

Original signed by Stephen Beattie on 6/7/2020

Date determined 1/7/2020

Date operates 6/7/2020

Date lapses 6/7/2025

North Sydney Council
C/- Brewster Hjorth Architects Pty Ltd
First Floor, 4-14 Foster Street
SURRY HILLS NSW 2010

LH(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”)

Development Application Number: 347/19

Land to which this applies: 4 Alfred Street South, Milsons Point
Lot 100 DP 875048; Lot 101 DP 880 236; Lot 102 DP
854064; Lot 103 DP 100 7291; Lot 6 DP127637

Applicant: North Sydney Council C/-Brewster Hjorth Architects Pty
Ltd

Proposal: Alterations and additions to North Sydney Pool

Determination of Development Application: At its meeting of 1 July 2020, the **Sydney North Planning Panel (SNPP)**, as the consent authority, considered PPSSNH-43 - North Sydney – Development Application No. **347/19** and approval has been granted subject to conditions in the notice of determination.

Date of Determination: 1 July 2020

The majority of the Panel voted to approve the application for the following reasons.

Reason for approval/refusal: The North Sydney Olympic Pool opened in 1936, was substantially upgraded around the turn of the century and has had a number of alterations and additions in subsequent years. It is listed as a local heritage item and is in the vicinity of a number of heritage items, including Luna Park and the Sydney Harbour Bridge both of which are listed on the State Heritage Register. It is also within the buffer zone of the Sydney Opera House – listed with UNESCO as being of World Heritage significance. The Pool site is zoned RE1 Public Recreation and the proposed development is permissible with consent within the zone.

The Panel accepted Council's advice regarding independent structural engineering: the concrete structure of the existing 50m swimming pool is in poor condition and there is a history of reported significant leaks which have not been rectified despite numerous attempts; the children's and wading pool structures are in a similar condition; the condition of the existing grandstand is such that it should not be subjected to crowd loading, such as major events and swimming carnivals; and, the poor condition of these structures is such that redevelopment of the pool facility is required to enable it to continue to provide recreational facilities for the community.

The proposal has been independently reviewed with regard to its heritage impacts and has undergone a series of design amendments in response to that advice, including the deletion of the shade structure over the sundeck and children's pool, the opening up of the area in front of the original pool entrance stairs and the reduction in height of the entry structure, grandstand and Ripples Café.

While the shade structure is no longer part of this development application, the Panel shares community concern with the lack of a shade structure over the children's pool. The applicant advised that there will be increased shade 'generally' in the new development and there will also be two indoor swimming opportunities. Nevertheless, the applicant also acknowledged the desirability of a shade structure over the children's pool, and the Panel agreed that this should form part of a further application.

The proposal was twice referred to the North Sydney Design Excellence Panel and the proposed design was amended in response to their comments. In its subsequent comments, the Panel acknowledged the significant improvements made and offered qualified support for the proposal subject to identified issues being addressed. The proposal underwent further amendments in response to those comments.

The proposal has been designed and amended to retain some existing vegetation and to provide additional landscaping in retained areas of open space, noting that the expansion of the children's pool and the addition of a program pool will occupy existing lawn areas. The incorporation of Hopkins Park into the site will provide further open space for use in association with the pool facilities, noting that there are areas of public open space in the immediate vicinity of the site outside of the pool facility in Bradfield Park.

The proposal maintains reasonable levels of amenity for nearby residents and impacts relating to traffic, parking, noise and light spill have been addressed. With regards to noise, conditions provide for a trial period for the extended use of the proposed splash pad and northern landscaped area as the acoustic assessment forecasts their use will exceed the relevant acoustic criteria.

Overall, therefore, the proposed development is considered to be satisfactory having regard to the relevant Environmental Planning Instruments, Development Control Plans and Council policies and the Panel considered the proposal to be in the public interest, balancing the concerns of heritage to those of retaining and improving an important community facility for the future.

Consent to operate from: 6 July 2020

Consent will lapse on: 6 July 2025

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 6 July 2025.

How community views were taken into account:

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of community concern included:

- Heritage impacts
- Noise
- Views
- Design
- Costs
- Configuration of pools and facilities including pool depths, change rooms, toilet and showers, seating, shading, potable versus salt-water
- Pool depths
- Operating hours
- Traffic and parking
- Over-commercialisation
- Construction impacts.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report, in the conditions and amended conditions, and by applicant and Council responses during and following the meeting.

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.

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

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
STEPHEN BEATTIE
MANAGER, DEVELOPMENT SERVICES

(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.

Drawing Number	Revision	Title	Drawn by	Dated
a06	C	Proposed Site Plan (Showing Site DP Lot and Roof Plan)	Brewster Hjorth Architects	11/6/2020
a07	C	Demolition Plan – Level 1	Brewster Hjorth Architects	11/6/2020
a08	C	Demolition Plan – Level 2	Brewster Hjorth Architects	11/6/2020
a09	C	Demolition Plan – Level 3	Brewster Hjorth Architects	11/6/2020
a10	C	Level 1 Plan	Brewster Hjorth Architects	11/6/2020
a11	C	Level 2 Plan	Brewster Hjorth Architects	11/6/2020
a12	C	Level 3 Plan	Brewster Hjorth Architects	11/6/2020
a13	C	Roof Plan	Brewster Hjorth Architects	11/6/2020
a17	B	Elevations – Demolition	Brewster Hjorth Architects	-
a18	B	Elevations – Demolition	Brewster Hjorth Architects	-
a19	B	Elevations / Sections – Demolition	Brewster Hjorth Architects	-
a20	C	Elevations	Brewster Hjorth Architects	11/6/2020
a21	C	Elevations	Brewster Hjorth Architects	11/6/2020
a22	C	Elevations	Brewster Hjorth Architects	11/6/2020
a23	C	Sections	Brewster Hjorth Architects	11/6/2020
a24	C	Sections	Brewster Hjorth Architects	11/6/2020
a25	B	Sections	Brewster Hjorth Architects	-
a26	B	External Finishes	Brewster Hjorth Architects	-
a27	B	Construction Management Plan	Brewster Hjorth Architects	-
a35	B	Detail Sections	Brewster Hjorth Architects	-
l01	-	Level 1 Planting Plan	Brewster Hjorth Architects	-
l02	-	Level 3 Planting Plan	Brewster Hjorth Architects	-
C.1	-	Planting Palette and Schedule	Brewster Hjorth Architects	-
398195-MMD-00-DA-DR-C-0002	P1	General Notes & Legend Sheet	Mott MacDonald	17/9/2019
398195-MMD-00-DA-DR-C-0010	P1	Sediment & Erosion Control Plan	Mott MacDonald	17/9/2019
398195-MMD-00-DA-DR-C-0011	P1	Sediment & Erosion Control Details	Mott MacDonald	17/9/2019

398195- MMD-00-DA- DR-C-0031	P1	Stormwater Management Plan	Mott MacDonald	17/9/2019
398195- MMD-00-DA- DR-C-0032	P1	Stormwater Pit Schedule	Mott MacDonald	17/9/2019
398195- MMD-00-DA- DR-C-0041	P1	Public Domain Site Works	Mott MacDonald	17/9/2019

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

Amendment to Plans - Sundeck

- A2. The sundeck shall extend across the roof of the kiosk kitchen to the southern wall of the pool complex with the roof of the kiosk located beneath the sundeck level. Revised plans showing this amendment are to be submitted to Council's Manager Development Services for approval prior to the release of the Construction Certificate.

(Reason: To maintain the heritage significance of the site)

Amendment to Plans – Details of Entrance Lobby and Roof over Café Seating

- A3. Developed details of the structure of the entrance lobby and the roof over the cafe seating at the south-eastern corner of the complex, including the size, colours, details of the steel support structure and details of the glazed component and fixings to the existing brick walls, are to be provided to Council's Manager Development Services for approval prior to the release of the Construction Certificate. The details should be designed such that the impact on the original structure and fabric is minimised. The new structural elements and their fixings are to be detailed to be as slender as possible in order to minimise visual and physical impact.

(Reason: To maintain the heritage significance of the site)

Amendment to Plans – Pedestrian access ramp on Olympic Drive

- A4. The proposed pedestrian access ramp on Olympic Drive is to be amended so that the profile at the end of the ramp is angled (chamfered) at 45 degrees so that it falls outside the wheel envelope of a 19m semi-trailer and does not impede access into and out of the gates to Luna Park adjacent to the western end of the pool concourse. Amended plans are to be provided to Council's Manager Development Services for approval prior to the release of the Construction Certificate.

(Reason: To maintain vehicular access to Luna Park for oversized vehicles)

Plans on Site

- A5. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

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

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

No Demolition of Extra Fabric

A6. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

No Demolition of Extra Fabric – Reconstruction of Western Stairs

A7. Works related to the reconstruction of the western stairs connecting Paul Street to Olympic Drive are to be strictly in accordance with the details provided to Council on 31 March 2020 and there is to be no demolition of existing building fabric in addition to that identified in that information.

(Reason: To ensure compliance with the approved development)

External Finishes & Materials

A8. External finishes and materials must be in accordance with those specified within the approved plans listed within Condition 1A of this consent.

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

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

Construction and Traffic Management Plan - (Major DAs & sites with difficult access)

B1. Prior to issue of any Construction Certificate, a Construction and Traffic Management Plan must be prepared. The following matters must be specifically addressed in this Plan:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
 - i. Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
 - ii. RMS signage type and location to manage pedestrians in the vicinity;
 - iii. The locations of any proposed Work Zones in the frontage roadways;
 - iv. Locations and type of any hoardings proposed;
 - v. Area of site sheds and the like;
 - 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 Traffic Control Plan(s) for the site incorporating the following: -
- i. Traffic control measures proposed in the road reserve that are in accordance with the RMS publication “Traffic Control Worksite Manual” and designed by a person licensed to do so (minimum RMS ‘red card’ qualification).
 - ii. The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- c) A detailed description and map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided detailing light traffic roads and those subject to a load or height limit must be avoided at all time.
- A copy of this route is to be made available to all contractors and must be clearly depicted at a location within the site.
- d) A Waste Management Plan in accordance with the provisions of Part B Section 19 of the North Sydney DCP 2013 must be provided. 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;
- e) Evidence of RMS concurrence where construction access is provided directly or within 20m of an Arterial and/or Classified Road;
- f) A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements; and
- g) For those construction personnel that drive to the site, the Site Manager shall attempt to provide on-site parking so that their personnel’s vehicles do not impact on the current parking demand in the area.
- h) Luna Park Pty Ltd is to be consulted during the preparation of the Construction and Traffic Management Plan

A suitably qualified and experienced traffic engineer or consultant must prepare the Construction and Traffic Management Plan.

As this plan has a direct impact on the local road network, it must be submitted to and reviewed by Council prior to the issue of any Construction Certificate. A certificate of compliance with this condition from Council’s Traffic Engineers as to the result of this review must be obtained and must be submitted as part of the supporting documentation lodged with the Certifying Authority for approval of the application for a Construction Certificate.

The construction management measures contained in the approved Construction and Traffic Management Plan must be implemented prior to the commencement of, and during, works on-site. To obtain the permit, an application must be made to Council on a 'Application to satisfy development consent' form with payment of the adopted assessment.

All works must be undertaken in accordance with the approved Construction and Traffic Management Plan.

A copy of the approved Construction and Traffic Management Plan must be kept on the site at all times and be made available to any officer of the Council on request.

Notes:

- 1) North Sydney Council's adopted fee for certification of compliance with this condition must be paid upon 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 and Traffic Management Plan be lodged with Council as early as possible.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed in the condition 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 and construction process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

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

Schedule of Conservation Works

- C1. Prior to the issue of the Construction Certificate, a Schedule of Conservation Works is to be prepared. The schedule is to include details of how significant interior finishes within the Main Building shall be conserved including, but not limited to, the flooring and floor coverings, lighting and electrical fixtures, walls and surface finishes, tiles, signage, handrails and balustrades, ceilings, window and door hardware, windows and doors, and interpretive devices. The Schedule is to be prepared by a suitably qualified heritage architect/consultant with extensive experience in detailing alterations to historic buildings and is to include the scope of works relating to brickwork, historic timberwork & joinery, detailing to new window/door openings in masonry fabric, use of concrete, tiling, salvaging of materials, care with original fabric, design development, inspections and redundant services. The Schedule of Conservation Works is to be approved by Council's heritage planner in writing prior to the release of the Construction Certificate and the works are to be implemented to the written approval of the Heritage Architect/Consultant prior to the issue of the Occupation Certificate.

(Reason: To maintain the heritage significance of the site and the area)

Salvage Report

C2. Original materials such as brickwork, decorative plaster mouldings, brackets to grandstand seating, tiling, and original colour schemes are to be retained, conserved and adaptively reused in the works. A Salvage Methodology Report, identifying elements that should be salvaged, and how they will be used, shall be submitted for approval by Council's Heritage Planner prior to the release of the Construction Certificate. Salvageable elements should be identified in the following categories:

- Significant intact elements to be carefully removed for conservation purposes, reuse elements within the proposed development of the site, recycling with establishments specialising with second-hand building materials
- Building elements to be salvaged for general recycling
- Building elements for landfill.

(Reason: To maintain the heritage significance of the site and the area)

Movable Heritage

C3. The extensive memorabilia collection at NSOP is to be displayed in an engaging manner in an appropriate location with good public access to help explain the historic associations with the place, as detailed in the Interpretation Plan. The location of the collection display should be indicated in the Construction Certificate documentation.

(Reason: To maintain the heritage significance of the site and the area)

Interpretation Plan

C4. Before the issue of any Construction Certificate, an Interpretation Plan for the site should be developed to enhance the visitor experience of the place. The Interpretation Plan should examine NSOP's historic associations with Australia's development as a nation renowned for its competitive swimming and record-breaking achievements. There is opportunity to interpret the history and heritage values of the site through engaging and inspiring interpretive elements including signage, wayfinding, decorative screen and public artworks within the pool complex.

The Plan must be prepared by an experienced heritage interpretation practitioner and submitted to the written satisfaction of Council's Heritage Planner. The Interpretation Plan shall be in accordance with the Heritage Council's *Interpreting Heritage Places and Items Guidelines*, 2005. Written approval from Council is to be provided to the Certifying Authority. The Plan must make allowance for the display of any potential archaeology uncovered during the works and interpret the history of the various elements on the site in a way that is engaging, informative and readily accessible to the majority of visitors. The Interpretation Plan must be implemented, with written confirmation from the Council, prior to the issue of the Occupation Certificate.

(Reason: To maintain the heritage significance of the site and the area)

Archival Recording

- C5. A full archival photographic recording of the NSOP complex is to be undertaken – including all internal and external features – prior to any works commencing on the site. The archival recording is to be in accordance with the requirements of:
- a) the NSW Heritage Office publication *How to Prepare Archival Records of Heritage items*, 1998; and
 - b) the Department of Planning's *Recording Places of Cultural Significance*, 1991.

The record in digital form is to be submitted to Council and written approval of Council's Heritage Planner should be submitted prior to the release of the Construction Certificate.

(Reason: To maintain the heritage significance of the site and the area)

Heritage Architect to be Commissioned

- C6. A suitably qualified and experienced heritage architect is to be commissioned to provide detailed heritage advice to the project for its duration, including providing guidance to the Construction documentation, the implementation of the conditions of consent and through the construction process. Written documentation to support the commission of the heritage architect is to be submitted with the Construction Certificate.

(Reason: To maintain the heritage significance of the site and the area)

Interpretation of original leisure (children's) pool

- C7. The location, size and shape of the original leisure or children's pool is to be interpreted in the new leisure/ learn to swim pool, through the use of tiling similar to the tiles of the existing children's pool. Supplementary interpretation would be needed to make this understandable. This element should be detailed within the Schedule of Conservation Works.

(Reason: To maintain the heritage significance of the site and the area)

Noise Mitigation Measures

- C8. Noise mitigation measures set out in the Acoustic Assessment Report, or other such measures that meet the project noise trigger levels in Table 4, must be implemented so that noise from mechanical plant does not exceed the criteria at the respective receivers.

(Reason: To satisfy the requirements of the NSW EPA)

Patron Noise Management Plan

- C9. A Patron Noise Management Plan must be prepared prior to the issuance of the construction certificate and implemented in an ongoing sense to address excessive noisy behaviour that may impact neighbouring dwellings during operating hours.

(Reason: To satisfy the requirements of the NSW EPA)

Site Contamination and Remediation

- C10. Further assessment is to be carried out by a suitably qualified environmental consultant. The assessment should include site characterisation of soils and ground water with respect to contaminants of concern. This could be carried out through intrusive borehole or test pit investigations following the removal of structures, prior to the engagement of groundworks contractor.

A Construction Environmental Management Plan (CEMP) shall be drawn up by a suitably qualified person/environmental consultant detailing the process for excavation, storage & handling, classification, disposal or re-use of disturbed soils on the site.

Soil to be excavated/disturbed shall be tested for contamination. Should any soil or material be subsequently found to contain contaminants of concern, work in the immediate area must cease and the advice of a suitably qualified specialist, accredited by the NSW Environment Protection Authority, be gained and, if needed, a Remedial Action Plan be developed. The contaminated material must be classified for disposal purposes, appropriately stored, and properly disposed of to a facility licensed to receive that category of waste.

Waste facility receipts must be retained on site for inspection by Council's officer upon request. (or submitted to Council/PCA).

The CEMP must detail the required management processes / procedures to be adopted during site demolition/construction works to ensure soils are handled / disposed appropriately. Where groundwater is encountered during development works, the CEMP should include details on required treatment and disposal requirements.

The site will be required to be adequately remediated and validated as being fit for its intended use by a suitably experienced environmental consultant. A notice of completion, including validation is to be provided to Council following removal of and remediation of any contamination.

(Reason: To ensure the site is suitable for the proposed use)

Noise from Plant and Equipment

- C11. 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

C12. 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 issued 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 Control (Fitness Centres)

C13. The use of the premises shall comply with the following:

Music and Vocal

- a) The LA10 noise level emitted from the use of the premises must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 6.00am and 7.00pm when assessed at the boundary of any affected residence.
- b) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 7.00pm and 6.00am on the following day when assessed at the boundary of any affected residence.

- c) Notwithstanding compliance with (a) and (b) above, the noise from the use must not be audible within any habitable room or sleeping area in any affected residence between the hours of 7.00pm and 6.00am on the following day.
- d) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises with windows closed.
- e) The use of the premises must be controlled so that any emitted noise is at a level so as not to create an “*offensive noise*” as defined in the *Protection of the Environment Operations Act 1997*.

LA10 is the average maximum A-weighted Fast Response sound level emitted from the premises.

LA90 shall be measured in the absence of all noise from the premises (including mechanical plant noise).

Use of Gym Equipment

The LAavmax noise level emitted from the use of gym equipment must not exceed the background noise level (LA90) by more than 5dB when assessed inside any affected residence with the windows of the affected residence closed.

LAavmax is the average maximum A-weighted Fast Response sound level emitted from use of gym equipment on the premises.

LA90 shall be measured in the absence of all noise from the premises (including mechanical plant noise) with the windows of the affected residence closed and any air-conditioning in the residence turned off. If the LA90 is less than 20dB then it is taken to be 20dB.

General

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

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

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.

Details demonstrating that the facility will be able to meet this condition shall be submitted to the satisfaction of the Principle Certifying Authority shall be provided prior to the issuance of the relevant construction certificate.

(Reason: To ensure the amenity of surrounding land uses)

Compliance with Acoustic Report

- C14. The recommendations contained in the acoustic report prepared by Marshall Day Acoustics dated 29/10/19, must be implemented during construction and use of the development.

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 in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Principal 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 maintain an appropriate level of amenity for adjoining land uses)

Tree Protection

- C15. To ensure the protection of all trees to be retained, the following measures are to be undertaken:

- a) All documentation for the Construction Certificate application must show the site trees to be retained, and retention of the adjoining trees, with their positions and diameters of trunks and crowns (canopies) to be clearly and accurately shown in relation to all levels of the proposed development.
- b) All plans and correspondences must refer to the required compliance with the approved Tree Protection and Management Plan, and clearly show the assigned number of each tree on site, adjoining and Council land.
- c) A Consulting Arboriculturist (“the project Arboriculturist”), who holds a minimum Australian Qualification Framework Level 5 in Arboriculture, is a registered consulting member of a nationally recognised Arboricultural organisation or association, and who does not remove or prune trees in the North Sydney local government area, shall be engaged before work commences for the duration of site preparation, demolition, construction and landscaping.
- d) The project Arboriculturist shall inspect, monitor, supervise, provide recommendations and written reports and certification relating to protection of the trees and compliance with the conditions of consent.
- e) The contact details of the project Arboriculturist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within 7 days.
- f) The project Arboriculturist is to submit a list of critical stages where joint site inspections with Council’s Tree Management Officer will be required, with the adopted schedule to be complied with during the course of works, and include at minimum, the following hold points:

- i. Prior to demolition of existing structures;
- ii. At commencement of any excavation works within 7 metres of any tree to be retained;
- iii. Prior to any tree crown or root pruning;
- iv. At commencement of construction works within 7 metres of any tree to be retained.

(Reason Tree protection measures)

Tree Bond for Public Trees

C16. Prior to the issue of any construction certificate, the certifying authority shall be satisfied that appropriate contractual arrangements have been provided or will be provided between the Council and the contracted builder which secure the protection of the trees listed below;

SCHEDULE

Tree Species	Location
7 x mature <i>Phoenix canariensis</i> (T13-T19)	Olympic Drive, adjacent to the subject site

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

Tree Protection Measures to be shown on Construction Drawings

C17. The tree protection measures contained in the arborist report prepared by Earthscape Horticultural Services, and received by Council on 31/1019, shall be shown clearly on the Construction Certificate drawings. Plans and specifications showing the said tree protection measures must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure the construction plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

Protection of Trees

C18. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Height
T1 & T2 <i>Lagerstroemia indica</i> (to be transplanted)	Northern boundary (Paul Street frontage)	6x8m & 5x7m
T4-T10 <i>Livistonia australis</i>	Eastern corner of subject site	6-8m
T11 & T12 <i>Phoenix canariensis</i>	Eastern boundary of the subject site	7m
T13-T19 <i>Phoenix canariensis</i>	Olympic Drive, adjacent to the subject site	(6-8m)
T20-T22, T24, T25 <i>Ficus macrocarpa</i> var. Hillii	Council verge on the eastern side of Alfred Street	2.5m-12m
T23, T26 <i>Angophora costata</i>	Council verge on the eastern side of Alfred Street	12-13m

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

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)

Approval for removal of Trees

C19. The following tree(s) are approved for removal in accordance with the development consent:

Trees that are acceptable to remove	Location	Height
T3 <i>Lagerstroemia indica</i> -Transplanting preferred	Northern boundary (Paul St)	5x6m
T4 <i>Livistona australis</i>	Olympic Park	5x5m
T5 <i>Livistona australis</i>	Olympic Park	6x5m
T6 <i>Livistona australis</i>	Olympic Park	6x5m
T7 <i>Livistona australis</i>	Olympic Park	6x5m
T8 <i>Livistona australis</i>	Olympic Park	6x5m
T9 <i>Livistona australis</i>	Olympic Park	5x6m
T10 <i>Livistona australis</i>	Olympic Park	6x5m
T28 <i>Nerium oleander</i>	Hopkins Park	2x2m

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

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

(Reason: Protection of existing environmental and community assets)

Amendments to the Landscape Plan

C20. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- a) Relocate bin enclosure outside the TPZ of T12 *Phoenix canariensis*
- b) Relocate the site office & storage area shown on Figure 3 of the Draft Construction Management Plan prepared by Brewster Hjorth received by council on 31/10/19 outside the TPZ of any trees to be protected.

An amended landscape plan complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity)

Waste Management Plan

C21. 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)

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) 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 any Construction Certificate.

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

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)

Dilapidation Report Damage to Public Infrastructure

C23. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant who details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to 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 Report Private Property (Excavation)

C24. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey is to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

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

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

Note: This documentation is for record keeping purposes only and may be used by the developer or affected property 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: To record the condition of property/ies prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

C25. A photographic survey and dilapidation report of adjoining properties No's. 20 Alfred Street, Milsons Point, 1 Northcliff Street, Milsons Point, and Luna Park (1 Olympic Drive, Milsons Point) 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)

Sediment Control

C26. 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)

Work Zone

C27. 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 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)

Parking Meter Relocation

- C28. Where metered parking is located adjacent to the site, Council will require the removal/relocation of existing parking meter and associated meter infrastructure. An application must be made to North Sydney Council for the approval of the Parking Meter Manager. The application must include a copy of the plans of the proposed temporary and permanent driveways for the entire site.

The Certifying Authority must ensure that the specifications submitted, accompanying the issued Construction Certificate, fully satisfy this condition.

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

Required Infrastructure Works –Roads Act 1993

- C29. Prior to issue of any Construction Certificate 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. To obtain the permit, an application must be made to Council on a 'Application to satisfy development consent' form with payment of the adopted assessment/inspection fees. 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:

Public Infrastructure Works (Road & Drainage)

The applicant must design the Public Infrastructure having regard to the North Sydney Council Public Domain Strategy in Milsons Point area at Olympic Drive, Alfred Street (south), Paul Street and public stairway in between swimming pool and Luna Park. The ground levels at the property boundary and all works to the public domain, including tree planting must be approved by

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)

Stormwater Management and Disposal Design Plan – Construction Issue

- C30. Prior to issue of the Construction Certificate, 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) Stormwater runoff and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by gravity to Council's stormwater system.
 - c) The applicant shall engage a specialist Hydraulics Engineer to carry out an evaluation of Council's stormwater drainage system and the effect of the proposed development on this system. The results of this evaluation shall be submitted with all other drainage details to Council prior to issue of any Construction Certificate by the Certifying Authority.
 - d) All civil and drainage works within the road reserve shall 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 reserve the right of keeping all bonds on infrastructure works for 12-month defects liability period.
 - e) Stormwater falling on paved and landscaped areas across the site will be collected and managed by a pit and pipe network. Where trapped low points occur such as the northern landscaped area at the corner of Paul Street and Alfred Street S, the pit and pipe network will be designed to collect and convey the 1%AEP event. In other areas, the pit and pipe network will be designed to collect the 5%AEP event. As the external pool area is sunken into the site, the stormwater network was design for the 1%AEP as there is no overland flow (Note: the 'minor' event has been assumed as council's DCP does not specify this value). Stormwater from roofs and other structural building elements will be captured and conveyed via gutters and downpipes to the in-ground pit and pipe network.

- f) Rainwater tanks are sealed tanks designed to retain rainwater collected from roofs for subsequent re-use on site. Only roof water from the main building (Catchment R1) has been modelled to discharge directly to the rainwater harvesting tank. Due to the high-water demand for the proposed development (i.e. Pool), the only way to service the reuse demand is by having a very large rainwater tank which is not feasible for a site like this due to spatial restrictions. As such, only a 15KL shall be provided to allow for some water re-use onsite for toilet flushing and irrigation.
- g) All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit, directly to Council's nearest stormwater drainage line. 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.
- h) Prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.

Details demonstrating compliance are to be submitted with all other drainage details to Council prior to issue of any 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)

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

C31. Prior to the issue of any Construction Certificate, the certifying authority shall be satisfied that appropriate contractual arrangements have been provided or will be provided between the Council and the contracted builder which secures 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 1 year for stormwater and 6 months for major road works and 2 months for vehicular crossing & small associated footpath works, after the work is completed.

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

Construction Noise Management Plan

C32. 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 Principal Certifying Authority and a copy provided to Council prior to the issue of the Construction Certificate.

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

Provision of Accessible Paths of Travel

C33. 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 any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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)

Sydney Water Requirements

C34. 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
- pressure information

- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Section 73 Certificate

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

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application can be made through an authorised Water Servicing Coordinator.

(Reason: Compliance with Sydney Water requirements).

Sydney Trains Requirements – Electrolysis Risk

C35. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.

(Reason: Compliance with Sydney Train requirements).

Sydney Trains Requirements – Craneage and Aerial Operations

C36. If required, prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.

(Reason: Compliance with Sydney Train requirements).

Sydney Trains Requirements - Representative

C37. The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:

- Oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;
- Acts as the authorised representative of the Applicant; and

- Is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.

(Reason: Compliance with Sydney Train requirements).

Sydney Trains Requirements – Consultation Requirements

- C38. Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.

Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains external party interface team. In this instance the relevant interface team is Central Interface and they can be contacted via email on Central.Interface@transport.nsw.gov.au.

(Reason: Compliance with Sydney Train requirements).

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

Heritage Site Induction

- D1. Before any works commence on site, all contractors and subcontractors shall undergo an induction session, prepared and delivered by a suitable heritage consultant, highlighting the historical significance of the site and in particular those building elements and archaeology requiring conservation. This induction session is to be delivered to any new contractors and subcontractors during the construction period.

(Reason: To maintain the heritage significance of the site and the area)

Commencement of Works Notice

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

Public Liability Insurance – Works on Public Land

- D3. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council’s road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

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

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

Proximity to Existing Ausgrid Network Assets – Underground Cables

- D4. There are existing underground electricity network assets in Alfred Street South, Milsons Point.

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.

(Reason: Compliance with Ausgrid requirements.)

Department of Primary Industries requirements

- D5. If it is deemed necessary to install reinforcement below the stormwater outfall (such as a rock apron) to prevent scouring of the seabed by increased stormwater discharge, then a Part 7 permit for reclamation will be required under the FM Act. If this is the case, the proponent must apply for and obtain a Part 7 permit from DPI Fisheries **prior to any works on site**. Permit application forms are available from the DPI Fisheries website at: <http://www.dpi.nsw.gov.au/fisheries/habitat/help/permit>.

(Reason: Compliance with requirements of NSW Department of Primary Industries.)

Department of Primary Industries requirements

D6. Environmental safeguards (silt curtains, booms etc.) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms.

(Reason: Compliance with requirements of NSW Department of Primary Industries.)

Protection of Trees

D7. 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)

Protection of Trees

D8. The tree protection measures detailed in the approved Tree Protection and Management Plan, and as directed by the project Arboriculturist shall be established before work commences.

(Reason: To ensure that the stability and ongoing viability of trees being retained are not compromised Tree protection measures)

Project Arborist Engaged

D9. The project Arboriculturist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the approved Tree Protection Plan and as directed by the project Arboriculturist before work commences.

a) The project Arboriculturist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained is not compromised.

b) The project Arboriculturist must contact the tree pruning contractor and Council's Tree Management Officer (giving at least 2 working days' notice) to arrange a joint site meeting, prior to commencing any pruning, to determine the exact location and extent of pruning that is permissible, with the tree pruning contractor to comply with any instructions issued by Council, acting reasonably.

c) Any pruning must be undertaken by a practicing arborist with a minimum Australian Qualification Framework Level 3 in arboriculture, in accordance with the principles of the Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and the NSW Work Cover Code of Practice for the Amenity Tree Industry (1998), as well as any instructions issued on site by Council, acting reasonably.

- d) The practicing arborist must keep a log of dates and times of when they attended the site, the type of works that were performed, and must form part of the certification required prior to Occupation.

(Reason: Tree protection measures)

Protection of Public Trees

- D10. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Protection
T13-T19 <i>Phoenix canariensis</i>	Olympic Drive, adjacent to the subject site	1.8m steel mesh tree protection fencing
T20-T22, T24, T25 <i>Ficus macrocarpa</i> var. Hillii	Council verge on the eastern side of Alfred Street	1.8m steel mesh tree protection fencing, branch protection to any branches overhanging Alfred St
T23, T26 <i>Angophora costata</i>	Council verge on the eastern side of Alfred Street	1.8m steel mesh tree protection fencing, branch protection to any branches overhanging Alfred St

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

(Reason: Protection of existing environmental and community assets)

Temporary Fences and Tree Protection

- D11. All protected trees on-site that are specifically nominated as per condition C18 to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builder’s waste are to be stored in the vicinity of the nominated tree/trees at any time.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites), not less than the distance shown in the schedule hereunder, must be installed to the satisfaction of the Certifying Authority prior to demolition or commencement of any works and must be maintained for the duration of the works:

Tree	Location	Height
T1 & T2 <i>Lagerstroemia indica</i> (to be transplanted)	Northern boundary (Paul Street frontage)	6x8m & 5x7m
T4-T10 <i>Livistonia Australis</i>	Eastern corner of subject site	6-8m
T11 & T12 <i>Phoenix canariensis</i>	Eastern boundary of the subject site	7m
T13-T19 <i>Phoenix canariensis</i>	Olympic Drive, adjacent to the subject site	(6-8m)
T20-T22, T24, T25 <i>Ficus macrocarpa</i> var. Hillii	Council verge on the eastern side of Alfred Street	2.5m-12m
T23, T26 <i>Angophora costata</i>	Council verge on the eastern side of Alfred Street	12-13m

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

E. During Demolition and Building Work

Reuse of Polychrome Brickwork

- E1. All original polychrome brickwork that is removed during the course of the works should be reused in the reconstruction of areas of the eastern wall, such as the sundeck and colonnade. If new brickwork is required for the reconstruction or repair of original brick elements, the bricks should closely match the original polychrome bricks in terms of size, finish and colours.

(Reason: To maintain the heritage significance of the site and the area)

Temporary Fencing and Luna Park

- E2. Construction fencing is to be installed such that it does not unreasonably interfere with vehicular and pedestrian access to Luna Park.

(Reason: To maintain public access to Luna Park)

Hazardous Building Materials

- E3. The Methodology and Recommendations of the Hazardous Building Materials Survey by Property Risk Australia Pty Ltd and submitted to Council on 30 October 2019 are to be implemented.

(Reason: To maintain public health and ensure appropriate handling and disposal of hazardous building materials)

Cigarette Butt Receptacle

- E4. 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)

Re-use of Sandstone

- E5. Sandstone blocks (if any) removed from the site are to be either stored for re-use on site or offered to Council in the first instance.

Note: The provisions of the Heritage Act may also apply to altering any sandstone elements on any site)

(Reason: To allow for preservation of cultural resources within the North Sydney Council area)

Dust Emission and Air Quality

- E6. The following must be complied with at all times:

a) Materials must not be burnt on the site.

- b) Vehicles entering and leaving the site with soil or fill material must be covered.
- c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines – Managing Urban Stormwater: Soils and Construction.
- d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

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

Noise and Vibration

- E7. The works must be undertaken in accordance with the “Interim Construction Noise Guideline” published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

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

Compliance with Construction Noise Management Plan

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

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

No Work on Public Open Space

- E9. No work can be undertaken within adjoining public lands (ie. Parks, Reserves, Roads etc) which has not been authorised by this consent without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

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

No Removal of Trees on Public Property

- E10. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

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

Protection of Trees

E11. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All recommendations contained within the tree report prepared by Earthscape Horticultural Services and received by Council on 31/10/19 must be implemented for the duration of the works.

In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

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

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

Trees to be Removed

E12. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal: -

Trees that are acceptable to remove	Location	Height
T3 <i>Lagerstroemia indica</i> -Transplanting preferred	Northern boundary (Paul St)	5x6m
T4 <i>Livistona australis</i>	Olympic Park	5x5m
T5 <i>Livistona australis</i>	Olympic Park	6x5m
T6 <i>Livistona australis</i>	Olympic Park	6x5m
T7 <i>Livistona australis</i>	Olympic Park	6x5m
T8 <i>Livistona australis</i>	Olympic Park	6x5m
T9 <i>Livistona australis</i>	Olympic Park	5x6m
T10 <i>Livistona australis</i>	Olympic Park	6x5m
T28 <i>Nerium oleander</i>	Hopkins Park	2x2m

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

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: -

a) **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)

b) **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)

c) **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)

d) **Kerbside restrictions, construction zones**

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

(Reason: Proper management of public land)

Noxious Plants

E14. All lantana, privet, rubber trees, asthma weed, and other declared noxious plants on the site, must be eradicated before the commencement of landscape works.

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

Construction Hours

E15. 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)

Parking Restrictions

E16. 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 kerb-side parking provisions are not compromised during works)

Road Reserve Safety

- E17. 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)

Service Adjustments

- E18. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the person acting on the consent and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to contact the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

Out of Hours Work Permits

- E19. 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:

- a) 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.
- b) 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.

- c) 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.
- d) 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.
- e) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.

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

Installation and Maintenance of Sediment Control

- E20. 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

- E21. 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)

Temporary Disposal of Stormwater Runoff

- E22. 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)

Site Amenities and Facilities

- E23. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

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

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

Health and Safety

- E24. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

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

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

Community Information

- E25. Reasonable measures must be undertaken at all times to keep nearby residents informed about the proposed work, such as by way of signs, leaflets, public meetings and telephone contact numbers, to ensure that adjoining residents are aware of the likely duration of the construction works on the site

(Reason: To ensure that residents are kept informed of activities that may affect their amenity)

Plant & Equipment Kept Within Site

- E26. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

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

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

Council Inspection of Public Infrastructure Works

- E27. During the works on public infrastructure reverting to Councils care and control, Councils development engineer must undertake inspections of the works at the following hold points: -

- a) Road works and associated road civil works.
- b) Stormwater works.

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

- E28. 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)

Developer's Cost of Work on Council Property

E29. 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)

Prohibition on Use of Pavements

E30. 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)

No Pollution of Waters

E31. Construction works are undertaken in a manner that does not cause pollution of waters.

(Reason: To comply with the requirements of NSW EPA)

Characterisation and Classification of Material Being Removed from Site

E32. All material being removed from site as part of the construction must be characterised and classified in accordance with the NSW EPA Waste Classification Guidelines 2014.

(Reason: To comply with the requirements of NSW EPA)

Unexpected Finds During Construction

E33. An unexpected finds protocol for construction and excavation works must be prepared and implemented. The protocol should include contamination validation procedures for the final excavated surface.

(Reason: To comply with the requirements of NSW EPA)

Asbestos Removal

- E34. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or “Demolition Licence” and a current WorkCover “Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

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

Demolition

- E35. All demolition works are to be carried out in compliance with AS2601.2001 – Demolition of Structures.

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

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)

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)

Commencement of Works

- F6. 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 the erection of the building.

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

Protection of Public Places

- F7. a) A hoarding and site fencing must be erected between the work site and adjoining public place.
- b) 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.
- c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- d) Any such hoarding, fence or awning is to be removed when the work has been completed.
- e) 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 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*

Waste Materials Report

- G1. A report detailing the waste material identified, classified and disposed of, including the volume, waste classification and method of disposal must be provided to Council at the completion of construction.

(Reason: To comply with the requirements of NSW EPA)

Validation of Remediation Works

- G2. The site will be required to be adequately remediated and validated as being fit for its intended use by a suitably experienced environmental consultant. A notice of completion, including validation is to be provided to Council following removal of any contaminated soils.

(Reason: To ensure that the site is suitable for the proposed land uses)

Damage to Adjoining Properties

- G3. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

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

Asbestos Clearance Certificate

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

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

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

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

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

Noise Certification

G5. Prior to issue of the any Occupation Certificate a certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants is to be submitted to, and approved by, the Certifying Authority certifying that the noise and vibration from use of the development complies with the conditions of consent herein.

(Reason: To ensure acoustic amenity)

Certification of Tree Condition

G6. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below: -

Tree	Location	Height
T1 & T2 <i>Lagerstroemia indica</i> (to be transplanted)	Northern boundary (Paul Street frontage)	6x8m & 5x7m
T4-T10 <i>Livistonia australis</i>	Eastern corner of the subject site	6-8m
T11 & T12 <i>Phoenix canariensis</i>	Eastern boundary of the subject site	7m
T13-T19 <i>Phoenix canariensis</i>	Olympic Drive, adjacent to the subject site	(6-8m)
T20-T22, T24, T25 <i>Ficus macrocarpa</i> var. Hillii	Council verge on the eastern side of Alfred Street	2.5m-12m
T23, T26 <i>Angophora costata</i>	Council verge on the eastern side of Alfred Street	12-13m

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

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

Landscaping (To be completed on receipt of acceptable drawings)

G7. The landscaping shown in the approved landscape plan numbered 1-01 and 1-02 prepared by Brewster Hjorth Architects and received by Council on 7 April 2020 must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Infrastructure Repair and Completion of Works

G8. Prior to the issue of any Occupation Certificate any and all works relating to the development:

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

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

(Reason: Maintain quality of Public assets)

Certification- Civil Works

- G9. 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 an 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 an Occupation Certificate.

(Reason: Compliance with the Consent)

Utility Services

G10. All utility services shall be adjusted, to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

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

I. On-Going / Operational Conditions

Hours of Operation

I1. The hours of operation are restricted to:

Weekdays

Use	Open	Closed
Aquatics general	5.00am	11.00pm
Splash pad	9.00am	6.00pm
Aqua Dining	12.00pm	12.00am
Ripples Café	8.00am	12.00am
Upper level café internal	5.00am	12.00am
Upper level café external	7.00am	12.00am
Gym	5.00am	11.00pm
Upper level courtyard	7.00am	6.00pm

Weekends

Use	Open	Closed
Aquatics general	5.30am	8.00pm
Splash pad	9.00am	6.00pm
Aqua Dining	12.00pm	12.00am
Ripples Café	7.30am	12.00am
Upper level café internal	5.00am	12.00am
Upper level café external	7.00am	12.00am
Gym	5.00am	11.00pm
Upper level courtyard	8.00am	6.00pm

Upon expiry of the permitted hours:

- (a) all restaurant service (and entertainment) must immediately cease;
- (b) no person shall be permitted entry; and
- (c) all customers on the premises must be required to leave within the following half hour.

(Reason: to ensure that amenity of the surrounding locality is maintained, and hours of operation are consistent with those in surrounding locality)

Hours of Operation – trial period

I2. Notwithstanding Condition I1 above the approved use of the following facilities may operate for the following specified times for a trial period of twenty-four (24) months from the date of issue of the first Occupation Certificate, being interim or otherwise. Council must be informed in writing of the date of commencing the trial period.

Weekdays		
Use	Open	Closed
Splash pad	9.00am	9.00pm
Upper level courtyard	7.00am	7.00pm

Weekends		
Use	Open	Closed
Splash pad	9.00am	8.00pm
Upper level courtyard	8.00am	8.00pm

In order for the above trial hours of operation to be confirmed as ongoing, a modification application must be lodged with Council prior to the expiration of the trial period. The assessment of the application to continue the use in accordance with the trial, will consider amongst other things, the impact of the use on surrounding areas the performance of the operation in relation to compliance with development consent conditions.

In the event that no modification application is lodged, or an application is not approved, then the hours of operation for the premises must revert to the standard hours of operation identified by this consent.

Note: Any person acting on this consent is advised that any modification application to the trial hours of operation period should be submitted to Council a minimum of thirty (30) days prior to the expiration of the trial period otherwise the trial period must lapse.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

Green Travel Plan

13. The recommendations of the Green Travel Plan prepared by Brewster Hjorth Architects and submitted to Council on 30 October 2019 are to be implemented at all times.

(Reason: To encourage the use of a variety of transport modes to and from the site)

No Pollution of Waters

14. The facility must be operated in such a way as to not cause pollution of waters.

(Reason: To comply with the requirements of NSW EPA)

Travel Advice Web Page

15. A comprehensive Travel Advice page be instituted on the website for the Pool including the availability of the Luna Park parking station.

(Reason: To advise the public of the availability of transport options to the site.)

Noise and Vibration Impact

- I6. The on-going use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

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

Maintenance of Approved Landscaping

- I7. The owner of the premises at 4 Alfred street South is to maintain the landscaping approved by this consent generally in accordance with Landscape Plan prepared by Earthscape Horticultural Services dated 14/10/19 as modified by condition C20.

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

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)

Waste Collection

- I8. 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)