



CBUS Property Pty Ltd  
Attention: Ms Helen Rosen  
Suite 1, Level 23 Farrer Place  
SYDNEY NSW 2000

D367/22  
JD6(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
NOTICE OF DETERMINATION – Deferred Commencement**

*Issued under Section 4.18 of the Environmental Planning and Assessment Act 1979 (“the Act”). Clause 87 of the Environmental Planning and Assessment Regulation 2021 (“the Regulation”)*

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**Development Application Number:** 367/22

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**Land to which this applies:** 173-179 Walker Street – 11,15 and 17 Hampden Street,  
North Sydney  
Lot No.: 1, DP: 523229

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**Applicant:** Ms Helen Rosen, CBUS Property Pty Ltd

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**Proposal:** Site preparation works, comprising demolition of all buildings and works, removal of two trees and relocation of a sewer connection and diversion of stormwater infrastructure.

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**Determination of Development Application:** The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 3 April 2024. Subject to the provisions of Section 4.17 of the Environmental Planning and Assessment Act 1979, deferred commencement has been granted, subject to conditions in the notice of determination.

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**Date of Determination:** 3 April 2024

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**Reason for Deferred Commencement:** The Panel expressed concern that the demolition application was not accompanied by a proposed development to enable an accurate assessment of the loss of affordable housing. Therefore, the Panel imposed a condition requiring payment of the contribution in accordance with Clause 48 of the *SEPP (Housing) 2021*.

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The Panel noted that the conditions include requirements for ongoing community liaison, site rehabilitation, a management plan, the provision and maintenance of approved landscaping.

Deferred commencement consent was applied as Council must consider information detailed by condition AA1 before an operational consent can be issued.

Condition AA1, the deferred commencement conditions, is to be satisfied within 12 months of the determination.

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**Deferred Commencement Time Frame:** 12 months

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**Date of Lapsing:** 5 years after the date when consent becomes operational.

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**How community views were taken into account:**

Renotification was considered unnecessary in accordance with Council's Community Engagement Protocol. Matters raised by the panel's Determination and subsequently addressed by the applicant's submission, were not the subject of any submissions during two notification periods held for the application. However, while some submitters suggested the existing housing on-site could be made available for rent, this is considered beyond the scope of the application's assessment.

All matters raised by submissions were considered in the officer's report and the Panel's deliberations at the 6 December 2023 meeting. The submissions received by Council were addressed in the NSLPP report (see Council's website:

<https://www.northsydney.nsw.gov.au/downloads/file/2953/lpp04-173-179-walker-and-11-15-17-hampden-street-north-sydney-da36722-rpt>)

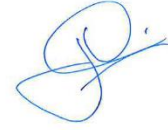
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**Review of determination and right of appeal:**

Consideration should be given to providing the evidence to Council to allow sufficient time to consider the same and form a view as to whether the deferred commencement conditions are satisfied or not. Within 6 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.

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Endorsed for and on behalf of North Sydney Council



**15 April 2024**

DATE

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Signature on behalf of consent authority

JIM DAVIES

**EXECUTIVE PLANNER**

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(i) **Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning & Assessment Regulation 2021 (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.18 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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**AA. *Deferred Commencement Condition***

**AA1. Additional plans and documentation required before the consent can be made operational**

This consent shall not operate until this deferred commencement condition has been fully complied with, by submission of the documentation detailed in this condition, to the satisfaction of Council.

**If the applicant fails to satisfy Council as to the matters specified by this condition within 12 months from the date of this consent, this consent will lapse in accordance with Section 4.16 (3) of the Environmental Planning and Assessment Act 1979.**

***Revised demolition plan***

- a) A revised demolition plan and other diagrams to show:
1. All buildings and works to be demolished and removed,
  2. All trees to be removed or pruned, including those on public land in the site's vicinity,
  3. Tree protection zones of trees to be retained, including the crowns of these trees,
  4. Staging of works, and
  5. Means of access to the site for each stage.
  6. The existing and finished levels and condition of the site including any embankment, bunding or other earthwork to be installed and maintained on the site.

***Detailed demolition management plan***

- b) A detailed demolition management plan is to be submitted, including measures to implement recommendations of other plans required by this condition, and the preliminary construction management plan, Logic Projects, 10 November 2022, and any other relevant requirements of this deferred commencement condition.

***Detailed waste management plan***

- c) A detailed waste management plan is to be submitted, including measures to implement recommendations of the construction and demolition waste management plan prepared by Elephants Foot Consulting, 23 September 2022, and any other relevant requirements of this deferred commencement condition.

***Detailed site investigation implementation***

- d) Documentation must be submitted to demonstrate implementation of and compliance with the recommendations of the Detailed Site Investigation, Douglas Partners, 23 September 2022.

***Demolition traffic and parking management plan***

- e) A comprehensive demolition traffic and parking management plan must be submitted to implement the recommendations of the report by Parking and Traffic Consultants, 14 November 2022 and demonstrate how the following matters will be addressed, including and not limited to:
- (i) How the aggregate impacts of the proposal and other development in the locality will be addressed,
  - (ii) Measures to reasonably maintain access to Hampden Street and Walker Street for pedestrians and vehicles, at all times of the day, and during all days of the week, and
  - (iii) Means of reasonably maintaining resident/public parking along the street immediately adjacent to the site.



***Specific details of demolition and site works traffic and parking management plan***

- f) A demolition and site works traffic and parking management plan shall be prepared by a suitably qualified and experienced traffic consultant and must be submitted for consideration and approval in writing by North Sydney Council's Traffic Division PRIOR TO THE ISSUE OF THE OPERATIONAL CONSENT. Any use of Council property will require appropriate approvals prior to any work commencing. At a minimum, the Management Program must specifically address the following matters:
- (i) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
    - Dedicated temporary site driveway entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways and footways;
    - The proposed signage for pedestrian management to comply with the relevant Australian Standards, including pram ramps;
    - Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
    - The locations of any proposed Work Zones in the frontage roadways (to be approved by Council's Traffic Committee);
    - Locations of hoardings proposed;
    - Location of any proposed crane standing areas;
    - A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
    - Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
    - The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
  - (ii) A detailed heavy vehicle access route map through the Council area to Arterial Roads. Provision is to be made to ensure through traffic is maintained at all times.
  - (iii) The proposed phases of works on the site, and the expected duration of each phase.
  - (iv) How access to neighbouring properties will be maintained at all times and the proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of process.
  - (v) The road is not to be used as a waiting area for trucks delivering to or awaiting pick up of materials.
  - (vi) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising structural engineer and must not involve any permanent or temporary encroachment onto Councils property.
  - (vii) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of "B" class hoardings over footpaths and laneways.
  - (viii) A Waste Management Plan. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process.

All traffic control work and excavation, demolition and construction activities must be undertaken in accordance with the approved Management Program and any conditions attached to the approved Program. A certificate of compliance with this condition must be obtained from

Council's development engineers, before works commence. A copy of the approved Management Program and any conditions imposed on that Program, must be kept on the site at all times and made available to any officer of Council upon request.

**Notes:**

- 1) North Sydney Council's adopted fee for certification of compliance with this condition shall be payable on lodgement, or in any event, prior to the issue of the relevant approval.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Management Plan be lodged with Council as early as possible, as a **minimum six (6) weeks assessment period** is required, including referral to the Traffic Committee.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed above.

***Dilapidation survey***

- g) A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant who 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 Council for approval before works authorised by this consent commence.

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.

***Shoring for adjoining property***

- h) Where any shoring for excavation is to be located on or is supporting Council's property or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of excavation, encroachment and the method of removal and de-stressing of shoring elements, backfilling and compacting of over-excavated cavities on Council's and/or private property with fill suitable for its purpose, must be submitted Council for approval. Backfilling and compacting of over-excavated cavities must be addressed to ensure that compaction is reliable. To obtain the permit for tieback anchors, an 'Application to satisfy development consent' form with payment of the adopted assessment fees, must be made to Council.

***Note: Approval of engineering drawings for shoring works to be located on adjoining property by Council does not authorize a trespass on private or public land. All relevant permissions/legal rights must be obtained to undertake any works on adjoining land.***

***Geotechnical report and noise and vibration management plan***

- i) All recommendations of the geotechnical report by Douglas Partners, 23 September 2022 being implemented, including preparation of a noise and vibration management plan that is consistent with geotechnical report's recommendations and their implementation.

***Detailed geotechnical report***

- j) In addition to implementing or to complement the reports referred to in paragraph (i) a detailed Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:-
- (i) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
  - (ii) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
  - (iii) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
  - (iv) The existing groundwater levels in relation to the basement structure, where influenced;
  - (v) The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilized in controlling groundwater. Where it is considered there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilized; and
  - (vi) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during site works. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.
  - (vii) The design principles for the geotechnical report are as follows:
    - no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;
    - no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
    - no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
    - vibration is to be minimized or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the carrying out the

- development;
- appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and
- An adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/ hydro geological engineer or suitable qualified expert with previous experience in such investigations and reporting.

It is the responsibility of the consulting geotechnical/ hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after completion of works. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and site works.

***Sediment control plan***

- k) Where the approved works require 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 & 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 and approved by Council prior to any works commencing. The Sediment Control Plan must be consistent with the Blue Book and disclose:

- (i) All details of drainage to protect and drain the site during the works processes;
- (ii) All sediment control devices, barriers and the like;
- (iii) Sedimentation tanks, ponds or the like;
- (iv) Covering materials and methods; and
- (v) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- (vi) Methods for the temporary and controlled disposal of stormwater during the approved works.

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

***Work zone***

- l) If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the ‘Work Zone’. A Work Zone permit is required to be issued by the Council prior to works authorised by this consent commence.

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 Council.

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.

***Parking meter relocation***

- m) Where metered parking is located adjacent to the site, Council will require the removal/relocation of existing parking meter and associated meter infrastructure. An application must be made to North Sydney Council for the approval of the Parking Meter Manager. The application must include a copy of the plans of the proposed temporary and permanent driveways for the entire site.

All costs associated with removal/relocating the metered parking including all sign changes, parking bay line markings must be paid in full to North Sydney Council before any works commence.

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

- n) Prior works commencing, security deposit or bank guarantee must be provided to Council to the sum of \$155,000.00 to be held by Council for the payment of cost for any/all of the following:
- (i) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
  - (ii) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent
  - (iii) Remedying any defects in any such public work that arise within 1 year for stormwater and 6 months for major road works and 2 months for vehicular crossing & small associated footpath works, after the work is completed.

The security in accordance with the schedule contained later in these conditions and must be provided by way of a deposit with the Council; or a guarantee satisfactory to Council (such as a satisfactory bank guarantee).

The security will be refundable following the expiration of defect risk period for the particular type of work as specified above (under c)), 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 security must be provided to North Sydney Council prior any work commencing.

**Security deposits**

- o) All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any works authorised by this consent commencing:

<b>Security deposit/ guarantee</b>	<b>Amount (\$)</b>
Street Tree Bond (on Council Property)	\$140,000.00
Infrastructure Damage Bond	\$33,000.00
Drainage Construction Bond	\$122,000.00
<b>TOTAL BONDS</b>	<b>\$295,000.00</b>

**Drainage works**

- p) The following Required Infrastructure Works must be carried out –in accordance with the Roads Act 1993:
- (i) Redirection of existing stormwater main that traverses the property by construction of a new in-ground drainage line under the kerb and gutter at standard depth in Walker and Hampden Streets with all associated stormwater infrastructure (junction stormwater pits). The line must connect the stormwater gully pit in Walker Street to the existing Council pit located downstream - on the eastern side of the property.
  - (ii) The pipes within the road reserve are to be reinforced concrete class 2 with the final capacity and minimum diameter to be provided.
  - (iii) Bedding shall be in accordance with Australian Standard AS 3725 – (Loads on buried concrete pipes). The developer shall be responsible for carrying out any service investigations to allow a gravity connection.
  - (iv) A hydraulic grade line is to be added to the drainage long-section to ensure that the drainage has sufficient capacity.
  - (v) The final alignment and capacity of the pipes must be submitted.
  - (vi) The existing pipe is 5m deep in some locations, pit designs and a pit schedule must also be provided for approval.

Plans and specifications required by this condition must be submitted for approval by Council’s Manager Infrastructure and Engineering, before works commence.

Works must not commence without the formal written approval of Council (as Roads Authority) under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for Road Works, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. A detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RMS Traffic Control at Work Sites (1998).

**Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.**

***Note:** A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining approval. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.*

**Tree preservation and protection**

q) Details of the following matters shall be submitted:

- (i) A project arborist shall be appointed **to physically supervise** all demolition works in order to ensure that these are carried out in a tree sensitive manner.
- (ii) Upon completion of all works, the site shall be regraded, retaining existing levels within the Tree Protection Zone of protected trees, and laid with soft leaf buffalo turf. An establishment and ongoing maintenance plan (including mowing) shall be included for approval by council.
- (iii) No objection is raised to removal of public trees T41 & T42 subject to replacement with 1 x *Tristaniopsis laurina* 'Luscious' (75l) and 1 x *Corymbia maculata* (75l) in approximately the same location.
- (iv) Retention and protection of all site trees in accordance with AS4970, and retention and protection of all public trees in accordance with AS4970,
- (v) 2 x *Platanus* street trees on the western side of Walker St, and 1 x *Platanus* street trees on the eastern side of Walker St, immediately to the north of the Walker St & Berry St intersection shall be protected in accordance with AS4970, have branch protection installed for branches overhanging the roadway, and have a collective tree bond of \$20,000 applied. (These trees are located along the proposed entry and exit route under the lodged demolition and site works management plan and may be at risk of damage if not adequately protected).

- (vi) The central roadway planting (referred to as Group 2 in the arborist's report) including but not limited to 1 x *Jacaranda mimosifolia*, 2 x *Pittosporum rhombifolium*, 1 x *Glochidion ferdinandii*, 9 x *Callistemon sp.*, 2 x *Pittosporum undulatum*, 5 x *Cyathea sp.*, 1 x clump *Strelitzia nicholii*, associated underplanting of *Clivea sp.*, *Asplenium aethiopicum*, *Lomandra longifolia* and *Calathea sp.*, & *Ficus rubiginosa* at the eastern street terminus, and all associated sandstone walls including upper heritage handrail between Hampden Streets lower and upper shall be retained and protected in accordance with AS4970. 1.8m high steel mesh tree protection fencing shall be installed to completely enclose this garden bed, no pruning shall be permitted, and a collective tree bond of \$120,000 shall be applied.
- (vii) An amended arborist report shall be submitted, assessing any amendments to existing proposal, and confirming that Group 3 - 8 x Platanus street trees along Walker St (upper), or any other street trees along this stretch of road will not be impacted by any associated works, including stormwater or other services, installation of cranes or heavy machinery etc. These trees shall be protected in accordance with AS4970, but no bond or tree protection shall be conditioned at this stage unless these trees are shown to be impacted by the proposal in the amended arborist report. The amended arborist report shall include a detailed Tree Protection Management Plan for all retained and protected trees, including transplanting of T22, T23, T27 & T28 as outlined above. This report shall also consider pruning requirements, and impact of any hoarding and scaffolding.
- (viii) An AQ5 qualified project arborist shall be appointed to oversee all works within the TPZ of any protected tree.
- (ix) Sensitive construction techniques including hand excavation, pier & beam construction, and flexible location of piers/footings shall be used within the TPZ of any protected tree. No canopy pruning shall be permitted unless specifically detailed in amended and approved arborist report, and shall be carried out by an AQ3 qualified arborist in accordance with AS4373. "
- (x) Where not inconsistent with other requirements of this condition or other conditions of this consent, the recommendations of the arboricultural impact assessment prepared by Tree Management Strategies, 25 September 2023 must be implemented by the detailed tree protection management plan required by paragraph (vii).

**Ongoing community liaison**

- r) A community liaison plan must be prepared for the proposed works that is consistent with cl. 11.8.2 Part 11 North Sydney DCP 2013 and implements the recommendations of the submitted preliminary construction management plan by Logic Projects, 10 November 2022. The plan is to be prepared for and be applied during detailed planning and carrying out of the proposed works and the during the rehabilitation and maintenance of the site, until works commence for the site's development for residential use or other permissible purposes, the subject of another consent.

**Site rehabilitation and management plan**

- s) A comprehensive and detailed site rehabilitation and management plan shall be submitted for approval, to demonstrate how the site will be properly reformed, rehabilitated, landscaped and maintained, upon completion of all demolition and site preparation works until such time as a construction certificate is issued to commence works in accordance with another consent to construct residential accommodation, or other development permitted on the site.



***Local Infrastructure Contribution***

- t) 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, prior to any works authorised by the consent commencing, 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 \$30,087.17.

Reason To eliminate, mitigate or manage the environmental impacts of the proposed works, to ensure that local residential amenity is reasonably maintained and to ensure applicable legislative requirements and obligations of the applicant can be satisfied.

***Consultation with Transport for New South Wales***

- u) The applicant shall consult with Transport for New South Wales or their agents, to ensure that this agency's concerns are addressed in the finalisation of the proposed stormwater relocation's design.

**This consent shall not operate until such time as the written approval from Council's Manager Development Services stating that the requirements of this condition has been satisfied.**

**Upon satisfaction of the deferred commencement condition, the following standard conditions apply:**

**A. Conditions that Identify Approved Plans**

**Development in Accordance with Plans/Documentation**

- A1. The development must be carried out in accordance with the Early Works Civil Development Application Report, Taylor Thomson Whitting (NSW), 6 September 2023 and Detailed Site Investigation, Douglas Partners, 23 September 2022 or cited by other conditions, and as amended by other conditions of this consent. Plans submitted in satisfaction of Condition AA1 are to be included in Condition A1, when the operational consent is issued.

(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, as required by deferred consent condition AA1) must be kept on site at all times so as to be readily available for perusal by any officer of Council.

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

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

**Payment of Affordable Housing Contribution**

D1. A contribution calculated in accordance with clause 48 of SEPP (Housing) 2021 shall be paid. The amount of the contribution must be calculated based on a new independent and comprehensive analysis and assessment required by Clause 47 of this SEPP. This information must be submitted to the satisfaction of Council before the contribution is paid.

(Reason: To assist in mitigating the loss of affordable housing caused by the development.

**Notice of Proposed Work (Remediation Work)**

D2. Notice of proposed work must be given to the Council in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021.

The following additional information must be submitted with the notice to the Council:

- a) Copies of any preliminary investigation, detailed investigation and remediation action plan for the site; and
- b) Contact details for the remediation contractor and any other party responsible for ensuring compliance of remediation work with regulatory requirements.

Note: 30 days' notice is required for any remediation work. In the case of work required to be carried out immediately under the terms of a remediation order a minimum of two days' notice is required)

(Reason: Protection of the environment, SEPP 55 compliance)

**Public Liability Insurance – Works on Public Land**

D3. 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)

### Sydney Water Approvals

- D4. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The applicant must provide evidence to Council that demonstrates that Sydney Water has appropriately stamped the plans before the commencement of any works requiring their approval.

*Notes:*

- ***Sydney Water Building Plan Approvals*** can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13 000 TAP IN (1300 082 746) for further information.

(Reason: To ensure compliance with Sydney Water requirements)

### Asbestos Material Survey

- D5. Prior to the commencement of any works, a report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos 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 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 and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS 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 Council as proof of correct disposal of asbestos laden waste.

The report must be submitted to Council for approval before works commence, to ensure compliance with this condition and relevant WorkCover requirements and law.

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

### Commencement of Works' Notice

- D6. Works 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 those works 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. 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

- E3. During site works, 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 Council.

(Reason: Stormwater control during construction)

### **Geotechnical Stability during Works**

- E4. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.

Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydrogeological considerations must be undertaken in accordance with the recommendations of the Geotechnical Investigation prepared by Douglas Partners, dated September 2022 and all subsequent geotechnical inspections carried out during the excavation and construction phase.

Approval must be obtained from all affected property owners, including North Sydney Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

(Reason: Ensure appropriate professional are engaged at appropriate stages during construction)

### **Council Inspection of Public Infrastructure Works**

- E5. During the works on public infrastructure reverting to Council's care and control, Council's development engineer is to be contacted to undertake inspections of the works at the following hold points: -

- a) Stormwater pit installation, diversion and connection

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

### **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)

### Compliance with Construction Noise Management Plan

- E8. All works conducted on site which form part of this development must be carried out in accordance with the submitted Construction Noise Management Plan and all conditions of consent.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

### Developer's Cost of Work on Council Property

- E9. The Developer 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)

### Construction Hours

- E10. Works approved under this consent must be restricted to within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
R4 Zone	Monday - Friday	7.00am - 5.00pm
	Saturday	8.00am - 1.00pm
	Sunday Public holiday	No work permitted

Works associated with the 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)

### **Installation and Maintenance of Sediment Control**

E11. Erosion and sediment controls must be installed and maintained at all times in accordance with the sediment and erosion control plan.

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**

E12. 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)

### **Remedial Action Plan (Contaminated Land)**

E13. The remediation work must be carried out in accordance with the Remedial Action Plan approved under this consent and all relevant guidelines issued under the Contaminated Land Management Act.

(Reason: To ensure the proper management of contaminated land)

### **Site Amenities and Facilities**

E14. Amenities which satisfy applicable occupational health and safety and construction safety regulations, including any SafeWork NSW 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](http://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 SafeWork NSW 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](http://www.workcover.nsw.gov.au).

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

### **Prohibition on Use of Pavements**

- E16. 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**

- E17. All plant and equipment used in the undertaking of the 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](http://www.northsydney.nsw.gov.au).

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

### **Waste Disposal**

- E18. 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

E19. 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)

### Service Adjustments

E20. 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).

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)

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

#### Commencement of Works'

F1. Works 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 the erection of the building.

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

#### Excavation/Demolition

- F2.
- 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

- F3.
- 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.

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

- F4.
- 1) A sign must be erected in a prominent position on the site
    - a) stating that unauthorised entry to the work site is prohibited; and
    - 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.
  - 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

### ***G. At the completion of demolition and site preparation works***

#### Infrastructure Repair and Completion of Works

- G1. Upon the completion of all works relating to the development:
- a. works in the road reserve must be fully completed; and

- b. works required 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 completed;

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)

#### **Certification – Civil Works**

- G2. a) An appropriately qualified and practising Civil Engineer must certify to Council that the stormwater drainage system is constructed in accordance with this consent and the provisions of the applicable Australian Standard.
- b) An appropriately qualified and practicing Civil Engineer must certify to Council that the vehicular crossing and associated works and road works were constructed in accordance with this consent and any approval for works in the road reserve issued by the Council.

(Reason: Compliance with the Consent)

#### **Works as Executed Drawings and Video**

- G3. A works-as-executed survey drawing (W.A.E.) of the completed stormwater drainage system must be obtained. The W.A.E. survey drawing must show the alignment, depth and grade of the stormwater drainage pipelines, pits and ancillary plumbing. The W.A.E survey drawing must be reviewed by a qualified and practising civil engineer and certification provided to Council that the as-built system achieves the design intent of the approved plans. Certification must be provided with the W.A.E survey drawing upon completion of the approved works.

(Reason: Compliance with the Consent)

#### **I. On-Going / Operational Conditions**

##### **Connection to Sewers of Sydney Water Corporation**

- I1. Waste water from the site must be directed to the sewers of the Sydney Water Corporation (**SWC**) under a Trade Waste License Agreement. Details of the Corporation's requirements should be obtained prior to the commencement of any work.

(Reason: To ensure compliance with Sydney Water's requirements and protect the environment)

### **Noise and Vibration Impact**

12. The on-going use of the site must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)

### **Maintenance of Approved Landscaping**

13. The owner of the land to which this consent applies is to maintain the landscaping approved by this consent generally in accordance the site rehabilitation plan submitted as required by condition AA1.

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, solar access and views of adjoining properties)