

Original signed by Luke Donovan on 3/12/19

Date determined: 27/11/19

Date operates: 3/12/19

Date lapses: 3/12/24

Maville Bay Pty Ltd  
45 Noonbinna Crescent  
NORTHBRIDGE NSW 2063

D68/19  
LD (CIS)

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

*Issued under Section 4.18 of the Environmental Planning and Assessment Act 1979 (“the Act”).  
Clause 100 of the Environmental Planning and Assessment Regulation 2000 (“the Regulation”)*

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**Development Application Number:** 68/19

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**Land to which this applies:**

173 Pacific Highway & 116 Miller Street, North Sydney  
Lot No.: 22, DP: 809571

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**Applicant:**

Maville Bay Pty Ltd

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**Proposal:**

The construction of a 31 storey commercial office building at No. 173 Pacific Highway and alterations and additions to the existing building at No. 116 Miller Street including a through site link between the Pacific Highway and Miller Street frontages of the site.

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**Determination of Development Application:**

At its meeting of 27 November 2019, the **Sydney North Planning Panel (SNPP)**, as the consent authority, considered SNPP Reference No. 2019SNH020 – North Sydney – Development Application No. **68/19** and approval has been granted subject to conditions in the notice of determination.

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**Date of Determination:**

27 November 2019

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**Reason for approval:**

- The proposal complies with the major planning controls applying to the site.
  - The proposal is consistent with the desire future character of the area and its external impacts are reasonable.
  - The proposal provides a through-site link, which is a public benefit.
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**Consent to operate from:** 3 December 2019

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**Consent will lapse on:** 3 December 2024

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**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 by 3 December 2024.

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

The first exhibition of the application attracted two objections. One of the objections was concerned with part of the building that did not comply with the height control and that aspect has now been amended. The second objections related to the impact on the building to the north, which was reduced as a result of the amendment. There were no objections to the exhibition of the amended application. No objectors attended the public meeting.

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

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

**Endorsed for and on behalf of North Sydney Council**

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DATE

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Signature on behalf of consent authority  
LUKE DONOVAN  
**SENIOR ASSESSMENT OFFICER**

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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 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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**A. Conditions that Identify Approved Plans**

**Development in Accordance with Plans/documentation**

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council’s approval stamp, except where amended by the following conditions of this consent.

<b>Plan No.</b>	<b>Issue/Revision</b>	<b>Title</b>	<b>Drawn by</b>	<b>Dated</b>
A-DA-11010	2	Site Plan	Woods Bagot	29/08/19
A-DA-22011	2	Basement 02 Floor Plan	Woods Bagot	29/08/19
A-DA-22021	2	Basement 01 Floor Plan	Woods Bagot	29/08/19
A-DA-22031	2	Ground Floor Plan – Zone 1	Woods Bagot	29/08/19
A-DA-22032	2	Ground Floor Plan – Zone 2	Woods Bagot	29/08/19
A-DA-22041	2	Level 01 Floor Plan	Woods Bagot	29/08/19
A-DA-22051	2	Level 02 Floor Plan	Woods Bagot	29/08/19
A-DA-22061	2	Level 03 Floor Plan	Woods Bagot	29/08/19
A-DA-22071	2	Level 04 Floor Plan	Woods Bagot	29/08/19
A-DA-22081	2	Level 05 Floor Plan	Woods Bagot	29/08/19
A-DA-22091	2	Level 06 Floor Plan	Woods Bagot	29/08/19
A-DA-22101	2	Level 07 Floor Plan	Woods Bagot	29/08/19
A-DA-22111	2	Level 08 Floor Plan	Woods Bagot	29/08/19
A-DA-22121	2	Level 09 Floor Plan	Woods Bagot	29/08/19
A-DA-22131	2	Level 10 Floor Plan	Woods Bagot	29/08/19
A-DA-22141	2	Level 11 Floor Plan	Woods Bagot	29/08/19
A-DA-22151	2	Level 12 Floor Plan	Woods Bagot	29/08/19
A-DA-22161	2	Level 13 Floor Plan	Woods Bagot	29/08/19
A-DA-22171	2	Level 14 Floor Plan	Woods Bagot	29/08/19
A-DA-22181	2	Level 15 Floor Plan	Woods Bagot	29/08/19
A-DA-22191	2	Level 16 Floor Plan	Woods Bagot	29/08/19
A-DA-22201	2	Level 17 Floor Plan	Woods Bagot	29/08/19
A-DA-22211	2	Level 18 Floor Plan	Woods Bagot	29/08/19
A-DA-22221	2	Level 19 Floor Plan	Woods Bagot	29/08/19
A-DA-22231	2	Level 20 Floor Plan	Woods Bagot	29/08/19
A-DA-22241	2	Level 21 Floor Plan	Woods Bagot	29/08/19
A-DA-22251	2	Level 22 Floor Plan	Woods Bagot	29/08/19
A-DA-22261	2	Level 23 Floor Plan	Woods Bagot	29/08/19



A-DA-22271	2	Level 24 Floor Plan	Woods Bagot	29/08/19
A-DA-22281	2	Level 25 Floor Plan	Woods Bagot	29/08/19
A-DA-22291	2	Level 26 Floor Plan	Woods Bagot	29/08/19
A-DA-22301	2	Level 27 Floor Plan	Woods Bagot	29/08/19
A-DA-22311	2	Level 28 Floor Plan	Woods Bagot	29/08/19
A-DA-22321	2	Level 29 Floor Plan	Woods Bagot	29/08/19
A-DA-22331	2	Level 30 Floor Plan	Woods Bagot	29/08/19
A-DA-22341	2	Roof Plan	Woods Bagot	29/08/19
A-DA-22400	2	Through Site Link – Lower Ground	Woods Bagot	29/08/19
A-DA-22401	2	Through Site Link - Ground	Woods Bagot	29/08/19
A-DA-32011	2	West Elevation	Woods Bagot	29/08/19
A-DA-32021	2	South Elevation	Woods Bagot	29/08/19
A-DA-32031	2	East Elevation	Woods Bagot	29/08/19
A-DA-32041	2	North Elevation	Woods Bagot	29/08/19
A-DA-32101	2	Cross Section	Woods Bagot	29/08/19
A-DA-32111	2	Longitudinal Section Through Core	Woods Bagot	29/08/19
A-DA-32121	2	Longitudinal Section Through Office	Woods Bagot	29/08/19
A-DA-42011	2	Detail Elevation and Section - South	Woods Bagot	29/08/19
A-DA-42021	2	Detail Elevation and Section - West	Woods Bagot	29/08/19
A-DA-42031	2	Detail Elevation and Section - East	Woods Bagot	29/08/19
A-DA-42042	2	Elevation and Section - Link	Woods Bagot	29/08/19
-	-	Staged Construction Diagrams	Woods Bagot	22 October 2019

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

### Plans on Site

- A2. 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 the Panel, Public Information and to ensure ongoing compliance)

### **No Demolition of Extra Fabric**

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

(Reason: To ensure compliance with the approved development)

### **External Finishes & Materials**

- A4. External finishes and materials must be in accordance with the submitted Drawing Numbered A-DA-65011, Revision 2 dated 29/08/19 prepared by Woods Bagot unless otherwise modified by Council in writing.

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

### **Separate DA for Signage**

- A5. A signage master plan needs to be submitted as a separate development application, to cover all external signage on the site detailing the location, size and types of signage for the various uses. The signage should be in keeping with Council's DCP.

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

### **Awning on Pacific Highway**

- A6. The awning along the Pacific Highway frontage of the site must be detachable from the main structure of the building.

(Reason: To ensure the awning can be capable of removal in the event of road widening along Pacific Highway)

### ***B. Matters to be Completed before the lodgement of an Application for a Construction Certificate***

#### **Construction Management Program – Local Traffic Committee Approval**

- B1. A Construction Management Program prepared by a suitably qualified and experienced traffic consultant must be submitted and approved in writing by North Sydney Traffic Committee PRIOR TO THE ISSUE OF ANY Construction Certificate. Any use of Council property will require appropriate approvals prior to any work commencing. At a minimum, the Construction Management Program must specifically address the following matters:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
  - i. Dedicated temporary construction 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;

- ii. The proposed signage for pedestrian management to comply with the relevant Australian Standards, including pram ramps;
  - iii. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
  - iv. The locations of any proposed Work Zones in the frontage roadways (to be approved by Council's Traffic Committee);
  - v. Locations of hoardings proposed;
  - vi. Location of any proposed crane standing areas;
  - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
  - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
  - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) 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.
  - c) The proposed phases of works on the site, and the expected duration of each phase.
  - d) 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.
  - e) The road is not to be used as a waiting area for trucks delivering to or awaiting pick up of materials.
  - f) 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.
  - g) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of "B" class hoardings over footpaths and laneways.
  - h) 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 Construction 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. The certificate and the approved Construction Management Program must be submitted as part of the documentation lodged with the application for approval of a construction certificate. A copy of the approved Construction 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 Construction Management Plan be lodged with Council as early as possible, as a minimum six (6) weeks' notice is required to refer items to the Traffic Committee.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

**RMS conditions (Concurrence)**

B2. In accordance with the concurrence provisions under Section 138 of the Roads Act 1993:

- 1) All buildings and structures, together with any improvements integral to the future use of the site, are to be wholly within the freehold property (unlimited in height or depth), along the Pacific Highway boundary.
- 2) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Documents should be submitted to [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au)

- 3) If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days' notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
- 4) Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Documents should be submitted to [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au)  
  
A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.
- 5) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.
- 6) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Pacific Highway.
- 7) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Pacific Highway during construction activities.
- 8) All vehicles are to enter and exit the site in a forward direction. Provision for vehicles to turn around must be provided within the property boundary.
- 9) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

Notes:

- The proponent should also be advised that the subject property is within a broad area currently under investigation for the proposed Western Harbour Tunnel and Beaches Link motorway. A proposed reference design has been released for the road proposal and at present Roads and Maritime advises that the subject property remains within the area of investigation.
- The NSW Government has carried out extensive community engagement on the proposed design. Feedback received from all stakeholders will be considered as the design is finalised for the project's environmental assessment, which will include exhibition of environmental impact statement expected to occur during 2019. Once Road and Maritime has more certainty on the properties directly impacted by the final design, it will directly advise the owners of those properties. Further information about this project is available by contacting 1800 931 189 or [whtbl@rms.nsw.gov.au](mailto:whtbl@rms.nsw.gov.au) or by visiting the project website at <http://www.rms.nsw.gov.au/projects/sydney-north/western-harbour-tunnel-beaches-link/index.html>.

- Any inquiries in relation to this application can be directed to Cameron McIntyre on 8849 2787 or by email at [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au)

(Reason: To satisfy the requirements of RMS)

### **Ausgrid conditions**

#### **B3. a) Underground Cables**

There are existing underground electricity network assets in Pacific Highway and Miller Street.

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable. Safework Australia–Excavation Code of Practice, and Ausgrid’s Network Standard NS156 outlines the minimum requirements for working around Ausgrid’s underground cables.

#### **b) Substation**

There are existing electricity substation assets in Miller Street.

The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres. Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contain soil-filled equipment, or 120/120/120 where there is no oil filled equipment and be constructed of non-combustible material.

The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1HZ–100kHz)(ICNIRP 2010).

For further details on fire segregation requirements refer to Ausgrid's Network Standard 113.

Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access.

No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.

(Reason: To ensure compliance with the requirements of Ausgrid)

### **Sydney Water conditions**

#### **B4. a) Sydney Water Servicing**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

#### **b) Building Plan Approval**

The approved plans must be submitted to the Sydney Water Tap in™ online service 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.

*The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of 30 November 2015.*

The Tap in™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

(Reason: To ensure compliance with the requirements of Ausgrid)

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

**Dilapidation Report Damage to Public Infrastructure**

- C1. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site.

Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

A copy of the dilapidation survey and report is to be submitted to the 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)

**Dilapidation Survey Private Property (Neighbouring Buildings)**

- C2. A photographic survey and dilapidation report of adjoining properties Nos. 177 Pacific Highway and 100 Miller Street (Vibe Hotel and vehicular accessway only) detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The survey and report is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property.

A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

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



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

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

(Reason: Proper management of records)

### **Structural Adequacy of Existing Building**

C3. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of 116 Miller Street, North Sydney and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

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

### **Sediment Control**

C4. 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 & 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**

C5. 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)

### **External Finishes and Materials**

C6. The external colours and finishes must be in accordance with the approved schedule of finishes and materials. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the relevant Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure quality built form of development)

### **Reflectivity Index of Glazing**

C7. The reflectivity index (expressed as a per centum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be in accordance with those recommendations specified in the Solar Reflectivity Assessment prepared by WindTech dated 19 February 2019. 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 relevant Construction Certificate, fully satisfy the requirements of this condition.

Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

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

### **Work Zone**

- C8. 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 the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site.

If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the relevant Construction Certificate.

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

(Reason: Amenity and convenience during construction)

### **Maintain Property Boundary Alignment Levels**

- C9. Except where otherwise approved by Council, the property boundary alignment levels must match the levels which existed prior to the commencement of works. Plans and specifications which document existing and proposed levels adjacent to the site boundaries and which comply with the requirements of 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 issue of the relevant Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure interface between property and public land remains uniform)

### **Bicycle Storage and Parking**

- C10. The bicycle storage area must accommodate a minimum of 110 bicycle racks. The bicycle storage lockers and bicycle rail shall be designed in accordance with the applicable Australian Standards. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications, referenced on and accompanying the issue of the relevant Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To promote and provide facilities for alternative forms of transport)

### **Cycle Shower Facilities (Commercial and Mixed Use)**

C11. Shower and change facilities shall be provided and made accessible without charge to staff who work in the building. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the relevant 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 promote and provide facilities for alternative forms of transport)

### **Basement Car park to comply with relevant standards**

C12. The basement layout must comply with all requirements of Australian Standard AS2890.1. Certification from a suitably qualified and practicing Civil Engineer that the basement design will comply with the requirements of the Australian Standard must be provided to the Certifying Authority for approval prior to issue of the relevant Construction Certificate.

(Reason: To ensure the basement layout complies with relevant standards)

### **Required Infrastructure Works –Roads Act 1993**

C13. Prior to issue of the relevant Construction Certificate engineering design plans and specifications must be prepared by a qualified civil design engineer. An application must be made to Council on the “To Satisfy DA Consent Condition” application form with payment of the adopted assessment/inspection fees. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development:

#### Road Works

- a) construction of a fully new 150mm high granite kerb and concrete gutter is required across the entire site frontage in Miller Street and construction of a fully new 200mm high granite kerb and concrete gutter is required across the entire site frontage in Pacific Highway. A longitudinal section is required along the gutter line (existing and proposed levels), at a scale of 1:50 extending 5m past the property boundary line.
- b) construction of a fully new replacement granite pavers footpath, in accordance with Council’s current Public Domain Style Manual, is required across the entire site frontages in Pacific Highway and Miller Street. A longitudinal section is required along the footpath property boundaries at a scale of 1:50 extending 5m past the property boundary line.
- c) the footpaths shall be designed at a single straight grade of 3% falling to top of kerb so that it is uniform without showing signs of dipping or rising particularly at entrances.
- d) cross sections at a scale of 1:50 along the centre-line of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All the entry points are to comply with the Building Code of Australia (BCA), including disability requirements. The Council approved footpath levels must be accommodated at the building entry points.

- e) All works in the public domain must be in accordance with Council's current Public Domain Style Manual.

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

Certifying Authorities must not issue a Construction Certificate 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 a Construction Certificate. 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.*

(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993)

### **Foundations Adjacent to Drainage Easements**

- C14. The foundations for building structures and walls adjacent to the drainage easement are to be constructed in such a manner that does not affect stormwater drainage lines. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

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

(Reason: To allow maintenance without affecting the building and to ensure there is no damage to public assets)

**Stormwater Management and Disposal Design Plan – Construction Issue Detail**

C15. Prior to issue of the relevant Construction Certificate, a site drainage management plan must be prepared by a qualified drainage design engineer. The site drainage management plan must be submitted to and approved by Sydney Water and satisfy the following requirements:

- a) compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code;
- b) generally in accordance with the Stormwater Management Report prepared by Robert Bird Group dated 1/3/19, except as amended by Sydney Water;
- c) On site detention must be provided to the satisfaction of Sydney Water;
- d) pump-out systems for stormwater disposal will be permitted for drainage of basement areas only;
  - a) any pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm;
  - b) the pump system shall be regularly maintained and serviced, every six (6) months;

Engineering details demonstrating compliance with these criteria, and certified by an appropriately qualified and practising civil engineer shall be provided to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

(Reason: To ensure adequate provision is made for the discharge of sub-surface stormwater from the excavated parts of the site)

**Upgrade of existing building – Fire Spread and Safe Egress**

C16. Pursuant to clause 94 of the EP&A Regulation 2000, aspects of the existing building must be brought into conformity with the Building Code of Australia (BCA).

Work must be carried out as part of the development so as to upgrade the building to bring it into compliance with the relevant provisions of the BCA.

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

Notes:

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

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

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

- C17. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$230,000.00 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 6 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 6 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)

**Footpath, Entries and Fire Exit Details**

- C18. Footpaths, entries and exits and fire exits for the development must be designed by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate. The design must include (but is not limited to) the following: -
- a) cross section along the centre-line of each access point to the building including fire exits at a scale of 1:50 to be taken from the centre of the road and shall include all changes of grade both existing and proposed;

- b) the sections must show all relevant levels and grades (both existing and proposed) including those levels stipulated as boundary levels;
- c) the sections must show the calculated clearance to the underside of any overhead structure;
- d) a longitudinal section along the boundary line showing how it is intended to match the internal levels of the building with the boundary footpath levels. The footpath must be designed (at a single straight grade of 3% falling to top of kerb) so that it is smooth without showing signs of dipping or rising particularly at entrances; and
- e) a longitudinal section along the gutter and kerb line extending 5 metres past property lines showing transitions.

Details, plans and specifications complying with this condition are to be certified as complying with the Building Code of Australia (BCA) and Council's standard footpath specifications, and the certification, details, plans and specifications must be provided to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

Written concurrence confirming there will be no change to existing boundary and footpath levels is to be provided to the Certifier and North Sydney Council, prior to issue of the relevant Construction Certificate.

(Reason: To facilitate suitable pedestrian and disabled access to private sites, and to ensure that internal levels reflect footpath boundary levels)

### **Tree Bond for Public Trees**

- C19. Prior to the issue of any construction certificate, security in the sum of \$39,000 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 6 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**

<b>Tree</b>	<b>Location</b>	<b>Bond</b>
3 x <i>Platanus</i> sp. (26m)	Council verge in front of 116 Miller Street	\$36,000.00
1 x <i>Platanus</i> sp. (4mx2m)	On the verge to the north of the subject site in front of 177 Pacific Highway	\$3,000.00
<b>TOTAL</b>		<b>\$39,000.00</b>

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

**Protection of Trees**

C20. 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:

<b>Tree</b>	<b>Location</b>	<b>Height</b>
3 x <i>Platanus</i> sp.	Council verge in front of 116 Miller Street	26m
1 x <i>Platanus</i> sp.	On the verge to the north of the subject site in front of 177 Pacific Highway	4mx2m

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

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

**Pruning of Trees**

C21. All pruning works shall to the following tree(s) shall be undertaken under the guidance of an appropriately qualified arborist/tree surgeon in accordance with Australian Standard AS 4373-2007 - Pruning of Amenity Trees:

<b>Trees that may Require Pruning</b>	<b>Location</b>	<b>Height</b>
3 x <i>Platanus</i> sp.	Council verge in front of 116 Miller Street	26m

A report detailing the measures to be employed during construction shall be submitted to the Certifying Authority for approval prior to the issue of the relevant 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)

### **Garbage and Recycling Facilities**

C22. An appropriate area must be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements must be met:

- a) all internal walls of the storage area must be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
- b) provision for the separation and storage in appropriate categories of material suitable for recycling;
- c) garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

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

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

Note: The applicant may wish to discuss bin storage requirements and location with Council's Environmental Services prior to finalisation of the required detail, and a copy of Council's Waste Handling Guide should be obtained for reference purposes before the design is finalised.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors)

### **Asbestos & Hazardous Material Survey**

C23. 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 the Certifying Authority as proof of correct disposal of asbestos laden waste.

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

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

### **Location of Plant**

C24. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the designated plant rooms. Plans and specifications complying with this condition must be submitted to the Certifying Authority for Approval prior to the issue of the relevant Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issue of the relevant Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

### **Noise from Plant and Equipment**

C25. The use of all plant and equipment installed on the premises must not:

- (a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver . The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.
- (b) Cause “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

### **Vibration from Plant and Equipment**

- C26. The use of all plant and equipment to be installed on the premises must comply with the vibration limits specified in “Assessing Vibration: a technical guideline” issued by the NSW Environment Protection Authority, at the boundary of any affected receiver.

A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants must be submitted to the Certifying Authority, certifying that all plant and equipment on the site, together with the proposed plant and equipment, operating contemporaneously will comply with the requirements of this condition.

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

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship and commercial premises and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected residence.

“contemporaneously” means *existing at or occurring in the same period of time* (Macquarie Dictionary 3rd rev. ed. 2004).

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

### **Noise and Vibration from Major Roads and Rail Corridors**

- C27. To minimise the impact of vibration from any adjoining rail corridor, the building shall be acoustically designed and constructed to comply with the requirements of “Assessing Vibration: a technical guideline” issued by the NSW Environment Protection Authority.

(Reason: To ensure a suitable level of amenity not affected by excessive rail vibration from surrounding activities)

### **Construction Noise Management Plan**

- C28. A Construction Noise Management Plan must be prepared by an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, and must include the following:

- (a) Identification of noise affected receivers near to the site.
- (b) A prediction as to the level of noise impact at noise affected receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite.
- (c) Details of work schedules for all construction phases;

- (d) A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the Environment Protection Authority's Interim Construction Noise Guideline ("ICNG").
- (e) Representative background noise levels should be submitted in accordance with the ICNG.
- (f) Confirmation of the level of community consultation that is to be undertaken by occupants at noise affected receivers likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (g) Confirmation of noise monitoring methodology that is to be undertaken during the noise intensive stages of work including details of monitoring to be undertaken at the boundary of any noise affected receiver.
- (h) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (i) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupants at noise affected receivers.
- (j) Details of selection criteria for any plant or equipment that is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on occupants at noise affected receivers and other less intrusive technologies available; and
- (k) Details of site induction to be carried out for all employees and contractors undertaking work at the site.

"affected receiver" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

"boundary" includes any window or elevated window of an affected residence.

The Construction Noise Management Plan and must be submitted to the Principle Certifying Authority and a copy provided to Council prior to the issue of the relevant Construction Certificate.

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

### **Section 7.11 Contributions**

- C29. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Council Section 7.11 Contribution Plan for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

Administration	\$19,257.34
Community Centres	\$46,952.72
Childcare Facilities	\$81,538.76
Library and Local Studies Acquisitions	\$9,574.74
Library Premises and Equipment	\$29,105.88
Multi-Purpose Indoor Sports Facility	\$11,018.42
Olympic Pool	\$35,888.67
Open Space Acquisitions	\$35,096.31
Open Space Increased Capacity	\$69,570.35
Traffic Improvements	\$47,545.95
<b>Total</b>	<b>\$1,172,942.74</b>

The contribution MUST BE paid prior issue of any Construction Certificate.

The above amount, will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Section 7.11 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](http://www.northsydney.nsw.gov.au)

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

### **Security Deposit/Guarantee Schedule**

C30. 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:

<b>Security deposit/ guarantee</b>	<b>Amount (\$)</b>
Street Tree Bond (on Council Property)	\$39,000.00
Infrastructure Damage Bond	\$230,000.00
<b>TOTAL BONDS</b>	<b>\$269,000.00</b>

(Reason: Compliance with the development consent)

### **Deed of Agreement**

C31. The applicant and the Roads and Maritime Services must enter into a Deed of Agreement to enter into a lease of the proposed airspace over the public footpath in the Road Reserve of 173 Pacific Highway which is to require: -

- The awning along the Pacific Highway frontage of the site to be detachable from the main structure of the building.

The instrument(s) prepared for the lease of the proposed airspace over the public footpath is (are) to include:

- a) unobstructed availability of the footway at ground level to the public at all times;
- b) an ongoing maintenance agreement for the structure over the public footpath at the sole cost of the applicant;
- c) ongoing arrangements for the applicant to obtain public liability insurance details for a policy in the amount of not less than \$20 million in respect of any property damage, personal injury and loss of life caused by or in connection with the provision and use of the proposed structure over the Road Reserve in Pacific Highway. The applicant is to bear all costs incurred in obtaining and maintaining this insurance while ever the structure remains in place over public land, and must have North Sydney Council noted as a beneficiary on this policy, and be on terms satisfactory to the Council; and
- d) The awning be removed if the Roads and Maritime Service advise the owner of the site that Pacific Highway will be widened in the area where the awning is erected.

Prior to the issue of the relevant Construction Certificate, the Deed of Agreement and any associated documentation shall be prepared, executed and registered at the sole cost of the applicant, including the reasonable costs of Council in obtaining advice, the cost and expense of negotiating the terms and conditions of the lease, producing documents or otherwise facilitating the preparation, execution and registration of the required documents. The Deed must bind all successors in title and shall only be subject to variation at the discretion of the Council.

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

### **Provision of Accessible Paths of Travel**

C32. The building must be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises – Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issue of the relevant Construction Certificate, fully satisfy the requirements of this condition.

Notes:

1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to the relevant Construction Certificate being issued. Approval of a modification application may be required.
2. It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.

3. Information on making an application for an “unjustifiable hardship exemption” under the accessibility standards can be found in the website of the NSW Building Professional Boards at <http://www.bpb.nsw.gov.au/page/premises-standards>

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

***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)

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

- D2. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council’s road reserve or public land, as approved by this consent. The Policy is to note, and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

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

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

**Commencement of Works Notice**

- D3. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person’s intention to commence building work, demolition or excavation in accordance with this development consent.

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



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

**Cigarette Butt Receptacle**

- E1. A cigarette butt receptacle is to be provided on the site for the duration of excavation/demolition/construction process, for convenient use of site workers.

(Reason: To ensure adequate provision is made for builders' waste)

**Parking Restrictions**

- E2. 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**

- 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)

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

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

- a) Placement of reinforcement for the concrete base in the footpaths; and

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)

### **Progress Survey**

E6. In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, must be prepared by a Registered Surveyor showing the following: -

- a) at the completion of excavation, prior to the placement of any footings, showing the completed level of the excavation and its relationship to the boundaries;
- b) prior to placement of concrete at the ground floor level, showing the level of the form work and its relationship to boundaries including relevant footpath and roadway levels;
- c) prior to placement of concrete at each fifth floor level showing the principal level of the formwork and the intended relationship of the completed works to the boundary;
- d) prior to roofing, or completion of the highest point of the building showing the anticipated level of the completed work and its relationship to the boundary; and
- e) at completion, works showing the relationship of the building to the boundary and showing the maximum height of the overall works and the height of the principal roof elements.

Progress certifications in response to points (a) through to (e) must be provided to the Certifying Authority for approval at the time of carrying out relevant progress inspections. In the event that such survey information is not provided or reveals discrepancies between the approved plans and the proposed works, all works, save for works necessary to bring the development into compliance with the approved plans, must cease. Works may only continue upon notification by the Certifying Authority to the Applicant that survey information (included updated survey information following the carrying out of works to comply with the approved plans) complies with this condition.

(Reason: To ensure compliance with approved plans)

### **Removal of Extra Fabric**

E7. 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**

E8. 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**

E9. 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**

E10. All works conducted on site which form part of this development must be carried out in accordance with the submitted Construction Noise Management Plan submitted with the Construction Certificate 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**

E11. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

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

### **No Removal of Trees on Public Property**

E12. 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)

## **Special Permits**

E13. 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)

### **Construction Hours**

E14. Building construction and works must be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works must be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. For the purposes of this condition:

- a) “Building construction” means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.
- b) “Demolition works” means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.
- c) “Excavation work” means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

All builders, excavators must display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

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

### **Out of Hours Work Permits**

E15. 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](http://www.northsydney.nsw.gov.au).

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

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

- E16. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils & 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**

- E17. 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**

- E18. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of work place determines the type of amenities required.

Further information and details can be obtained from the Internet at [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

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

### **Health and Safety**

- E19. 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](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**

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

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

### **Plant & Equipment Kept Within Site**

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

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

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

### **Waste Disposal**

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

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

***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)

**Appointment of a Principal Certifying Authority (PCA)**

F2. 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**

F3. 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**

F4. 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)

**Mandatory Critical Stage Inspections**

F5. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

**Excavation/Demolition**

F6. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.



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

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

### **Protection of Public Places**

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

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

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

### **Site Sign**

- F8.
- 1) A sign must be erected in a prominent position on the site
    - a) stating that unauthorised entry to the work site is prohibited;
    - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
    - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

- 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. *Prior to the Issue of an Occupation Certificate***

**Infrastructure Repair and Completion of Works**

- G1. Prior to the issue of the final Occupation Certificate any and all works relating to the development:

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

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of Public assets)

**Access to Premises**

- G2. Prior to the issue of the any Occupation Certificate, a certificate must be prepared an appropriately qualified and practising Civil Engineer certifying that access and facilities for persons with a disability in accordance with the Building Code of Australia and AS Disability (Access to Premises – buildings) Standards 2010 (Premises Standards) has been provided. This certificate must be submitted to, and approved by, the Certifying Authority prior to issue of the occupation of the building/s.

(Reason: Equitable access and facilities for people with a disability)

**Certification- Civil Works**

- G3. An appropriately qualified and practising Civil Engineer must certify to the Certifying Authority that the stormwater drainage system is constructed in accordance with this consent and the provisions of the applicable Australian Standard. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority) upon completion of the development works and prior to the issue of the final Occupation Certificate.

(Reason: Compliance with the Consent)

**Utility Services**

- G4. All utility services shall be adjusted, to the correct levels and/or location/s required by this consent, prior to issue of the final occupation certificate. This shall be at no cost to Council.

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

**Covenant & Restriction (Stormwater Control Systems)**

- G5. An Instrument pursuant to Sections 88B and 88E of the *Conveyancing Act* 1919 and one copy must be submitted to Council in registrable form, providing for:
- a. a restriction as to user and positive covenant as to user as appropriate in favour of North Sydney Council burdening 173 Pacific Highway and 116 Miller Street, North Sydney requiring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out,);
  - b. North Sydney Council being nominated in the Instrument as the only party authorised to release, vary or modify the Instrument;
  - c. the wording on the Instrument making reference to the Council file/s which hold:
    - (a) the Construction plans; and
    - (b) the “Work-as-Executed” (as built) plans;

Upon Council being satisfied as to the terms of the Instrument, North Sydney Council’s official seal will be affixed to these documents, prior to submission to the Land & Property Information Office for registration

The Instrument creating the restriction and/or covenant under ss 88B and 88E required by this condition of consent must be registered on the Title of the development site prior to the issue of the final Occupation Certificate or commencement of use of the site, whichever is the earlier.

Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of an Occupation Certificate.

All costs associated with the preparation, approval and registration of the Instrument required by this condition of consent must be borne by the person acting on this consent including the reasonable costs of Council in obtaining advice, negotiating the terms or otherwise facilitating the execution and registration of the required Instrument.

(Reason: Compliance and adequate maintenance of drainage system)

**Certification of Tree Condition**

- G6. Prior to the issue of the final 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: -

<b>Tree</b>	<b>Location</b>	<b>Height</b>
3 x <i>Platanus</i> sp.	On council verge in front of 116 Miller Street	26m
1 x <i>Platanus</i> sp.	On the verge to the north of the subject site in front of 177 Pacific Highway frontage)	4m x 2m

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)

### **Height**

- G7. Upon completion of the works and prior to the issue of the final Occupation Certificate the RL of the development must be surveyed and certified by an appropriately qualified and practising surveyor as compliant with the maximum approved levels in accordance with Condition A1 of this consent. This survey and certification must be submitted to the Certifying Authority with the final Occupation Certificate and a copy provided to Council (if it is not the Certifying Authority).

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

### **Basement Pump-Out Maintenance**

- G8. Prior to issue of the final Occupation Certificate a Maintenance Regime must be prepared for the basement stormwater pump-out system and submitted to the Principal Certifying Authority for approval with the Occupation Certificate documentation. The regime must specify that the system is to be regularly inspected and checked by qualified practitioners.

The basement stormwater pump-out system must be maintained in accordance with the approved Maintenance Regime at all times.

(Reason: To ensure future provision for maintenance of the drainage system)

### **Damage to Adjoining Properties**

- G9. On completion of the development the subject of this consent and prior to the issue of the final Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Certifying Authority (and a copy to Council if it is not the Certifying Authority) certifying:

- a) whether any damage to adjoining properties has occurred as a result of the development;
- b) the nature and extent of any damage caused to the adjoining property as a result of the development;
- c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
- d) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Certifying Authority in accordance with this consent.

Where works required to rectify any damage caused to adjoining property as a result of the development identified in the report and certification have not been carried out, a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible prior to the issue of an Occupation Certificate. All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To ensure adjoining owner's property rights are protected in so far as possible)

### **Verification Statement (External Finishes and Materials)**

G10. Prior to the issue of the final Occupation Certificate, a verification statement from a qualified designer or architect (preferably the original designer), must be submitted to Council and the Certifying Authority certifying that the external finishes and materials are in accordance with the approved schedule of finishes and materials identified in this consent.

*"qualified designer"* means a person registered as an architect in accordance with the Architects Act 2003 cf 50(1A) EP & A Regs 2000.

(Reason: To ensure the design quality and finishes for residential flat development)

### **South glazing covenant**

G11. All glazing adjacent to the southern boundary of the site must be sealed, bricked or otherwise enclosed, prior to the construction of any building abutting, adjoining or adjacent to such glazing on land at 100 Miller Street. Prior to the final Occupation Certificate being issued, a documentary restrictive covenant is to be registered on the Title of all office tenancies facing the southern boundary. The covenant is to be created appurtenant to Council and at no cost to Council.

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

### **Construction of Through Site Link**

G12. The staging of the through-site link shall be in accordance with the Staged Construction Diagram dated 22 October 2019 as referenced in Condition A1 of this consent and must be completed prior to the issue of the final Occupation Certificate.

(Reason: To provide for public access along the through site link)

### **Through Site Link**

G13. The applicant shall create an easement pursuant to a Section 88B instrument under the Conveyancing Act 1919 to provide for public access along the through site link at all the times while the commercial and retail parts of the buildings at 173 Pacific Highway and 116 Miller Street are operating.

The easement shall be prepared, executed and registered by the proponent prior to the issue of the final Occupation Certificate. Any variation to the terms of the easement must be to the written agreement of Council. The easement shall be for the life of the development.

(Reason: To provide for public access along the through site link)

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

**First Use of Premise – Further consent required**

11. A separate development application for the fitout and use of retail tenancies must be submitted to and approved by Council prior to that fitout or use commencing.

(Reason: To ensure development consent is obtained prior to uses commencing)

**Loading within the site**

12. Vehicle deliveries and loading and unloading operations must occur wholly within the site. The loading dock must be maintained at all times for use in connection with the development.

(Reason: To ensure that deliveries occur within the site and do not adversely affect traffic or pedestrian amenity)

**Waste Collection**

13. Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

(Reason: To ensure the amenity of surrounding properties)

**Delivery Hours**

14. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties)

**Workplace Travel Plan**

15. The strategies identified in the Workplace Travel Plan prepared by ptc dated 1 March 2019 must be adhered to so as to encourage employees and visitors to adopt alternative sustainable transport options.

(Reason: To encourage employees and visitors to use available public and alternative transport options when travelling to the site)

**Maintenance of Structures on Public Land**

16. The owner of the premises at 116 Miller Street is to maintain the reconstructed awning located along Miller Street, directly adjacent to the through site link. This awning must be maintained at all times to a structurally sound condition in order to provide an acceptable level of public safety.

(Reason: To ensure pedestrian and public safety and ensure that structures located on public land for private benefit are maintained to an acceptable standard.)

**L. General Terms of Approval - Airports (Protection of Airspace)**

- L1.
- 1) The building must not exceed a maximum height of 190 metres AHD, this includes all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any rooftop Garden plantings, exhaust flues etc.
  - 2) Separate approval must be sought under the Regulations for any equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations.
  - 3) The Proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing by emailing [ifp@airservicesaustralia.com](mailto:ifp@airservicesaustralia.com) and quoting YSSY-CA-178.
  - 4) The Proponent must report all permanent obstacles 100 metres or more above ground level or that penetrate the OLS to the Aeronautical Information Service (AIS) provider, Airservices Australia by emailing [vod@airservicesaustralia.com](mailto:vod@airservicesaustralia.com) or telephoning (02) 6268 5622.
  - 5) On completion of construction of the building, the Proponent must provide the airfield design manager with a written report from a certified surveyor on the finished height of the building.

Breaches of approval conditions are subject to significant penalties under Sections 185 and 187 of the Act.