

CE Waters Road Pty Ltd
Attention: Daniel Barber, Central Element
Suite 4, Level 17, 100 Miller Street
NORTH SYDNEY NSW 2060

D92/21
RT (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 92/21/2 - APPROVAL**

Development Consent Number: 92/21/2

Land to which this applies: 12-14 Waters Road, Neutral Bay
SP: 68360

Applicant: CE Waters Road Pty Ltd

Proposal: Section 4.55(1A) modifications to DA92/21 for changes to the wording of various conditions of consent to enable staging of Construction Certificates.

Pursuant to Section 4.55 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **92/21** and registered in Council's records as Application No. **92/21/2** relating to the land described as **12-14 Waters Road, Neutral Bay**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 27 October 2021, has been determined in the following manner:

1. To insert a new condition A5 as follows:

Staging of Construction Certificates (D92/21/2)

A5. The issue of Construction Certificates shall be staged as follows:

CC1 - Demolition:

This Construction Certificate shall include works for site set-up, strip out, disconnection and demolition of above ground building fabric and structure and services only (excluding any excavation or demolition of below ground services and substructure). This Construction Certificate shall not include any excavation and permanent building works.

If a condition is required to be satisfied prior to the issue of any Construction Certificate and there is no nominated Construction Certificate stage in the heading of the condition, this condition is required to be satisfied prior to the issues of CC1.

CC2 - Shoring and excavation:

This Construction Certificate shall include (in order of execution): piling and perimeter shoring works, demolition of existing substructure and services, excavation works. This Construction Certificate shall not include any construction/building works except for the perimeter shoring works.

CC3 - Structure, façade and services:

This Construction Certificate shall include the construction of the remaining structures, façade and services of the approved mixed use building

CC4 - Public domain and remaining works

This Construction Certificate shall include public domain works and other remaining works.

(Reason: To enable staging of the Construction Certificate issue process)

2. To modify the heading and the relevant wording of the following conditions to read as follows:

Shoring for Adjoining Property (CC2)

- C6. Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of excavation, encroachment and the method of removal and de-stressing of shoring elements, backfilling and compacting of over-excavated cavities on Council's and/or private property with fill suitable for its purpose, must be submitted to the Certifying Authority for approval with the Construction Certificate (CC2).

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

To obtain the permit for tieback anchors, an 'Application to satisfy development consent' form with payment of the adopted assessment fees, must be made to Council.

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

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

Structural Adequacy of Adjoining Properties - Excavation Works (CC2)

- C7. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining properties (Nos. 4-8 Waters Road), which certifies their ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC2). The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in close proximity during excavation works)

Reflectivity Index of Glazing (CC3)

- C10. The reflectivity index (expressed as a per centum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3). The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

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

Roofing Materials - Reflectivity (CC3)

- C11. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3).

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

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

No External Service Ducts (CC3)

- C12. Service ducts must be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3).

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

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

Staff Shower and Change Facilities (CC3)

- C14. Shower and change facilities shall be provided and made accessible without charge to staff who work in the building. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3). The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

Basement Car Parking to Comply with Relevant Standards (CC3)

- C15. The basement layout must comply with all requirements of the Australian Standard AS2890.1 including the following requirements:
- a) The design of the proposed parking spaces for people with disability must comply with the Australian Standard AS2890.6;
 - b) The design of bicycle parking and storage facilities must comply with the Australian Standard AS2890.3;
 - c) The design of the new driveways must comply with the minimum pedestrian sightline safety in accordance with Figure 3.3 of AS2890.1.

Certification from a suitably qualified and practicing Civil Engineer that the basement design will comply with the requirements of the Australian Standards must be provided to the Certifying Authority for approval prior to issue of the Construction Certificate (CC3).

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

(Reason: To ensure compliance with the relevant Australian Standards)

Required Infrastructure Works - Roads Act 1993 (CC2)

- C17. Prior to issue of the Construction Certificate (CC2) 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:

Road Works

The applicant must design the all street frontages in consultation with Council's public domain officers and have regard to the North Sydney Council Public Domain Strategy for the pedestrianizing Waters Lane in between of Grosvenor Lane and Grosvenor Street. The ground levels at the property boundary and all works to the public domain (other than tree planting) must be approved by Council prior to the issue of a Construction Certificate for required infrastructure works, or any building works interfacing with the required infrastructure.

- a) Construction of a fully new footpath in New Public Domain pavers is required across the entire site frontages in Waters Road, Grosvenor Street and Waters Lane. The footpath pavement must be placed on a single straight grade of 3.0% rising from the top of kerb, towards the property boundary, so that it is uniform without showing signs of dipping or rising particularly at entrances. The footpath pavement must be constructed for the full width, using the construction required for "Village Centre" area, as specified in Public Domain Style Manual and Design Codes. A longitudinal section is required along the footpath property boundary at a scale of 1:50 extending 5m past the property boundary line.
- b) The boundary footpath levels for all property frontages must be determined from the top of the kerb levels as it is required under clause (a) of this condition - footpath pavement shall be rising 3.0% from the top of kerb, towards the property boundary on Waters Road or property set-back line on Waters Lane frontage.
- c) Cross sections at a scale of 1:50 along the centre-line of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All the entry points are to comply with the Building Code of Australia (BCA), including disability requirements. The Council approved footpath levels must be accommodated at the building entry points.
- d) Construction of a fully new kerb and gutter is required across the entire site frontages in Waters Road, Grosvenor Street and Waters Lane. A longitudinal section is required along the gutter line (existing and proposed levels), at a scale of 1:50 extending 5m past the property boundary line.
- e) Full frontage - full width road carriageway surface reconstruction is required in Waters Lane, as specified in Public Domain Style Manual and Design Codes for "Village Centre".
- f) The proposed vehicular access ways must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification as specified in Public Domain Style Manual and Design Codes for "Village Centre" area and designed to comply with AS 2890.1 to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or garage floor.
- g) The redundant layback crossing on Waters Lane must be reinstated as upright kerb gutter and footpath pavers.
- h) The width of the vehicular layback in Waters Lane shall be approximately 4.0m (including the wings).
- i) The width of the vehicular layback in Waters Road shall be approximately 6.5m (including the wings).

- j) The crossing (between the layback and the property boundary) must be perpendicular on a single straight grade of approximately 4.5%, falling to the back of the layback.
- k) Alignment levels at the boundary/set-back - line, have an important impact on the proposed levels for new driveway. The works must not start until confirmation of boundary alignment levels from registered surveyor. Council has the authority to remove any unauthorized works at the cost of the property owner.
- l) The Certifying Authority must ensure that the internal property levels at boundary matches council's confirmed boundary levels.
- m) The gutter levels and road shoulder levels on all street frontages must stay unchanged.
- n) All inspection openings, utility services must be adjusted to match the proposed footpath, driveway levels and location.
- o) The design detail has to be provided for proposed vehicular access and must include sections along centre-line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, **both** existing and proposed.
- p) A longitudinal section along the footpath property boundary and set-back line at a scale of 1:50 is required and shall include all changes of grade and levels, **both** existing and proposed.
- q) The sections must show the calculated clearance to the underside of any overhead structure.
- r) All details of internal ramps between parking levels are required.
- s) A swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of the garage spaces in accordance with AS 2890.1 2004 "Off Street Parking".

Drainage Works

Connection of the site stormwater system must be made directly to a newly constructed grated gully pit (with lintel), to front the site on Waters Lane. To accommodate this requirement, the following drainage infrastructure works must be carried out on Council property at the Applicants expense:

- a) Construction of a standard grated gully pit with extended kerb inlet (1.8m lintel) in the kerb fronting the subject site in Waters Lane. The pit must be constructed in accordance with Councils "Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works".
- b) Construction of a new in-ground drainage line under the kerb and gutter at standard depth. The line must connect the new gully pit to the existing Council pit located downstream of the site on Waters Lane. The pipes within the road reserve are to be reinforced concrete class 2 with a minimum 375mm diameter and have bedding in accordance with Australian Standard AS 3725 - (Loads on buried concrete pipes). The developer shall be responsible for carrying out any service investigations to allow a gravity connection.

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 (CC2)

C18. Prior to issue of the Construction Certificate (CC2), 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 via a direct connection to Council's stormwater gully pit (to be constructed in front of property) in Waters Lane. When a direct connection to the pit option is implemented then the pipeline within the footpath area shall have a minimum cover of 300mm.
- c) All civil and drainage works within the road reserve must be designed and built in accordance with Council's current "Infrastructure Specification". Prior to issue of the Construction Certificate the applicant must have engineering plans and specifications, prepared by a qualified civil drainage design engineer. Council must approve the plans and specifications, in writing, prior to issue of any Construction Certificate by the Certifying Authority. The documentation must provide engineering construction detail for the following public infrastructure works that must be completed as part of the approved development. Council reserves the right of keeping all bonds on infrastructure works for 12-month defects liability period.
- d) Video inspection must be carried out of completed drainage works that are to revert to council and a video tape forwarded to council's development engineer to support the certification. Bonds held by Council will be returned after receipt of satisfactory information.

- e) The stormwater drainage system shall be designed for an average recurrence interval (A.R.I.) of 1 in 20 years.
- f) All redundant stormwater pipelines within the footpath area shall be removed and the footpath and kerb reinstated.
- g) All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit. 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) The design and installation of the Rainwater Tanks shall comply with Basix and **Sydney Water** requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system.
- i) Prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.
- j) Provide subsoil drainage to all necessary areas with pump out facilities as required.

Details demonstrating compliance are to be submitted with all other drainage details to Council prior to issue of the Construction Certificate (CC2).

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)

On-Site Stormwater Detention (CC2)

- C19. On site detention must be provided to ensure that the maximum discharge from the site does not exceed discharge which would occur during a 1 in 5-year storm for the time of concentration determined for the particular site, for the existing site conditions. All other stormwater run-off from the site for all storms up to the 1 in 100-year storm is to be retained on the site for gradual release to the kerb and gutter or drainage system. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.

Determination of the required cumulative storage must be based on the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Runoff Volume 1, 1987 Edition.

Engineering calculations, design and certification complying with this condition must be provided by an appropriately qualified and practicing Civil Engineer and submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC2).

(Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that public infrastructure in Council's care and control is not overloaded)

Pump-Out System Design for Stormwater Disposal (CC2)

C20. The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

- a) the pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20-year storm;
- b) the pump system shall be regularly maintained and serviced, every six (6) months; and
- c) any drainage disposal to the street gutter from a pump system, must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

Engineering details demonstrating compliance with these criteria and certified by an appropriately qualified and practising civil engineer shall be provided to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC2).

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

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

C21. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$348,000.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
- c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following: -

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

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

Footpath, Entries and Fire Exit Details (CC3)

C22. Footpaths, entries and exits and fire exits for the development must be designed by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3). The design must include (but is not limited to) the following: -

- a) cross section along the centre-line of each access point to the building including fire exits at a scale of 1:50 to be taken from the centre of the road and shall include all changes of grade both existing and proposed;
- b) the sections must show all relevant levels and grades (both existing and proposed) including those levels stipulated as boundary levels;
- c) the sections must show the calculated clearance to the underside of any overhead structure;
- d) a longitudinal section along the boundary line showing how it is intended to match the internal levels of the building with the boundary footpath levels. The footpath must be designed (at a single straight grade of 3% falling to top of kerb) so that it is smooth without showing signs of dipping or rising particularly at entrances; and
- e) a longitudinal section along the gutter and kerb line extending 5 metres past property lines showing transitions.

Details, plans and specifications complying with this condition are to be certified as complying with the Building Code of Australia (BCA) and Council's standard footpath specifications, and the certification, details, plans and specifications must be provided to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3).

Written concurrence confirming there will be no change to existing boundary and footpath levels is to be provided to the Certifier and North Sydney Council, prior to issue of the Construction Certificate (CC3).

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

Garbage and Recycling Facilities (CC3)

C29. 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 the Construction Certificate (CC3).

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)

Location of Plant (CC3)

C31. All plant and equipment (with the exception of the equipment to be accommodated within the approved plant area on the roof level) must be located within the basement of the building and must not be located on balconies and other areas on the roof. Plans and specifications complying with this condition must be submitted to the Certifying Authority for Approval prior to the issue of the Construction Certificate (CC3). 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: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

Acoustic Privacy (Residential Apartments) (CC3)

C36. Noise levels in sole occupancy units of residential apartments must not exceed the following:

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

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

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

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

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

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined above have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3).

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

Noise and Vibration Compliance Certification Prior to Issue of Construction Certificate (CC2)

C37. A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that suitable measures have been incorporated into the development and that the noise criteria contained in the conditions herein have been satisfied, must be provided to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC2).

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)

Provision of Accessible Paths of Travel (CC3)

C40. The building must be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises - Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval

prior to the issue of the Construction Certificate (CC3). 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 on 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)

Adaptable Housing (CC3)

- C41. Proposed Units 1.05, 1.06, 2.05, 2.06, 3.04, 3.05, 4.03, 4.04 and 4.06 are to be designed with accessible features for disabled persons and must incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps. These features are to be designed generally in accordance with the relevant Australian Standard 4299 - 1995. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3). The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure equity of access and availability of accommodation in the future for an ageing population)

BASIX Certificate (CC3)

- C44. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 1170679M_07 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3).

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

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

Under Awning Lighting (CC3)

C45. Under awning lighting must be provided to the Grosvenor Street, Waters Road and Waters Lane Street frontage of the site. Such lighting is to be designed to P1 standard in accordance with AS/NZS 1158.3.1. The luminaries must be:

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

Plans and specifications complying with this condition must be submitted to the Certifying Authority and the Council's Director of Engineering and Property Services for approval prior to the issue of the Construction Certificate (CC3). A construction certificate must not be issued without the approval of the Council's Director of Engineering and Property Services. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

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

Sydney Water (CC2)

C47. The following Sydney Water requirements must be complied with prior to the issue of the Construction Certificate (CC2):

- a) Sydney Water Servicing

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

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

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

- b) Building Plan Approval

The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

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

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

- building plan approvals
- connection and disconnection approvals

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

Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

- c) Requirements for Business Customers for commercial and Industrial Property Developments.

Trade Wastewater Requirements

If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade wastewater to Sydney Water's sewerage system. You must obtain Sydney Water approval for this permit before any business activities can commence. It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

The permit application should be emailed to Sydney Water's Business Customer Services at businesscustomers@sydneywater.com.au

A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment.

If the property development is for Industrial operations, the wastewater may discharge into a sewerage area that is subject to wastewater reuse. Find out from Business Customer Services if this is applicable to your development.

Backflow Prevention Requirements

Backflow is when there is unintentional flow of water in the wrong direction from a potentially polluted source into the drinking water supply.

All properties connected to Sydney Water's supply must install a testable Backflow Prevention Containment Device appropriate to the property's hazard rating. Property with a high or medium hazard rating must have the backflow prevention containment device tested annually. Properties identified as having a low hazard rating must install a non-testable device, as a minimum.

Separate hydrant and sprinkler fire services on non-residential properties, require the installation of a testable double check detector assembly. The device is to be located at the boundary of the property.

Before you install a backflow prevention device:

- 1) Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.

- 2) Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.

For installation you will need to engage a licensed plumber with backflow accreditation who can be found on the Sydney Water website:

<http://www.sydneywater.com.au/Plumbing/BackflowPrevention/>

(Note: Sydney Water has also provided recommendations in relation to water efficiency and contingency plan for business customers and are attached to this consent)

(Reason: Compliance with Sydney Water Requirements)

Pool Access (CC3)

- C48. Access to the pool must be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992, and the barrier is to conform to the requirements of the applicable Australian Standard. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3).

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

(Reason: To ensure the safety of children and make applicant aware of the need to comply with applicable pool fencing legislation)

Swimming Pool Water to Sewer (CC3)

- C49. The swimming pool, including overflow water, must be drained to the sewer. The consent of Sydney Water to dispose of wastewater must be obtained prior to the issue of the Construction Certificate (CC3). Plans and specifications complying with this condition and any conditions/requirements of Sydney Water must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3).

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully comply with this condition and any conditions/ requirements imposed by Sydney Water.

(Reason: Water from a swimming pool is classified as wastewater and cannot be legally disposed of into the stormwater system)

Pool Filter (CC3)

- C50. The pool filtering equipment must be encased by a soundproof cover and must be located six (6) metres from any habitable room in a dwelling on a neighbouring property. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate (CC3).

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

(Reason: To ensure noise generated by equipment does not result in offensive noise)

Reason for Approval:

The proposal satisfies the provisions of Section 4.55(1A) in that the development would be substantially the same as what was approved under DA 92/21 as the proposed modifications will not alter the use and the general form of the development as originally approved.

The proposed modifications would not change the level of compliance with the relevant LEP and DCP provisions and requirements;

The proposed modifications would not change the development outcome in terms of height, bulk and scale, envelope and appearance of the approved apartment building; and

The proposed staging of construction would have no material amenity impacts for the adjoining properties.

How community views were taken into account:

Notification of the subject application was waived in accordance with Section 3.4.2 of Council's Community Engagement Protocol because the proposal relates to changes to the wording of certain conditions of consent and no physical changes to the approved development.

The proposed changes would not result in changes to the appearance of the approved development as seen from the adjoining properties and would have no additional impacts for these properties.

The conditions attached to the original consent for Development Application No. 92/21 by endorsed date of 27 October 2021 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact **Robin Tse**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of the Environmental Planning and Assessment Act 1979 (as amended), you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing and it can give rise to considerable cost and time savings for all parties involved.
- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.

- (c) Prior to commencing any building, subdivision or associated constructions works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:
- (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
 - (ii) A Principal Certifier is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
 - (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 6.6(2)(a) of the Act.
- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a further modification under Section 4.55 of the Environmental Planning and Assessment Act, 1979 (as amended).

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

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER ASSESSMENTS