



Mr Ben Farrar
54, 14 Narabang Way
BELROSE NSW 2085

D6/22
RP (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
NOTICE OF DETERMINATION - Approval**

Development Application Number:	6/22
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Land to which this applies:	107 Ben Boyd Road, Neutral Bay Lot No.: 23, DP: 731681
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Applicant:	Ben Farrar
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Proposal:	Retaining walls, decks, landscaping and external stairs
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Determination of Development Application:	Subject to the provisions of Section 4.17 of <i>the Environmental Planning and Assessment Act 1979</i> , approval has been granted subject to conditions in the notice of determination.
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Date of Determination:	27 September 2022
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Reasons for Approval

The development application has been assessed against the relevant provisions and controls within North Sydney LEP 2013 and North Sydney DCP 2013 and generally found to be satisfactory.

The proposal complies with the LEP building height development standard of 8.5m in accordance with clause 4.3 in NSLEP 2013. Consequently, there would be no overshadowing and/or view loss. Nevertheless, the height of the timber batten screen within the front setback should be reduced to minimise impacts upon the adjoining property and to reduce the visual impact of the proposed screen.

A condition is also recommended requiring the deletion of the southernmost retaining wall because it is considered to be excessive in height and likely to cause a detrimental impact upon T9.

Nevertheless, the proposal would provide additional landscaping to enhance the verdant character of the heritage item and the locality generally.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979, the application is considered to be satisfactory as amended by the recommended conditions of consent and recommended for approval.

Consent to operate from:

13 October 2022

Consent will lapse on:

13 October 2027

Period of Consent

Subject to Section 4.20 of the Act, this consent becomes effective and operates from the date listed above. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To activate this consent, works must physically commence onsite 29 September 2027.

How community views were taken into account:

The subject application was notified to adjoining properties and the Precinct inviting comment on the proposal but there were no submissions in response to Council notification letter. Nevertheless, conditions of consent have been imposed to maintain residential amenity and/or streetscape character.

Review of determination and right of appeal:

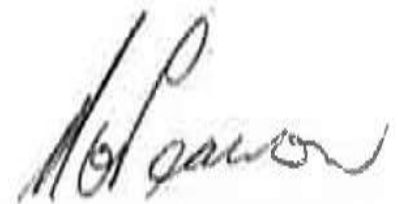
Within six months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

Plans endorsed by the consent authority - please refer to condition A1.

Endorsed for and on behalf of North Sydney Council

13 October 2022

DATE



Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)

(i) **Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the *Environmental Planning and Assessment Act 1979* ("the Act") and the provisions of the *Environmental Planning and Assessment Regulation 2000* ("the Regulation") such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.17 of the Act.

(ii) **Definitions**

Unless specified otherwise, words have the same meaning as defined by the Act, the Regulation and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans means the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

NCC means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

Council means North Sydney Council.

Court means the Land and Environment Court.

Local Native Plants means species of native plant endemic to North Sydney LGA.

Stormwater Drainage System means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner Builder has the same meaning as in the *Home Building Act 1989*.

Principal Certifier for building or subdivision work means the certifier appointed as the principal certifier for the building work under section 6.6 (1) or for the subdivision work under section 6.12 (1).

Principal Contractor for building work means the person responsible for the overall coordination and control of the carrying out of the building work.

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the *Home Building Act 1989*.

Professional Engineer has the same meaning as in the *NCC*.

Public Place has the same meaning as in the *Local Government Act 1993*.

Road has the same meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

Site means the land being developed subject to this consent.

NSLEP 2013 means *North Sydney Local Environmental Plan 2013*

NSDCP 2013 means *North Sydney Development Control Plan 2013*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of any waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: **Interpretation of Conditions** - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

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Development in Accordance with Plans/Documentation

A5. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Date	Description	Drawn by
L-01	9/08/2021	Site Plan/Site Analysis	Serenescapes
L-02	9/08/2021	Zone A Landscape Plan	Serenescapes
L-03	9/08/2021	Zone A Planting Plan	Serenescapes
L-04	9/08/2021	Zone B Landscape Plan	Serenescapes
L-05	9/08/2021	Zone B Planting Plan	Serenescapes
L-06	9/08/2021	Sectional Elevations	Serenescapes
L-07	9/08/2021	Sectional Elevations	Serenescapes
L-08	9/08/2021	Sectional Elevation	Serenescapes
L-09	9/08/2021	Landscape Specification and Details	Serenescapes

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

Plans on Site

A6. A copy of all stamped approved plans, 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 Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority 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

A7. 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)

Terms of Consent

A8. No approval is granted for the southernmost retaining wall and the retaining wall and terraced area above as shown in section EE given its likely detrimental impact upon the adjacent tree. There is no approval or implied in this consent (DA6/22) for any internal building works.

(Reason: To ensure the terms of the consent are clear.)

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

Reduced Height of Timber Batten Screen

- C1. The height of the timber batten screen within the front setback (Section Elevation AA) should be reduced to 1.8 m above the finished floor level of the timber deck (RL66.45).

The plans and specifications should be amended to reflect the above requirements prior to the release of the construction certificate.

(Reason: To reduce the bulk and scale of the screen preserving the residential amenity of the adjoining property)

Dilapidation Report Damage to Public Infrastructure

- C2. 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 Certifying Authority 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.

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

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

Sediment Control

- C3. 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.

A Sediment Control Plan must be prepared and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate and prior to any works commencing. The 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;
- 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 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: To protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

C4. A Waste Management Plan is to be submitted for approval by the Certifying Authority 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)

Stormwater Disposal

C5. 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 BCA and current plumbing standards and guidelines. 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, 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

C6. 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:

- 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 six months after the work is completed.

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 Engineers.

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 Certifying Authority 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)

Tree Bond for Public Trees

- C7. Prior to the issue of any construction certificate, security in the sum of **\$9,000.00** must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

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 but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

Tree	Location	Height
2 x Magnolia "Little Gem"	Council's Verge	--
T15 <i>Callistemon viminalis</i>	Council's Verge	6 m

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Tree Protection Measures to be shown on Construction Drawings

C8. The tree protection measures contained in the arborist report prepared by David Peake of Peake Arboriculture, dated 13 December 2021, and received by Council, shall be shown clearly on the Construction Certificate drawings. Plans and specifications showing the said tree protection measures must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure the construction plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that appropriate tree protection measures are shown on construction drawings)

Protection of Trees

C9. 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	Tree Species	Height (m)
T1	<i>Lophostemon Confertus</i> (Brushbox)	13 m
T2	<i>Plumeria SP</i> (Frangipani)	6 m
T6	<i>Melia Azedarach</i> (White Cedar)	8 m
T7	X <i>Cupressocyparis Leylandii</i> (Leyland Cypress)	8 m
T8	X <i>Cupressocyparis Leylandii</i> (Leyland Cypress)	8 m
T9	<i>Magnolia Grandiflora</i> (Bull Bay Magnolia)	8 m
T12	<i>Banksia Integrifolia</i> (Coast Banksia)	6.5 m
T14	<i>Lophostemon Confertus</i> (Brushbox)	20 m
T15	<i>Callistemon Viminalis</i> (Weeping Bottlebrush)	5 m
On footpath	2 x Magnolia "Little Gem"	

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.

There should be no pruning of the trees to be retained.

(Reason: Protection of existing environmental and community assets)

Approval for Removal of Trees

C10. The following tree(s) are approved for removal in accordance with the development consent:

Tree	Species	Height (m)
T3	<i>X Cupressocyparis Leylandii</i> (Leyland Cypress)	4.5 m
T4	<i>X Cupressocyparis Leylandii</i> (Leyland Cypress)	4.5 m
T5	<i>X Cupressocyparis Leylandii</i> (Leyland Cypress)	4.5 m
T10	<i>Lagerstroemia Indica</i> (Crepe Myrtle)	5.0 m
T11	<i>Lagerstroemia Indica</i> (Crepe Myrtle)	5.0 m
T13	<i>Strelitzia Nicolai</i> (Giant Bird of Paradise)	6.0 m

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

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.

(Reason: Protection of existing environmental and community assets)

Pruning of Trees

C11. Any pruning works shall be undertaken under the guidance of an appropriately qualified arborist tree/surgeon in accordance with the Australian standard (AS4373-2007 - Pruning of Amenity Trees) in particular the trees to be protected under condition C46.

A report detailing the measures to be employed during construction shall be submitted to the Certifying Authority 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.

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

Amendments to the Landscape Plan

C12. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- (i) T12 - *Banksia integrifolia* (8.5 m) should be marked as retained on the landscape plan.
- (ii) The proposed works (including the level changes within the SRZ and TPZ of T9 *Magnolia grandiflora* (8) is not supported so the landscape plan should be amended to minimise any impact to this tree.
- (iii) T10 and T11 *Lagerstroemia indica* may be removed but two replacement trees must be provided on the landscape plan in a similar position but clear of T9.
- (iv) Artificial turf is not permitted to be replaced with soft leaf buffalo turf.
- (v) The lower level terrace and the lawn area (Section EE plan L-07) shall be deleted and replaced with at grade landscaping/gardens. The proposed extent of level change and construction of retaining walls within the SRZ and TPZ of T9 is not supported.
- (vi) The mid-level vegetable garden of raised beds shall be amended to minimise any negative impact and/or level change to the TPZ of T12.

- (vii) The proposed retaining walls adjacent to the raised vegetable gardens (within the TPZ of any protected trees) shall be of “dry pack” construction with no footings or mortared joints.
- (viii) Alterations to lower level landscaping within TPZ of protected trees (notably T9 and T12) shall be designed in consultation with a qualified (AQ5) arborist to minimize any impacts to trees T9 and T12 with the recommendations to be included in any revised landscape plan.
- (ix) The proposed staircase joining the two lower levels must be constructed of timber rather than masonry (using sensitive construction techniques within the TPZ of any protected trees)
- (x) The proposed *Waterhousia floribunda*, “Sweeper” and *Tristaniopsis laurina* within the rear setback shall be 75 litre pot size not 45 l pot size as proposed.

The above amended landscape plans must be submitted to Council for further assessment by Council’s Landscape Development Officer prior to the release of any construction certificate.

(Reason: To promote the verdant character of the site and to maintain residential amenity)

Section 7.12 Contributions

- C13. 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 **\$741.48**.

Indexation

The monetary contribution required under this consent will be indexed at 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

- C14. 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 (\$)
Footpath Damage Bond	\$2,500.00
Tree Bond	9,000.00
TOTAL BONDS	\$11,500.00

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)

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

Protection of Trees

D1. 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.

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

Commencement of Works' Notice

D2. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two 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)

Aboriginal Heritage

D3. If areas of in situ sandstone outcrop are in the proposed development area (such as overhangs over 1 m in height or level platforms over 2 m square), the Aboriginal Heritage Office requires a preliminary inspection ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional prior to any development. If there are no existing sandstone outcrops present (or if any outcrops that were present were properly excluded from future impacts), then no further assessment is required by the Aboriginal Heritage Office.

Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted.

(Reason: To conserve any Aboriginal Heritage that may be located on the subject site)

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)

Service Adjustments

- E2. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the person acting on the consent and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

Road Reserve Safety

- E3. 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)

Temporary Disposal of Stormwater Runoff

- E4. 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 Certifying Authority.

(Reason: Stormwater control during construction)

Removal of Extra Fabric

- E5. 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

- E6. 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

- E7. 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)

No Removal of Trees on Public Property

- E8. 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

- E9. 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 within the tree report prepared by David Peake of Peake Arboriculture and dated 13 December 2021, 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:

- a. 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.
- b. An application to modify this consent pursuant to Section 4.55 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

- E10. 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**

E.g., 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)

Noxious Plants

E11. All lantana, privet, rubber trees, asthma weed, and other declared noxious 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)

Out-of-hours' Work Permits

E12. 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 96 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)

Sediment and Erosion Control Signage

E13. 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

E14. 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 workplace 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

E15. 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.

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

E16. 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

E17. 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

- E18. 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)

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 Certifying Authority 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
 - (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 conditions is out of date, work must cease and no further work may be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

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 a 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 Certifying Authority 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)

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 Certifying Authority 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)

G. Prior to the Issue of an Occupation Certificate

Damage to Adjoining Properties

G1. 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

G2. 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)

Certification of Tree Condition

G3. 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:

Tree No	Tree Species	Height
T1	<i>Lophostemon Confertus</i> (Brushbox)	13 m
T2	<i>Plumeria SP</i> (Frangipani)	6 m
T6	<i>Melia Azedarach</i> (White Cedar)	8 m
T7	<i>X Cupressocyparis Leylandii</i> (Leyland Cypress)	8 m
T8	<i>X Cupressocyparis Leylandii</i> (Leyland Cypress)	8 m
T9	<i>Magnolia Grandiflora</i> (Bull Bay Magnolia)	8 m
T12	<i>Banksia Integrifolia</i> (Coast Banksia)	6.5 m
T14	<i>Lophostemon Confertus</i> (Brushbox)	20 m
T15	<i>Callistemon Viminalis</i> (Weeping Bottlebrush)	5 m
On footpath	2 x Magnolia "Little Gem"	

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

G4. The landscaping on the plans listed in condition A1 must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Replenishment Trees

G5. Three (3) replenishment trees must be provided (751 pot size, native species) in a similar position to T10, T11, T13.

(Reason: To enhance the verdant character of the subject site)