

Ultra Building Co Pty Ltd
Level 1, Suite 102
282-290 Oxford Street
BONDI JUNCTION NSW 2022

D378/17
GJY (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 378/17/3 – APPROVAL**

Development Consent Number:	378/17/3
Land to which this applies:	160 Pacific Highway, North Sydney Lot No.: 6, DP: 8869
Applicant:	Ultra Building Co Pty Ltd
Proposal:	Modification of consent to demolish existing building and construction of 10 level mixed use building comprising ground floor non-residential; 24 apartments and basement parking for 16 cars – Staging of construction program.

Pursuant to Section 4.55 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **378/17** and registered in Council's records as Application No. **378/17/3** relating to the land described as **160 Pacific Highway, North Sydney**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 7 March 2018, has been determined in the following manner: -

1. The description of the proposal in the notice of determination is to be amended to:

“Modification of consent for demolition of the existing building, excavation and shoring, and construction of a 10 level mixed-use building comprising ground floor non-residential; 24 apartments and basement parking for 16 cars in a staged construction program.”

2. The following additional condition C40 shall be included in the development consent conditions:

Matters to be considered prior to issue of Construction Certificate 2 for excavation and shoring

C40. The Certifying Authority shall take into consideration the requirements of conditions C4, C5, C7, C8, C9, C12, C13, C14, C15, C16, C17, C20, C23, C25, C27, C29, C30, prior to issuing Construction Certificate 2 for excavation and shoring.

(Reason: To ensure that adequate provisioning for the requirements of the identified conditions is included at Construction Certificate 2 stage)

3. *The following conditions (C4, C5, C7, C8, C9, C15, C16, C20, C27, C29, C30, C31, C34, C35, C38, D2, G2, G3, G4, G5) are to be amended as follows:*

Shoring for Adjoining Property

- C4. Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of excavation, encroachment and the method of removal and de-stressing of shoring elements, backfilling and compacting of over-excavated cavities on Council's and/or private property with fill suitable for its purpose, must be submitted to the Certifying Authority for approval with Construction Certificate 2 for excavation and shoring.

A copy of this documentation must be provided to the Council for record purposes. Backfilling and compacting of over-excavated cavities must be addressed as the build-up is progressing through the basements to ensure that compaction is reliable.

A separate application must be made with Council for tieback anchors.

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

(Reason: To ensure the protection of existing public infrastructure and adjoining properties)

Geotechnical Report

- C5. Prior to issue of Construction Certificate 2 for excavation and shoring a Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following: -
- a) the type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
 - b) the appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
 - c) the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
 - d) the existing groundwater levels in relation to the basement structure, where influenced;

- e) the drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a “dam” for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilised; and
- f) recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting.

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

The design principles for the geotechnical report are as follows:

- a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;
- b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- d) vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;
- e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and
- f) an adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The report, satisfying the requirements of this condition, must be submitted to the Certifying Authority for approval prior to the issue of Construction Certificate 2 for excavation and shoring.

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

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

Required Infrastructure Works –Roads Act 1993

C7. Prior to issue of Construction Certificate 3 for construction of the mixed use building, engineering design plans and specifications must be prepared by a qualified civil design engineer. 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. The responsibility for accuracy of the design fully rests with the designing engineer. All responsibility on implementation and supervision of works specified on design plans fully rests on designing engineer or whoever is chosen to be applicant's engineering representative:

Road Works

a) All elements of the works within the road reserve must be constructed in accordance with the latest version of Council's documents:

- *Infrastructure Specification,*
- *Public Domain Style Manual and Design Codes*
- *Vehicular Access Application Guidelines and Specification*

b) Construction of a new full width footpath pavement in accordance with Council's *Public Domain Style Manual and Design Codes*, for the North Sydney CBD area, is required across the entire site frontage in Pacific Highway, Doohat Street and Doohat Lane. A longitudinal section is required along the footpath property boundary at a scale of 1:50@A3, extending 5.0 m past the property side boundary lines. The footpath must be designed (at a single straight grade of 2% falling to top of kerb) so that it is uniform without showing signs of dipping or rising levels, particularly at entrances.

All new footpaths shall be designed and constructed at a single straight cross fall grade of 3.0% falling to the kerb so that it is uniform without showing signs of dipping or rising particularly at entrance.

c) Full width road reconstruction is required in Doohat Lane in accordance with Council's *Public Domain Style Manual and Design Codes*, for a shared zone.

Reconstruction of the carriageway shoulder in Doohat Street is required, extending out 1200mm from the gutter lip in AC10 - 50mm thick, adjacent to all new kerb/gutter works.

d) Half width full frontage road carriageway surface reconstruction is required in Doohat Street if existing road surface is damaged, during the course of demolition, excavation and construction (detailed dilapidation report on Council's infrastructure must be lodged for that purpose).

- e) Construction of a fully new kerb and gutter is required across the entire site frontage in Doohat Street and Doohat Lane, except in the location of the vehicular access in Doohat Lane. A longitudinal section is required along the gutter line (existing and proposed levels), at a scale of 1:50 extending 5.0 m past the property boundary line.
- f) Construction of a fully new 125mm high kerb 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 5.0 m past the property boundary line.
- g) The vehicular crossing (access to basement parking) must be constructed in accordance with Council's *Public Domain Style Manual and Design Codes*, prior to issue of the relevant Construction Certificate. The driveway crossings must be constructed as specified in Council's documentation, if a different type of material has not been required from Council prior to issue of the relevant Construction Certificate.
- h) A replacement kerb ramp must be constructed, in accordance with Council's *Public Domain Style Manual and Design Codes*, in Doohat Street adjacent to Pacific Highway. The pavers selected must be as specified in Council's documentation, if a different type of paver has not been required from Council prior to the issue of the relevant Construction Certificate.
- i) A laneway threshold (paving units raised cross over) must be constructed, in accordance with Council's *Public Domain Style Manual and Design Codes*, at the entrance to Doohat Lane adjacent to Doohat Street. The pavers selected must be as specified in Council's documentation, if a different type of paver has not been required from Council prior to the issue of the relevant Construction Certificate.
- j) A replacement granite lintel must replace the existing lintel over the existing standard double grated gully pit in Doohat Street adjacent to Pacific Highway, in accordance with Council's *Public Domain Style Manual and Design Codes*. The existing grated inlet gully pit fronting the subject site in Pacific Highway is to remain as existing.
- k) Tree pit base treatments must be filtpave porous paving, in accordance with Council's *Public Domain Style Manual and Design Codes*.
- l) Cross sections 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 existing top of kerb must be provided. The sections are to show the calculated clearance to the underside of any overhead structure and must include all changes of grade, both **existing** and **proposed**. Any twisting of access levels to ensure safe pedestrian ingress/egress (including disabled access for visitors and pedestrian) must occur entirely within the internal area of the subject property. All the entry points are to comply with the Building Code of Australia (BCA), particularly disability requirements. The Council approved footpath levels must be accommodated at the building entry points.
- m) Application for temporary driveway crossing, must be submitted to Council with plans for approval prior to the issue of the relevant Construction Certificate. To obtain the permit, an application must be made to Council on a '*Vehicular Access Application*' (with notification "Temporary") form and with payment of the adopted assessment/inspection fees.

- n) The redundant driveway crossing on Doohat Street must be reconstructed as upright kerb, gutter, road shoulder and footpath in accordance with Council's *Public Domain Style Manual and Design Codes*. The design detail has to be provided with **Vehicular Access Application** and must be in accordance with relevant Australian Standard.

Drainage Works

Connection of the site stormwater system must be made directly to the existing grated inlet gully pit in Pacific Highway. To accommodate this requirement, a private underground drainage line must be constructed on Council property at the applicant's expense, and in accordance with the following;

- a) Generally, in accordance with the Stormwater Concept Plans prepared by Burgess, Arnott and Grava Pty Ltd dated September 2017,
- b) All stormwater collected within the subject property must be directed to a stormwater pit located entirely within the building envelope.
- c) All stormwater collected in the stormwater pit in the property must be conveyed in a controlled manner by gravity via a private underground pipeline with a direct connection to the existing grated inlet gully pit in Pacific Highway.
- d) The proposed stormwater pit located within the property must have a solid fixed lid,
- e) All stormwater discharging from the proposed stormwater pit within the property into the private underground pipeline must be at a maximum discharge rate of 22 l/s,
- f) The private underground pipeline must only collect and discharge stormwater from the subject property,
- g) The private underground pipeline within the road reserve shall have a minimum cover of 400mm.
- h) The private underground pipeline within the road reserve must be hot dipped galvanized steel rectangular hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres.
- i) All drainage works on Council land must be constructed in accordance with Councils "Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works".

Private Certifying Authorities must not issue Construction Certificate 3 for construction of the mixed use building 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. 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 RTA 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.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of Construction Certificate 3 for construction of the mixed use building.

Certifying Authorities must not issue Construction Certificate 3 for construction of the mixed use building without the formal written approval of Council (as Roads Authority) under the Roads Act 1993.

***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 Construction Certificate 3 for construction of the mixed use building. 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)

Obtain Driveway Crossing and associated works permit

C8. Prior to the issue of Construction Certificate 3 for construction of the mixed use building, North Sydney Council must issue the applicant with a driveway crossing and road infrastructure works **permit** to suit the approved off-street parking facilities. To obtain the permit, an application must be made to Council on a 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable permit issue. The responsibility for accuracy of the design fully rests with the designing engineer. All responsibility on implementation and supervision of works specified on design plans fully rests on designing engineer or whoever is chosen to be applicant's engineering representative. The civil design drawings shall detail **the following infrastructure construction requirements of Council in relation to the consent:**

- a) The proposed vehicular access ways must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) and designed to comply with AS 2890.1 to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- b) The vehicular access way must be constructed, as specified in Public Domain Style Manual and Design Codes for the North Sydney CBD area.
- c) The width of the vehicular layback must be 3.5m (including the wings).
- d) The vehicular layback must be set square to the kerb.

- e) The crossing (between the layback and the property boundary) must be perpendicular on a single straight grade of no more than 4.5%, falling to the back of the layback. It must be taken into account that the change in cross fall grade of the road shoulder and driveway crossing is no more than 15%. The cross fall of the road shoulder is measured for a distance of 1200 mm falling to the gutter lip, starting from the surface of the existing carriageway 1650 mm from the existing face of kerb
- f) The gutter levels and road shoulder levels on Pacific Highway, Doohat Street and Doohat Lane must stay unchanged.
- g) Alignment levels at the boundary have an important impact on the proposed levels for new driveway. No work must not start until confirmation of the boundary alignment levels have been approved by Council. Council has the authority to remove any unauthorised works at the cost of the property owner.
- h) The Certifying Authority must ensure that the internal property levels at the boundary matches council's – required - levels.**
- i) Any twisting of driveway access to ensure vehicles do not scrape must occur wholly within the subject property.
- j) All inspection openings, utility services must be adjusted to match the proposed driveway levels and location.
- k) The design detail has to be provided with **vehicular access application** and must include sections along centre-line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, **both** existing and proposed.
- l) A longitudinal section along the gutter line of Doohat Lane at a scale of 1:50 showing how it is intended to transition the layback with the existing gutter levels and shall include all changes of grade and levels, **both** existing and proposed.
- m) A longitudinal section along the footpath property set back line at a scale of 1:50 is required and shall include all changes of grade and levels, **both** existing and proposed.
- n) The sections must show the calculated clearance to the underside of any overhead structure.
- o) All technical details of the proposed new mechanical car lift and mechanical car stackers, such as operating procedures, operation time intervals, signalisation, dimensions and head clearance.

All driveway and infrastructure works on the road reserve must proceed in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified on the permit. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained prior to its issue, is referenced on and accompanies the Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

Stormwater Management and Disposal Design Plan – Construct. Issue

- C9. Prior to issue of Construction Certificate 3 for construction of the mixed use building, the applicant shall have a site drainage management plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:
- 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) All civil and drainage works within the road reserve must be designed and built in accordance with Council’s current “Infrastructure Specification”. Prior to issue of the Construction Certificate the applicant must have engineering plans and specifications, prepared by a qualified civil drainage design engineer. Council must approve the plans and specifications, in writing, prior to issue of any Construction Certificate by the Certifying Authority. The documentation must provide engineering construction detail for the following public infrastructure works that must be completed as part of the approved development. Council reserves the right of keeping all bonds on infrastructure works for a 12 month defects liability period.
 - c) All redundant stormwater pipelines within the footpath area shall be removed and the footpath and kerb reinstated.
 - d) All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit, to the proposed stormwater pit within the property,
 - e) Provide subsoil drainage to all necessary areas with pump out facilities as required.
 - f) Details of all plans certified as being adequate for their intended purpose and compliant with the provisions of AS3500.3.2 by an appropriately qualified and practising civil engineer, shall be submitted with the application for a Construction Certificate.

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

The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage plan and specifications, satisfying the requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason: To ensure controlled stormwater management and disposal without nuisance)

Reflectivity Index of Glazing

- C12. The reflectivity index (expressed as a percentum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of Construction Certificate 3 for construction of the mixed use building.

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.

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)

Roofing Materials - Reflectivity

C13. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of Construction Certificate 3 for construction of the mixed use building. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

No External Service Ducts

C14. Service ducts must be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of Construction Certificate 3 for construction of the mixed use building. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure quality built form of the development)

Accessible parking spaces to be provided

C15. A total of 2 accessible parking spaces shall be provided as part of the total car-parking requirements. Consideration must be given to the means of access from the car-parking spaces to adjacent buildings, to other areas within the building and to footpath and roads. All details shall be prepared in consideration of, and construction completed in accordance with applicable Australian Standards to achieve compliance with the Disability Discrimination Act. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of Construction Certificate 3 for construction of the mixed use building.

(Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with Federal legislation)

Basement Car park to comply with relevant standards

C16. 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 Construction Certificate 3 for construction of the mixed use building.

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

Awnings, Footpath, Entries and Fire Exit Details (Mixed Use/Commercial/ Apartments)

C17. 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 Construction Certificate 3 for construction of the mixed use building. 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.
- f) Awnings edges, parallel to the kerb line must not exceed edges of existing awnings in the same city block or if no other neighbouring awnings to compare, the edges of proposed awning must be offset at least 600 mm from the kerb line.

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 Construction Certificate 3 for construction of the mixed use building.

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 any Construction Certificate.

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

Garbage and Recycling Facilities

- C20. 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) the storage area must be adequately screened from the street, with the entrance to the enclosures no more than 2m from the street boundary of the property;
 - d) if a storage facility is to be provided at another suitable location within the building, a complementary garbage bin holding bay must be provided no more than 2m from the street boundary of the property;
 - e) garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and
 - f) 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 Construction Certificate 3 for construction of the mixed use building.

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.

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)

Vibration from Plant and Equipment

- C23. 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 Construction Certificate 3 for construction of the mixed use building, 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)

Acoustic Privacy (Residential Apartments)

C25. Noise levels in sole occupancy units of residential apartments must not exceed the following:

Location	Maximum
Habitable Rooms other than Sleeping Areas	40 LAeq (1hr)
Sleeping Areas	35 LAeq (1hr)

The “Maximum” limits are to apply in any hour of a 24 hour period with the windows of the sole occupancy unit closed.

“habitable room” has the same meaning as in the Building Code of Australia

A floor separating sole occupancy units shall have a weighted standardised impact sound pressure level $L'_{nT,w}$ not more than 55dB when measured in-situ in accordance with AS ISO 140.7-2006 “Field measurements of impact sound insulation of floors” and rated to AS ISO 717.2-2004 “Rating of sound insulation in buildings and of building elements. Part 2: Impact sound insulation”. This clause shall not apply to the floor of a kitchen, bathroom, toilet or laundry in a residential sole occupancy unit.

Mechanical equipment such as lift plant, air conditioning plant servicing the building and pumps shall not be located immediately adjacent bedrooms.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined above have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of Construction Certificate 3 for construction of the mixed use building.

(Reason: To comply with best practice standards for residential acoustic amenity)

Mechanical Exhaust Ventilation

C27. A statement from an appropriately qualified and practising Mechanical Engineer is required detailing how the exhaust ventilation system will be installed in accordance with AS1668. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying Construction Certificate 3 for construction of the mixed use building, fully satisfy the requirements of this condition.

(Reason: To ensure compliance with acceptable standards for the construction and operation of mechanical plant)

Provision of Accessible Paths of Travel

C29. 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 Construction Certificate 3 for construction of the mixed use building. 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.

Notes:

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

Underground Electricity and Other Services

C30. All overhead electricity and other lines (existing and proposed) must be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point, in accordance with the requirements of Energy Australia. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of Construction Certificate 3 for construction of the mixed use building. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground)

Privacy

C31. The following privacy devices are to be provided:

- a) Solid or obscure glazed balustrades and privacy screens to apartments 04 and 08 on levels 2 and 3.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of Construction Certificate 3 for construction of the mixed use building. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure an adequate level of privacy is provided to adjoining property located at No. 1 Doohat Avenue)

BASIX Certificate

C34. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 870108M for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of Construction Certificate 3 for construction of the mixed use building. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Under Awning Lighting

C35. Under awning lighting must be provided to the Pacific Highway frontage of the site. Such lighting is to be designed to P1 standard in accordance with AS/NZS 1158.3.1. The luminaries must be:

- a. weatherproof and vandal proof;
- b. designed in conjunction with Energy Australia so that the system can easily be connected to a public lighting system when available; and
- c. the location and type of the said luminaries shall be to the satisfaction of Council's Director of Engineering and Property Services.

Plans and specifications complying with this condition must be submitted to the Certifying Authority and the Council's Director of Engineering and Property Services for approval prior to the issue of Construction Certificate 3 for construction of the mixed use building. A construction certificate must not be issued without the approval of the Council's Director of Engineering and Property Services. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To enhance the amenity and safety of the footpath adjacent to the premises)

Fibre-Ready Telecommunications Infrastructure

C38. Prior to the issue of the Subdivision Certificate or Construction Certificate 3 for construction of the mixed use building in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots.

Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and

- (ii) the provision of fixed-line telecommunications infrastructure in the fibre- ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note: real estate development project has the meanings given in section 372Q of the Telecommunications Act)

(Reason: Planning Circular PS 17-005 Model Condition)

Notification of New Addresses

D2. Prior to the commencement of any building works associated with Construction Certificate 3 for construction of the mixed use building, an application must be made and written confirmation received from North Sydney Council of the allocated street address (house number) and/ or unit numbers of the completed project.

To assist Council, a plan for unit numbering should be submitted for concurrence. These details will be recorded in Council records and must be displayed at the property in accordance with the provisions of the applicable Australian Standard relating to rural and urban addressing.

A copy of the allocation confirmation must be submitted to the Certifying Authority with the application for Construction Certificate 3 for construction of the mixed use building.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties)

Certification- Civil Works

G2. a) 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 any Occupation Certificate.

- b) An appropriately qualified and practicing Civil Engineer must certify to the Certifying Authority that the vehicular crossing and associated works and road works were constructed in accordance with this consent and any approval for works in the road reserve issued by the Council. 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 any Occupation Certificate.

(Reason: Compliance with the Consent)

Utility Services

- G3. All utility services shall be adjusted, to the correct levels and/or location/s required by this consent, prior to issue of any 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)

- G4. 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:
1. a restriction as to user and positive covenant as to user as appropriate in favour of North Sydney Council burdening property at 160 Pacific Highway, North Sydney requiring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention and basement pump-out system);
 2. North Sydney Council being nominated in the Instrument as the only party authorised to release, vary or modify the Instrument;
 3. 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 Sections 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)

Basement Pump-Out Maintenance

- G5. 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 the final 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)

Reason for approval:

The s.4.55(1A) application is satisfactory with regard to all relevant considerations and is recommended for approval.

How community views were taken into account:

The application was not required to be notified, in accordance with NSDCP 2013.

The conditions attached to the original consent for Development Application No. 378/17 by endorsed date of 7 March 2018 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **the undersigned**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of the Environmental Planning and Assessment Act 1979 (as amended), you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing and it can give rise to considerable cost and time savings for all parties involved.
- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.
- (c) Prior to commencing any building, subdivision or associated constructions works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:
- (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
 - (ii) A Principal Certifier is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.

- (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 6.6(2)(a) of the Act.

- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a further modification under Section 4.55 of the Environmental Planning & Assessment Act, 1979 (as amended).

Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 4.55 of the Environmental Planning & Assessment Act.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
**GEORGE YOUHANNA
EXECUTIVE PLANNER**