C14. Pursuant to clause 64 of the EP&A Regulation 2021, aspects of the existing building must be brought into conformity with the National Construction Code (NCC).

Work must be carried out as part of the development so as to upgrade the building to bring it into compliance with the following provisions of the NCC:

- (a) The recommendations contained within the BCA Assessment Report, Revision O, dated 8 September 20203, prepared by BM&G.

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 10 of 30

Plans and specifications showing the upgrading works which must be carried out under this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

Notes:

1. The Principal Certifier must be satisfied that the plans and specifications submitted prior to the issue of any Construction Certificate comply with the requirements of this condition.
2. The Principal Certifier issuing the Construction Certificate has no power to remove the requirements to upgrade the existing building as required by this condition.
3. Where this condition specifies compliance with the performance requirements of the NCC, the Principal Certifier, subject to their level of accreditation, may be satisfied as to such matters.

(Reason: Application of Regulations relating to Fire and Life Safety)

Provision of Accessible Paths of Travel

C15. The building must be designed and constructed to provide access and facilities in accordance with the National Construction Code and Disability (Access to Premises – Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Notes:

1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to a Construction Certificate being issued. Approval of a modification application may be required.
2. It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.
3. Information on making an application for an "unjustifiable hardship exemption" under the accessibility standards can be found on the website of the NSW Building Professional Boards at <http://www.bpb.nsw.gov.au/page/premises-standards>.

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

Section 7.12 Development Contributions

- C16. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$94,900.00.

Indexation

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au

(Reason: To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

Security Deposit/Guarantee Schedule

- C17. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Infrastructure Damage Bond	\$2,500.00
TOTAL BONDS	\$2,500.00

Note: The following fees applicable

Fees	
S7.12 Local Infrastructure Contributions	\$94,900.00
TOTAL FEES	\$94,900.00

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 12 of 30

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

Heritage Requirements

C18. Details demonstrating compliance with the following are to be submitted with the Construction Certificate:

- a) The recommended management and mitigation strategies as documented in the Heritage Impact Statement dated 10 November 2023 prepared by Environmental Resources Management Australia (ERM) at Section 7.2 shall be undertaken.
- b) Make good all holes in the natural cliff face to reflect the surrounding natural stone in colour and composition.
- c) Re-use existing holes for new works where possible rather than creating new holes.
- d) The lift shaft is to be painted a teal colour to minimise its visual impact.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To be sympathetic to the character of the conservation area)

Works to be Contained within Lot

C19. The approved works must be wholly contained within the lot of the site (Lot 2 DP 800615) and must not result in any encroachment into or works upon neighbouring lots. Under no circumstances shall any works be extended or altered within adjoining lots without the prior written consent of the adjoining owner(s). No approval is given or implied for any works outside the subject lot.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, in order to fully satisfy the requirements of this condition.

(Reason: To ensure the access, protection and structural integrity of adjoining properties, and that common law property rights are recognised)

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 13 of 30

Housing and Productivity Contribution

C20. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with this condition, is required to be made:

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$60.00
Transport project component	\$0.00
Total housing and productivity contribution	\$60.00

The amount payable at the time of payment is the amount shown as the total housing and productivity contribution for each stage specified in the tables to condition 2, adjusted by multiplying it by:

Highest PPI number
consent PPI number

where:

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made, and consent PPI number is the PPI number last used to adjust HPC rates when consent was granted, and June quarter 2023 and PPI have the meanings given in clause 22 (4) of the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024*.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead. The HPC must be paid before the issue of any Construction Certificate. The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).

If the Minister administering the *Environmental Planning and Assessment Act 1979* agrees, the HPC may be made, instead of as a monetary contribution, in the following ways:

- a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
- b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with item (i) in this condition at the time of payment. Each part of an instalment that is to be made as a monetary contribution is also to be adjusted in accordance with item (i) in this condition at the time its payment.

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 14 of 30

Despite the requirement of this condition, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

(Reason: To provide a contribution as required by the *Environmental Planning and Assessment (Housing Productivity Contributions) Order 2024*)

D. Prior to the Commencement of any Works (and continuing where indicated)

Protection of Public Trees

- D1. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Protection
4 x <i>Lagunaria pattersonii</i> (15m)	Council reserve – Southeastern boundary – 1 Ben Boyd Road	Existing boundary fence
1 x <i>Ficus rubiginosa</i> (8x8m)	Council reserve – Southeastern boundary – 1 Ben Boyd Road	Existing boundary fence

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Protection of existing environmental and community assets)

Protection of Trees

- D2. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation, and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites).

A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Certifying Authority for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be undertaken for the duration of works on the site. Sensitive construction techniques shall be used within the Tree Protection Zone of any protected tree.

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 15 of 30

Sensitive construction techniques including hand excavation, pier and beam construction, and the flexible location of piers/footings, shall be used within the Tree Protection Zone (TPZ) of any protected tree. No roots greater than 40mm shall be cut. No stormwater or any other underground services shall be directed through the TPZ of any protected tree.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Temporary Fences and Tree Protection

- D3. All protected trees on-site that are specifically nominated as per **Condition C11** to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builder's waste are to be stored in the vicinity of the nominated tree/trees at any time.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites) must be installed to the satisfaction of the Certifying Authority prior to demolition or commencement of any works and must be maintained for the duration of the works.

(Reason: To protect the trees to be retained on the site during construction works)

Public Liability Insurance – Works on Public Land

- D4. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

(Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.)

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

Commencement of Works' Notice

- D5. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. During Demolition and Building Work**Parking Restrictions**

- E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E2. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 17 of 30

Temporary Disposal of Stormwater Runoff

- E3. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Principal Certifier.

(Reason: Stormwater control during construction)

Removal of Extra Fabric

- E4. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

Dust Emission and Air Quality

- E5. The following must be complied with at all times:
- (a) Materials must not be burnt on the site.
 - (b) Vehicles entering and leaving the site with soil or fill material must be covered.
 - (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
 - (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

- E6. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 18 of 30

No Work on Public Open Space

- E7. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

Applicant's Cost of Work on Council Property

- E8. The Applicant or the person, company or other entity that is acting upon this consent, must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

No Removal of Trees on Public Property

- E9. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Protection of Trees

- E10. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All recommendations contained herein must be implemented for the duration of the works. In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

- 1) If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.
- 2) An application to modify this consent pursuant to Section 96 of the *Environmental Planning and Assessment Act 1979* will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

(Reason: Protection of existing environmental infrastructure and community assets)

Special Permits

- E11. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours' notice is required for any permit:

1) **On-street mobile plant**

Eg. cranes, concrete pumps, cherry-pickers, etc., - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) **Hoardings**

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

(Reason: Proper management of public land)

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

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

(Reason: Proper management of public land)

4) Kerbside restrictions, construction zones

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

Construction Hours (Commercial Core and Mixed-use Zones)

E12. Construction activities and works approved under this consent must be restricted to within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
All zones (excluding E2 Commercial core and MU1 Mixed Use zone)	Monday - Friday	7.00am - 7.00pm
	Saturday	8.00am - 1.00pm
	Sunday Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above, the EPA Noise Policy for Industry 2017 and any Construction Noise Management Plan required under this consent. In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance & Enforcement Policy.

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

Service Adjustments

E13. The adjustment or inclusion of any new utility service or facilities must be carried out by an appropriately contractor in accordance with the requirements of the relevant utility authority.

These works shall be at no cost to Council. It is the Applicant's responsibility to contact the relevant utility authorities to ascertain the impacts of the proposal upon utility services prior to the commencement of any work, including demolition (including water, phone, gas and the like).

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 21 of 30

Council accepts no responsibility for any impact on or influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

Out of hours' Work Permits

E14. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council's Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is at risk**. Applications which seek a variation to construction hours solely to benefit the developer will require the lodgement and favourable determination of a modification application pursuant to the provisions of Section 4.55 of the Environmental Planning and Assessment Act 1979.

Notes:

- 1) Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.
- 2) Applications for out of hour's works should be lodged with Council no later than seven (7) calendar days prior to the date of the intended works.
- 3) Examples of activities for which permits may be granted include:
 - the erection of awnings,
 - footpath, road and other infrastructure works which cannot be carried out for public convenience reasons within normal hours,
 - the erection and removal of hoardings and site cranes, and
 - craneage of materials which cannot be done for public convenience reasons within normal working hours.
- 4) Examples of activities for which permits WILL NOT be granted include:
 - extended concrete pours
 - works which are solely to convenience the developer or client, and
 - catch up works required to maintain or catch up with a construction schedule.
- 5) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.

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

Installation and Maintenance of Sediment Control

- E15. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils and Construction (4th Edition, Landcom, 2004), commonly referred to as the "Blue Book" and can only be removed when development activities have been completed and the site fully stabilised.

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

Sediment and Erosion Control Signage

- E16. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

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

Site Amenities and Facilities

- E17. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of work-place determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au

(Reason: To ensure the health and safety of the community and workers on the site)

Health and Safety

- E18. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 23 of 30

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Archaeological Discovery During Works

E19. Should any historical or Aboriginal relic be discovered on the site during demolition, excavation or site preparatory works, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW must be informed in accordance with the provisions of the Heritage Act 1977 and/or National Parks and Wildlife Act, 1974. Works must not recommence until such time as approval to recommence is given in writing by Council or a permit from the Director of the NPWS is issued.

(Reason: To prevent the unnecessary destruction or removal of unrecorded historical or Aboriginal relics)

Prohibition on Use of Pavements

E20. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant and Equipment Kept Within Site

E21. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Waste Disposal

E22. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

Asbestos Removal

E23. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or “Demolition Licence” and a current WorkCover “Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

Biosecurity Matters/Priority Weeds

E24. All identified Biosecurity matters and Priority Weeds declared under the *Biosecurity Act 2015*, including but not limited to, *Lantana camara*, *Ageratina adenophora*, *Asparagus aethiopicus*, and other declared plants on the site, must be eradicated before the commencement of landscape works.

(Reason: To ensure that plants identified as weed species are not allowed to proliferate or interfere with a quality landscaping outcome)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Home Building Act

F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifier for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:

- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 25 of 30

- (b) in the case of work to be done by an owner-builder:
- (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this condition is out of date, work must cease, and no further work may be carried out unless the Principal Certifier for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of Principal Certifying Authority (PCA)

- F3. Building work, **demolition** or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifier for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

- F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**Page 26 of 30

Occupation Certificate

- F5. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Excavation/Demolition

- F6. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F7. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- 5) No access across public reserves or parks is permitted.

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 27 of 30

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F8. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifier for the work.
- 2) Any such sign must be maintained while building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. Prior to the Issue of an Occupation Certificate

Infrastructure Repair and Completion of Works

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and
 - b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council. Council's development engineer must be contacted to arrange inspections of the completed works in the Public Domain.

(Reason: Maintain quality of Public assets)

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**Page 28 of 30

Damage to Adjoining Properties

- G2. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. 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.

(Reason: To ensure adjoining owner's property rights are protected)

Utility Services

- G3. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

Asbestos Clearance Certificate

- G4. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Principal Certifier (and a copy forwarded to Council if it is not the Principal Certifier) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following: -

- a) the building/ land is free of asbestos; or
- b) the building/ land has asbestos that is presently deemed safe.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au

(Reason: To ensure that building works involving asbestos based products are safe for occupation and will pose no health risks to occupants)

Certification of Tree Condition

- G5. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below: -

**1 BEN BOYD ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 106/24**

Page 29 of 30

Tree Species	Location	Height
1 x <i>Ficus rubiginosa</i>	Northwestern corner – 1 Ben Boyd Road	12x12m
1 x <i>Melaleuca quinquenervia</i>		12x8m
<i>Plumeria sp.</i>	Adjacent to the driveway entrance, northern boundary – 1 Ben Boyd Road	2.5x5m
<i>Murraya paniculata</i> (hedge)	Eastern boundary, car park – 1 Ben Boyd Road	2m
1 x <i>Ficus rubiginosa</i>	Atop rock outcrop – southeastern corner – 1 Ben Boyd Road	
4 x <i>Lagunaria pattersonii</i>	Council reserve – Southeastern boundary – 1 Ben Boyd Road	15m
1 x <i>Ficus rubiginosa</i>		8x8m

The report must detail the condition and health of the nominated tree(s) upon completion of the works, and shall certify that the tree(s) has/have not been significantly damaged during the works on the site, and has/have reasonable prospects for survival.

(Reason: To ensure compliance with the terms of this consent)

Landscaping

G6. The landscaping shown in the approved landscape plan numbered L102 prepared by Terras Landscape Architects dated 3 September 2024 and received by Council on 13 September 2024, and as modified by the conditions of this consent, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Unpaved Verge

G7. The unpaved verge area must be constructed or reconstructed and planted with an appropriate species of grass prior to completion of the works at no cost to Council.

(Reason: To ensure that community assets are presented in accordance with reasonable community expectations)

Compliance with Certain conditions

G8. Prior to the issue of any Occupation Certificate, Condition C18 (Heritage Requirements) must be certified as having been implemented on site and complied with.

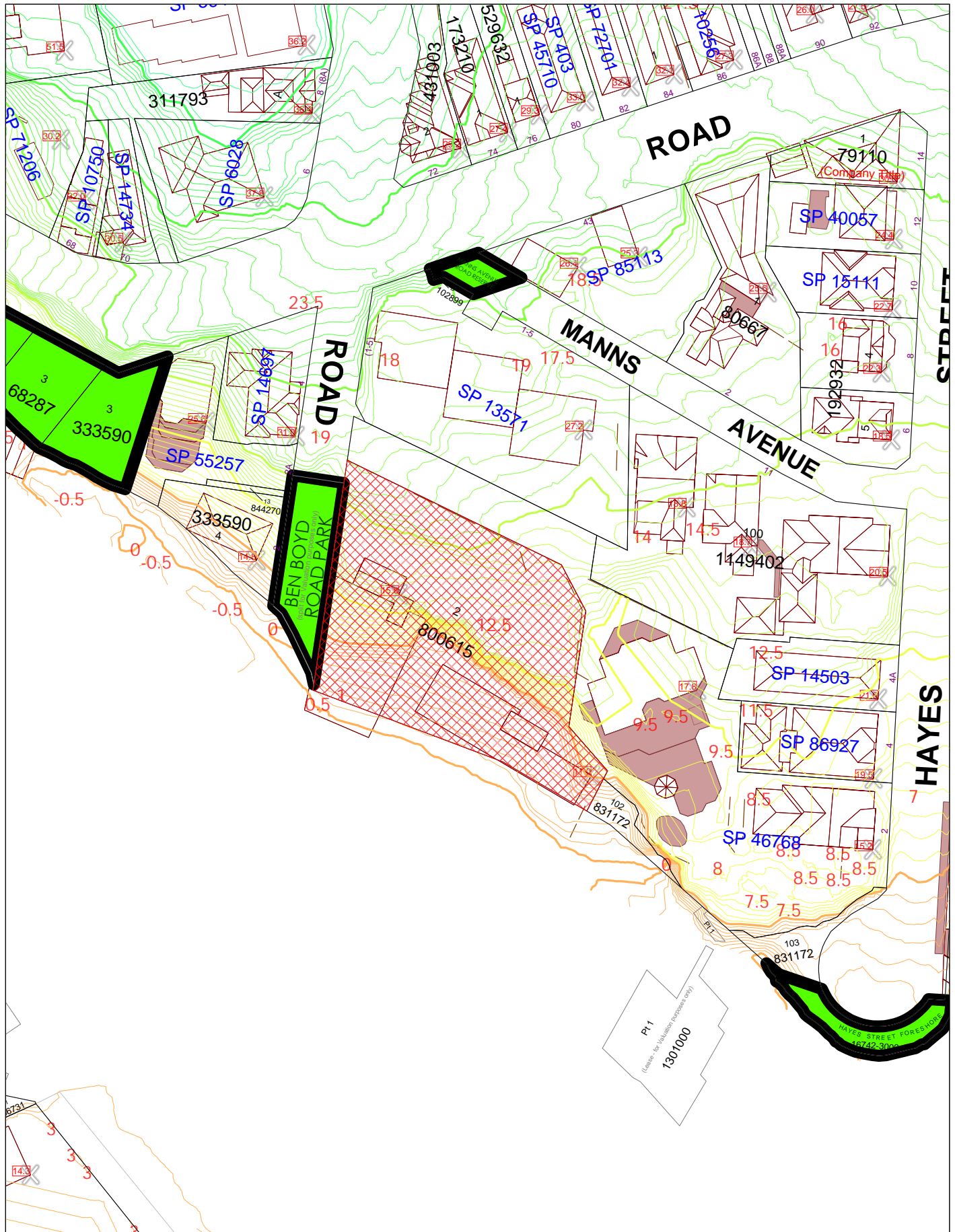
(Reason: To ensure the development is completed in accordance with the requirements of this consent)

I. On-Going / Operational Conditions**Maintenance of Approved Landscaping**

11. The owner of the premises at 1 Ben Boyd Road, Neutral Bay is to maintain the landscaping approved by this consent generally in accordance with the approved plans, and as amended by the conditions of this consent.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

(Reason: To ensure maintenance of the amenity of adjoining properties)



North Sydney Council

Copyright © North Sydney Council - No part of this map may be reproduced without permission. Commercial decisions should not be made based on information contained in this map without first checking details held by the responsible Government authority.

Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsdney.nsw.gov.au.

Scale: 1:1200 approx.

