

# MINUTES

## **NORTHERN BEACHES LOCAL PLANNING PANEL MEETING**

held in the Council Chambers, Civic Centre, Dee Why on

**WEDNESDAY 11 DECEMBER 2019**

**Minutes of a Meeting of the Northern Beaches Local Planning Panel  
held on Wednesday 11 December 2019  
at Council Chambers, Civic Centre, Dee Why  
Commencing at 1.00pm**

**ATTENDANCE:**

**Panel Members**

Paul Vergotis	Chair
Steve Kennedy	Urban Design Expert
Robert Hussey	Town Planner
Nick Lawther	Community Representative

## **1.0 APOLOGIES AND DECLARATIONS OF INTEREST**

Steve Kennedy declared a conflict of interest in relation to Item 4.2 – 118 Bower Street, Manly and took no part in the site inspection, public meeting and deliberations for this item.

## **2.0 MINUTES OF PREVIOUS MEETING**

### **2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 9 DECEMBER 2019**

The Panel noted that the Minutes of the Northern Beaches Local Planning Panel held 9 December 2019, were adopted by the Chairperson and have been posted on the Council's website

### 3.0 DEVELOPMENT APPLICATIONS

#### 3.1 DA2019/0712 - 1A CURRAWONG BEACH, CURRAWONG BEACH - ALTERATIONS AND ADDITIONS TO SIX (6) CABINS

##### PROCEEDINGS IN BRIEF

The application seeks consent for alterations and additions to six (6) of the nine (9) existing cabins, specifically:

- Demolition of the existing outhouses associated with Cabin 4 'Magpie', Cabin 5 'Lorikeet', Cabin 6 'Wallaby', Cabin 7 'Possum', and Cabin 8 'Echidna',
- Construction of a new bathroom addition to the rear of each cabin, access via the existing internal bathroom,
- Removal of roof and guttering of each cabin and replacement with new,
- Installation of new water tanks associated with each cabin,
- Installation of bushfire mesh to gutters, windows, doors and undercroft areas of each cabin,
- Replacement and extension of the front deck of each cabin,
- New kitchen fit-out to each cabin, including the installation of new servery windows opposite the front door,
- Removal of wardrobes in Cabin 4 'Magpie', Cabin 5 'Lorikeet', Cabin 6 'Wallaby', Cabin 7 'Possum', and Cabin 8 'Echidna',
- Installation of wall-mounted external clotheslines to each cabin,
- Repairs to existing sandstone flagging,
- Repairs and extension to all BBQ areas,
- Retaining walls (where required),
- Installation of paving around proposed rear additions, and
- Tubestock plantings to rear of cabins.

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by 3 representatives of the applicant.

##### DECISION ON DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2019/0712 for alterations and additions to six (6) cabins at Lot 1 DP 166328, Lot 1 DP 332208, Lot 4 DP 978424 & Lot 10 DP 1092275, 1A Currawong Beach, Currawong Beach subject to the conditions and for the reasons set out in the Assessment Report.

Vote: 4/0

### 3.2 DA2019/0812 - 33 STARKEY STREET, FORESTVILLE - DEMOLITION WORKS AND CONSTRUCTION OF A BOARDING HOUSE

#### PROCEEDINGS IN BRIEF

The proposal seeks consent for the following works:

- Demolition of structures;
- Construction of a boarding house, as follows:
  - 12 boarding rooms, and one manager's room (with private open space), each with kitchenette and bathroom facilities;
  - Two internal communal living rooms;
  - Basement car park for 7 cars, 3 motorcycles and 3 bicycles, and storage;
- One outdoor living area;
- Bin storage; and
- Landscaping works.

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by 5 neighbours and 4 representatives of the applicant.

#### DECISION ON DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **grants deferred commencement approval** to Application No. DA2019/0812 for demolition works and construction of a Boarding House at Lot 2 DP 363929, 33 Starkey Street, Forestville subject to the following conditions:

#### DEFERRED COMMENCEMENT CONDITIONS

##### 1. Upper Storey Communal Living Area Amendment

The upper storey communal living area is to be reduced in size by deletion of the north west portion of the space. The upper storey communal living area shall have an area not exceeding 10 square metres. The deleted portion shall be replaced by a non-trafficable roof over the ground floor Managers Room. An additional east facing window may be added to room 207. This window is to be screened to ensure no overlooking of adjoining properties.

##### 2. Revised Stormwater Drainage Design

Detailed plans for the drainage of the development, including the OSD system and its connection to Council's pit, in accordance with clause C4 Stormwater of Warringah DCP.

##### 3. Waste Management

The development must be redesigned in accordance with the Northern Beaches Council Waste Management Guidelines.

1. The bin store room must be able to accommodate 12 x 240L bins required for the 13 rooms, plus 1 x 240L vegetation bin for every 200sqm of landscaped open space on the site.

2. The waste storage area must be:

- a) Clear of any obstructions and security devices;
- b) Incorporated entirely within the site boundary and, if it is an external structure, be designed to reduce visual impact and clutter;
- c) No closer than 3m from any dwelling openings;
- d) Clear of any entry points to stormwater systems and prevent waste water from entering any stormwater system; and
- e) Fitted with door(s) that can be latched in an open position

3. The pathway and access between the waste storage area and collection point must be:
- Solid, concrete, continuous, non-slip and clear of any obstructions and steps;
  - A maximum ramp gradient of 1 in 8; and
  - Hazard free.

4. A bulky goods waste storage area must be provided that will be:
- A minimum of 4m<sup>3</sup> per 10 dwellings fit for the purpose of storing bulky goods;
  - A room or caged area separate from the waste storage area;
  - Located within 6500mm of the front property boundary;
  - A maximum ramp gradient of 1 in 8;
  - Hazard free and not via a pathway with vehicular traffic; and
  - A minimum width of 1200mm.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within 12 months of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

#### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 4. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA10 Site + Roof Plan	Revision A 12 June 2019	Aleksandar Projects
DA11 Basement Plan + Deep Soil Landscape Area	Revision A 12 June 2019	Aleksandar Projects
DA12 L01 Floor Plan	Revision A 12 June 2019	Aleksandar Projects
DA13 L02 Floor Plan	Revision A 12 June 2019	Aleksandar Projects
DA20 Section A-A	Revision A 12 June 2019	Aleksandar Projects
DA21 North & South Elevation	Revision A 12 June 2019	Aleksandar Projects
DA22 East & West Elevation	Revision A 12 June 2019	Aleksandar Projects
DA40 External Materials + Finishes	Revision A 12 June 2019	Aleksandar Projects

Engineering Plans		
Drawing No.	Dated	Prepared By
2019-185-P1 Site Soil and Water Management Site Plan	July 2019	Burgess, Arnott & Grava Pty Ltd
2019-185-P2 Site Soil and Water Management Details	July 2019	Burgess, Arnott & Grava Pty Ltd

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Traffic Impact Statement	10 July 2019	Traffix
Section-J Report	Revision A 23 July 2019	Outsource Ideas P/L
Plan of Management	17 July 2019	Applicant
Geotechnical Investigation	May 2019	STS GeoEnvironmental
BCA & Access Assessment Report	21 June 2019	BCA Logic
BASIX Certificate No. 1031119M	24 July 2019	Outsource Ideas P/L
Arboricultural Impact Report	17 July 2019	Landscape Matrix Pty Ltd
Noise Assessment 190292R1	Revision 0 9 July 2019	Rodney Stevens Acoustics

- b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.
- c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.
- d) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA-L101 Landscape Plan: Ground Fr	Revision A 11 July 2019	Canvas Landscape Architects
DA-L102 Landscape Typical Details	Revision A 11 July 2019	Canvas Landscape Architects

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	26 July 2019	Applicant

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.  
Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

## 5. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a boarding house, according to the Dictionary of the Warringah Local Environmental Plan 2011:

*Boarding house means a building that:*

- (a) is wholly or partly let in lodgings, and*
- (b) provides lodgers with a principal place of residence for 3 months or more, and*
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or*

*motel accommodation, seniors housing or a serviced apartment.*

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

## 6. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - i) protect and support the adjoining premises from possible damage from the excavation, and
  - ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

## 7. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday, and
  - No work on Sundays and Public Holidays. Demolition and excavation works are restricted to:
    - 8.00 am to 5.00 pm Monday to Friday only.(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and 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).
- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times

until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

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

## FEES / CHARGES / CONTRIBUTIONS

### 8. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$18,938.76 is payable to Northern Beaches Council for the

provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,893,876.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

#### **9. Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

### **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

#### **10. On Slab Landscape Planting and Associated Works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing to all internal walls and slab, and drainage of the concrete slab over which soil and planting is being provided. Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil volume, soil type, planting, automatic irrigation, services connections, and maintenance activity schedule. The following soil depths are required in order to be counted as landscaping:

- 300mm for lawn
- 600mm for shrubs

- 1metre for trees

Reason: To ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system, and away from habitable areas.

**11. Boundary Identification Survey**

A Boundary Identification Survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site. The plans submitted for the construction certificate are to accurately reflect the property boundaries as shown on the Boundary Identification Survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans, referenced in Condition 1 of this consent. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

**12. Building Code of Australia Report**

The recommendations as detailed and recommended in the BCA & Access Assessment Report prepared by BCA Logic dated 12 June 2019, Report Ref No. 110496-BCA/Access-r2 are to be carried out in full to the building. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for health, amenity, access and fire safety for building occupant health and safety.

**13. Geotechnical Requirements**

The recommendations made in the Geotechnical Investigation Report for the proposed boarding house prepared by STS GeoEnvironmental dated May 2019, Report Ref No. 19/1065 are to be carried out in full during the development. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that the geotechnical risk management aspects of the proposed development have been adequately addressed to achieve an acceptable risk management level for the life of the structure.

**14. Vehicle Driveway Gradients**

Driveway gradients within the private property must be designed in accordance with Australian/ New Zealand Standard 2890.1. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure suitable vehicular access to private property.

**15. Tanking of Basement Level**

The basement area is to be permanently tanked. Details of the tanking are to be prepared by a suitably qualified engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Water. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water are to be complied with and a copy of the approval must be submitted to the Certifying Authority. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State government requirements.

**16. Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

**17. Sub-Soil Seepage**

All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit, directly to Council's nearest stormwater drainage line being Cannons Parade and is to be carried out in accordance with relevant Australian Standards. (Note: At the time of determination the following (but not limited to) Standards applied:

- o Australian/New Zealand Standard AS/NZS 3500.3 - 2003 Plumbing and drainage - Stormwater drainage
- o Australian/New Zealand Standard AS/NZS 3500.3 - 2003 / Amdt 1 - 2006 Plumbing and drainage - Stormwater drainage.)

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate drainage and stormwater management on site to protect amenity of residents.

**18. Stormwater Drainage Application**

A stormwater drainage application under Section 68 of the Local Government Act 1993 is to be submitted to Council for approval. The submission is to include four (4) copies of civil engineering plans for the design of the on site stormwater detention system, sub soil drainage and pipe connection to Council's drainage pit on Cannons Parade that are generally in accordance with the civil design approved with the development application and Council's specification for engineering works - AUS-SPEC #1. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

**19. Boarding House Plan of Management**

Prior to the issue of any Construction Certificate, the Plan of Management is to be amended to the satisfaction of the Certifying Authority. The Plan of Management shall include detail to manage the requirements detailed as follows:

- 1) The maximum number of boarders and lodgers:
  - a) The building is to contain a maximum of 26 persons (not including children under the age of 5 years), being no more than two persons per designated bedroom.
  - b) The Manager of the boarding house must not allow any room or cubicle in the premises to be used for the purposes of sleeping accommodation unless the room

or cubicle has a floor area of 5.5 square metres or more for each person sleeping in it (in the case of long-term sleeping accommodation) or 2 square metres or more for each person sleeping in it (in any other case).

Note: The *Public Health Regulation 2012* provides that long-term sleeping accommodation means accommodation that is provided to the same person for a period of more than 28 consecutive days.

- 2) The requirements detailed within Schedule 2 Part 1, Clauses 2 – 7 under the Local Government (General) Regulation 2005.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the premises are maintained in an appropriate manner.

## 20. Tree Protection Plan

In order to protect and enhance onsite vegetation and trees, the following applies to the development site:

A Tree Protection Plan is to be prepared by a AQF Level 5 Arborist (or equivalent) showing the following:

- o Layout of the approved development;
- o Location of trees identified for retention;
- o Extent of canopy spread;
- o Location of tree protection fencing / barriers (fencing in accordance with AS2470 – 2009); and
- o General tree protection measures.

The Tree Protection Plan is to be submitted to the Certifying Authority for approval prior to issue of a Construction Certificate. Tree protection measures identified on the plan are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

## 21. Amended Landscape Plan

The approved Landscape Plan is to be amended to incorporate the following:

- i) Substitute 1 x *Hymenosporum flavum* located in the north western corner of the site with 1 x *Callistemon salignus*.
- ii) Extend screen planting along the northern boundary garden bed to ensure a continuous screen along the length of the building wall.
- iii) Provide one additional Eucalyptus 'Summer red' in the garden bed on the western boundary opposite the communal living area.
- iv) Provide 2 x *Callistemon viminalis* (or cultivars) in the Cannons Parade road reserve forward of the property. One tree is to be planted 5 metres west of the driveway crossover and one tree to be planted no more than 7m west of that tree to provide adequate sight lines from both the driveway and the intersection of Cannons Parade and Starkey Street.
- v) All required street trees shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees.
- vi) All required street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, and mulched to 75mm depth minimum, watered and maintained to ensure establishment.

The amended Landscape Plan is to be submitted to the Certifying Authority for approval prior to issue of a Construction Certificate.

Reason: Provision and protection of environmental amenity.

**22. Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

**23. Construction Traffic Management Plan**

A detailed Construction Traffic Management Plan (CTMP) for the proposed development is to be prepared to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. The CTMP will address the overall management of the site and nearby roads during the construction process, including the provision of parking arrangements for all trade vehicles.

Reason: To ensure equitable access to users of the Forestville area and to manage traffic as a result of the construction of the proposed development.

**24. Waste and Recycling Requirements**

Details demonstrating compliance with Warringah Development Control Plan – Part C9 Waste Management, the submitted Waste Management Plan, and the Northern Beaches Council Waste Management Guidelines are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Warringah Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**25. Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Certifying Authority prior to any works commencing on the site (including demolition or excavation):

- 42 Cannons Parade; and
- 31 Starkey Street.

The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing 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 correspondence from the owners of the affected properties or other evidence must be obtained and submitted to the Principal Certifying

Authority in such circumstances that demonstrates such documentation has been received. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

## **26. Public Liability Insurance - Works on Public Land**

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, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

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

## **27. Project Arborist**

A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works. The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the Arboricultural Impact Assessment prepared by Landscape Matrix Pty Ltd dated July, 2019 and AS4970-2009 Protection of trees on development sites. The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: To ensure protection of vegetation proposed for retention on the site.

## **28. Tree Protection**

- A) Existing trees and vegetation shall be retained as follows:
  - i) All trees and vegetation within the site indicated for retention on the approved plans shall be protected during all construction stages, excluding exempt trees under the relevant planning instruments or legislation,
  - ii) All trees and vegetation located on adjoining properties,
  - iii) All road reserve trees and vegetation,
  - iv) All trees and vegetation to be retained shall be in accordance with the architectural plans prepared by Aleksandar Projects, and as reported in the Arboricultural Impact Assessment prepared by Landscape Matrix Pty Ltd dated July 2019.
- B) The following existing trees are subject to removal as identified and recommended within the Arboricultural Impact Assessment Trees No. 2, 3, 6, 10, 11, 12, 13, and 16.
- C) Tree protection shall be generally undertaken as follows:
  - i) All tree protection shall be in accordance with the Arboricultural Impact Assessment prepared by Landscape Matrix Pty Ltd dated July, 2019, and as required by AS4970-2009 Protection of trees on development sites, with particular attention to section 4, and AS4373-2007 Pruning of amenity trees;
  - ii) Any tree roots exposed during excavation with a diameter greater than 25mm

- within the TPZ must be assessed by the Project Arborist;
- iii) To minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained;
  - iv) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorized by the Project Arborist on site;
  - v) All structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site;
  - vi) Should either or both iv) and v) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations and shall report on the tree protection action undertaken, including photographic evidence; and
  - vi) Any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009.
- D) Tree protection shall be specifically undertaken as follows:
- i) All tree protection shall be in accordance with the Arboricultural Impact Assessment prepared by Landscape Matrix Pty Ltd, dated July 2019, and as required by AS4970-2009 Protection of trees on development sites, with particular attention to section 4, and AS4373-2007 Pruning of amenity trees;
  - ii) The tree protection measures specified in this clause must:
    - Be in place before work commences on the site;
    - Be maintained in good condition during the construction period; and
    - Remain in place for the duration of the construction works.
  - iii) The Project Arborist shall be in attendance for all excavation works carried out near the following existing tree to be retained and protected in the vicinity of Tree No 18;
  - iv) The Project Arborist shall be in attendance for all pruning works to existing Tree No 18.

Reason: To retain and protect significant planting on development sites.

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### **29. Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

### **30. Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

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

### **31. Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

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

Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site. Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until all 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.

### **33. Property Boundary Levels**

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the existing levels. No approval is granted for any change to existing property alignment levels to accommodate the development. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To maintain the existing profile of the nature strip/road reserve.

### **34. Traffic Control During Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the

protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public safety.

**35. Vehicle Crossings**

The provision of one vehicle crossing 4.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

**36. Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

**37. Noise of Rock Breaking**

The activity of rock-breaking associated with the development of the site, must only occur between the hours of:

- o 9.00 AM – 5.00 PM on weekdays (Monday – Friday) only.

Rock-breaking activities must not occur on weekends or public holidays. Surrounding property owners and residents must be notified in writing of the times and days in which rock-breaking activities will be carried out. Notices must be distributed at least seven (7) days before the activity is to occur.

Reason: To protect the acoustic amenity of neighbouring properties and the public.

**38. Construction Traffic Management**

Demolition and construction works are to be carried out in accordance with the approved Construction Traffic Management Plan.

Reason: To manage demolition and construction traffic.

**39. Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan dated 26 July 2019.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE  
OCCUPATION CERTIFICATE**

**40. Landscape Certification**

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a

maintenance program has been established.

Reason: To ensure the landscaping is planted in accordance with the consent and maintained appropriately.

**41. Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council. Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

**42. Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

**43. Registration of Encumbrances for On-site Stormwater Detention**

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

**44. On-Site Stormwater Detention Compliance Certification**

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure stormwater disposal is constructed to Council's satisfaction.

**45. Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches

Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services.

Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

#### **46. Required Planting**

- i) Trees, shrubs and groundcovers shall be planted in accordance with the Landscape Plan Dwg No. DA-L101 Rev A dated 11/07/2019 prepared by Canvas - Landscape Architects, as amended by conditions of consent.
- ii) Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim/final Occupation Certificate.

Reason: To maintain environmental amenity.

#### **47. Street Tree Planting**

Street tree planting is to be provided as follows:

- o 2 x *Callistemon viminalis* (or cultivars) in the Cannons Parade road reserve forward of the property. One tree is to be planted 5 metres west of the driveway crossover and one tree to be planted no more than 7m west of that tree to provide adequate sight lines from both the driveway and the Cannons Rd/Starkey St intersection.

All required street trees shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees. All required street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, and mulched to 75mm depth minimum, watered and maintained to ensure establishment.

Reason: To provide and protect environmental amenity.

#### **48. Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures) is to be prepared. This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim or Final Occupation Certificate. Each year the owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

**49. Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with Warringah Development Control Plan – Part C9 Waste Management, the submitted Waste Management Plan, and the Northern Beaches Council Waste Management Guidelines. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided.

**50. Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

**51. Positive Covenant for Waste Services**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Council), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

**52. Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Lnd Registry Services standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council. If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

**ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES****53. Noise from Air Conditioners**

Any air conditioning unit must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment Operations Act 1997. In accordance with the Protection of the Environment Operations (Noise Control) Regulation 2008, domestic air conditioners must not be audible within a habitable room in any other residential premises:

- before 8:00am or after 10:00pm on any Saturday, Sunday or public holiday, or
- before 7:00am or after 10:00pm on any other day.

Details of the acoustic measures to be employed to achieve compliance with this condition must be submitted to Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure compliance with legislation and to protect public health and safety.

**54. Noise Associated with the Communal Area**

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

**55. Glare from Headlights**

Glare from headlights exiting the underground car park must not cause nuisance to the residents in the dwelling located directly opposite the driveway.

Reason: To prevent glare from headlights impacting on the amenity of surrounding residents.

**56. Landscape Maintenance**

Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity.

**57. Use of Communal Areas**

The use of outdoor communal areas shall be restricted to between the hours of 7:00am and 10:00pm, 7 days per week. The use of internal communal areas shall be restricted to between the hours of 6:00am and 11:00pm, 7 days per week. No amplified music is permitted at any time within any internal or outdoor communal area.

Reason: To ensure the acoustic amenity of neighbouring properties.

**58. Occupancy of Boarding House**

The building is to contain a maximum of 26 persons, being no more than 2 persons per room (including the Manager's room).

Reason: To ensure the amenity of occupants.

**59. Plan of Management**

Operation of the boarding house is to be in accordance with the approved Plan of Management.

Reason: To ensure suitable operation of the boarding house and protect amenity.

**STATEMENT OF REASONS**

The Panel members whom voted in favour to grant development consent were of the view that the proposed development was appropriate in scale and proportion with the surrounding developments and that the conditions imposed to modify the development were appropriate to provide amenity to the adjoining property to the east. The concerns raised by residents in relation traffic impacts were noted, however given the small scale of the development these concerns did not warrant the refusal of the application.

Vote: 2/2 - Nick Lawther and Robert Hussey dissenting and voted to refuse the development application, Paul Vergotis and Steve Kennedy voted to grant consent to the development application. Paul Vergotis (Chair) used his casting vote to grant consent.

## 4.0 REVIEW OF DETERMINATIONS

### 4.1 REV2019/0061 - 8 PACIFIC PARADE, MANLY - REVIEW OF DETERMINATION OF APPLICATION DA2019/0478 FOR DEMOLITION WORKS, THE CONSTRUCTION OF TWO SEMI-DETACHED DWELLINGS AND TORRENS TITLE SUBDIVISION

#### PROCEEDINGS IN BRIEF

The proposed development consists of the following:

- Subdivision of the land into two lots, each resulting in an area of 222.9sqm
- Construction of two semi-detached dwellings each consisting of four bedrooms, living room/dining room/kitchen, internal courtyard and deck;
- Construction of a single carport for each dwelling;
- Associated landscaping works throughout the development.

The proposed development has been amended following the determination of the original application.

Specifically, the changes which form part of this review of determination are:

- Ground floor plate is shifted slightly towards the rear boundary to accommodate the redesign of Bedroom 4 and the introduction of a small balcony element facing the street;
- The first floor plate is shifted towards the rear of the property to facilitate the redesign of Bedroom 2 and to provide an increased front setback of between 6.77m and 7.16m.
- Collectively these design amendments achieve a more recessive and articulated first floor streetscape presentation, with the first floor integrated with a pitched roof form and setback 900mm behind the front facade alignment of the ground floor plate below;
- The amended design visually differentiates the horizontal wall and pitched roof elements in terms of detailing and materiality and ensures that the first floor sits behind the alignment of the ground floor below; and
- The separation of the proposed carports and their redesign to provide simple skillion roof forms.

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by 1 neighbour and 1 representative of the applicant.

The Panel noted that the amended drawings lacked the level of detail necessary for the Panel to achieve a full understanding of the merits of the proposal, how it sat within the streetscape and its likely visual impacts. However, the further amended plans in combination with the verbal advice given at the meeting enabled the Panel to reach a conclusion.

#### DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of clause 4.1 Minimum Subdivision Lot Size development standard has adequately addressed and demonstrated that:
  - a) compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
  - b) there are sufficient environmental planning grounds to justify the contravention.
- 2) the proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.

- B. The Panel assumes the concurrence of the Secretary, Department Planning and Environment required under clause 4.6.

## DECISION ON REVIEW APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **grants deferred commencement approval** to Application No. REV2019/0061 for Review of Determination of Application DA2019/0478 for demolition works, the construction of two semi-detached dwellings and Torrens title subdivision at Lot 38 Sec 1 DP 4603, 8 Pacific Parade, Manly subject to the following conditions:

### DEFERRED COMMENCEMENT CONDITIONS

#### 1. Details of external finishes

Evidence required to satisfy the following deferred commencement conditions must be submitted to Council as detailed below:

- An external colour scheme to be submitted to the Council for approval.
- Front fencing detail indicating entry points to the dwellings, full dimensions, colours and details.
- Details of the proposed roof drainage including materials, colours and location of gutters and downpipes for both the building and carports.

Evidence required to satisfy the deferred commencement conditions must be submitted to Council within one (1) year of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 2. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA 01, Issue C	September 2019	David Jagers Architect
DA 02, Issue C	September 2019	David Jagers Architect
DA 03, Issue C	September 2019	David Jagers Architect
DA 04, Issue C	September 2019	David Jagers Architect
DA 05, Issue C	September 2019	David Jagers Architect
DA 06, Issue C	September 2019	David Jagers Architect
DA 07, Issue C	September 2019	David Jagers Architect
DA 08, Issue C	September 2019	David Jagers Architect
DA 09, Issue C	September 2019	David Jagers Architect
DA 12, Issue C	September 2019	David Jagers Architect

##### Landscape Plans

Drawing No.	Dated	Prepared By
LP 01, Issue C - Landscape Plan	28/10/2019	Dapple Design
LP 01, Issue C - Plant List/Specification	28/10/2019	Dapple Design
LP 01, Issue C - Construction Details	28/10/2019	Dapple Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 997778S_02	22 October 2019	David Jagers
BASIX Certificate No. 997784S_02	22 October 2019	David Jagers

- b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.
- c) The development is to be undertaken generally in accordance with the following:

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

### 3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in

progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

#### 4. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and 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).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and

- construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
  - (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
  - (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
  - (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
  - (j) Prior to the commencement of any development onsite for:
    - i) Building/s that are to be erected
    - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
    - iii) Building/s that are to be demolished
    - iv) For any work/s that is to be carried out
    - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
  - (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
    - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

      - (i) Swimming Pools Act 1992
      - (ii) Swimming Pools Amendment Act 2009
      - (iii) Swimming Pools Regulation 2008
      - (iv) Australian Standard AS1926 Swimming Pool Safety
      - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
      - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
    - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
    - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
    - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity

expectations of residents and the community.

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

#### Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$10,899.41 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,089,941.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

### 6. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION  
CERTIFICATE****7. Required Canopy Tree Planting**

- a) Details are to be provided to the Certifying Authority of the existing or proposed native trees for the site which are typically expected to reach a height at maturity of 10 metres, to bring the proposal into compliance with Figure 37 of the Manly Development Control Plan 2013.
- b) Details of new planting are to include appropriate siting and pot size (minimum of 25 litres) in accordance with section 2.1.3 of the Manly Development Control Plan 2013, and schedule 4, Part B, Native Tree Selection.
- c) Details are to be submitted with the Construction Certificate to the satisfaction of the Certifier.

Reason: This is to ensure the planting of endemic trees back onto the site.

**8. Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Pacific Parade.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

**9. Boundary Identification Survey**

A Boundary Identification Survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the construction certificate are to accurately reflect the property boundaries as shown on the Boundary Identification Survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans, referenced in Condition 1 of this consent.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

**10. Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

**11. Heritage Photographic Survey**

A black and white photographic survey, in accordance with the guidelines of the Heritage Council, is to be submitted in an unbound report format. The report shall contain:

- (a) A front cover marked with:
  - (i) the name/location of the property;
  - (ii) the date of the survey;
  - (iii) the name of the Company or persons responsible for the survey.
- (b) A layout plan of the existing building; identifying rooms and features shown in the photographs.
- (c) Photographs of the interior, exterior, and streetscape view of the building, labelled to indicate their location in relation to the layout plan and elevations of the building; and a set of negatives. All photographs are to be mounted in acid-free photographic corner mountings and photographs are to be fixed into acid-free corner mounting.
- (d) Where colour is a feature of the building (for example, the building features stained glass, leadlight or polychrome brickwork), additional colour photographs (with negatives) are to be included in the photographic survey report.

These documents are to be provided to Council's historical archives.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide a historical record of heritage significant works on the site for archival purposes. (DACHEC01)

**12. Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

**13. Tree Protection Plan**

- a) An Arborist with a minimum qualification in arboriculture, equivalent to AQF Level 5, is to be appointed to prepare a Tree Protection Plan for the following existing trees to be retained and protected during construction works:
  - the Pacific Parade street trees planted within the carriageway of the road reserve in close proximity to the development site, and fronting properties No.6 and No.10.
  - the existing Norfolk Island Pine in the rear yard of No.8.
  - the Gum tree within neighbouring property No.6.
- b) The Tree Protection Plan shall be issued to the Certifying Authority, and to Council for approval, prior to the issue of a Construction Certificate.
- c) Tree protection measures shall be generally undertaken in accordance with section 4.2 of AS4970-2009 Protection of Trees on Development Sites, and as

recommended in the Tree Protection Plan.

- d) The tree protection measures specified must:
- i) be in place before work commences on the site, and
  - ii) be maintained in good condition during the construction period, and
  - iii) remain in place for the duration of the construction works.

Reason: to ensure protection of vegetation proposed for retention is provided and maintained. In order to protect and enhance onsite vegetation and trees the following applies to the development site:

#### **14. Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

### **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

#### **15. Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties: 6 Pacific Parade and 10 Pacific Parade.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing 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 correspondence from the owners of the affected properties or other evidence must be obtained and submitted to the Principal Certifying Authority in such circumstances that demonstrates such documentation has been received. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

#### **16. Public Liability Insurance - Works on Public Land**

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, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

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

#### **17. Project Arborist**

- i) A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.
- ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the approved Tree Protection Plan and AS4970-2009 Protection of trees on development sites.
- iii) The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on the site.

### **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

#### **18. Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

#### **19. Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- ☐ Work Health and Safety Act
- ☐ Work Health and Safety Regulation
- ☐ Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and
- ☐ Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)]
- ☐ Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005.
- ☐ The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

#### **20. Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

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

**21. Installation and Maintenance of Sediment Control**

Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until all 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.

**22. Vehicle Crossings**

The Applicant is to construct one vehicle crossing 6 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

**23. Heritage listed sandstone kerbs**

It is recommended that the heritage listed sandstone kerbs removed for new driveway crossing to be replaced with an existing concrete kerb along the street or delivered to Council's depot for storage to be reused.

Reason: To maintain the current contribution of the heritage listed sandstone kerb to the visual character of the area and the streetscape. (DACHEEDW1)

**24. Protection of heritage listed Camphor Laurel street trees in road reserve**

The Camphor Laurel street trees, located in the road reserve outside 8 Pacific Parade, Manly, are to be protected at all times during demolition and construction works on the site.

Reason: To ensure that the heritage listed Camphor Laurel street trees are not damaged as a result of the proposed works. (DACHEEDW2)

**25. Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in

accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.  
Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

## **26. Tree and vegetation protection**

- a) Existing trees and vegetation shall be retained and protected as follows:
  - i) all trees and vegetation within the site as identified on the Survey Plan, excluding exempt trees under the relevant planning instruments or legislation,
  - ii) all trees and vegetation located on adjoining properties,
  - iv) all road reserve trees and vegetation,
- b) Tree protection shall be generally undertaken as follows:
  - i) all tree protection shall be in accordance with the approved Tree Protection Plan and AS4970- 2009 Protection of Trees on Development Sites,
  - ii) removal of existing tree roots greater than 25mm is not permitted without consultation with the Project Arborist,
  - iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by the Project Arborist,
  - iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by the Project Arborist. Details including photographic evidence of works undertaken shall be submitted by the Project Arborist to the Certifying Authority,
  - v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
  - vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site,
  - vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a the Project Arborist on site,
  - viii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with the Project Arborist, to provide for root protection measures,
  - ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
  - x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
  - xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

Reason: to retain and protect significant planting on development and adjoining sites.

## **CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

### **27. Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, and in

particular the Camphor Laurel street trees, the Norfolk Island Pine located in the rear of the property, and the neighbouring Gum in No.6, including the following information:

- i) compliance to Arborist recommendations for tree protection and excavation works.
- ii) extent of damage sustained by vegetation as a result of the construction works.
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: to retain and protect significant planting on development sites.

## **28. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

## **29. Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- ☐ Compare the post-construction report with the pre-construction report,
- ☐ Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- ☐ Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

## **30. Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces.

## **31. Landscape works**

- a) Landscaping is to be implemented in accordance with the Landscape Plan LP01 prepared by Dapple Designs, inclusive of the following requirement:
  - i) the existing Norfolk Island Pine in the rear yard shall be retained and protected,
  - ii) details of new tree planting to satisfy section 2.1.3 of the Manly Development Control Plan 2013, and schedule 4, Part B, Native Tree Selection, and Figure 37 of the Manly Development Control Plan 2013, are to be installed,
- b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a

landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved plan and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and privacy.

### **32. Sydney Water**

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

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water.

## **ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

### **33. Environmental and priority weed control**

All weeds are to be removed and controlled in accordance with the Biodiversity Conservation Act 2016.

Reason: Preservation of environmental amenity.

### **34. Landscape maintenance**

- a) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- b) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity.

## **CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE**

### **35. Provision of Services for Subdivision**

The applicant is to ensure all services including water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan of subdivision. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that utility services have been provided to the newly created lots.

**36. Services**

The Applicant shall ensure all utilities/services and street lighting is installed. The Applicant is to submit a Certification stating the above requirement has been complied with by the relevant authority(s) and/or authorised contractor.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure services have been provided in accordance with the relevant authorities requirements.

**37. Sydney Water Compliance Certification**

The Applicant shall submit a Section 73 Compliance Certificate under the Sydney Water Act 1994 issued by Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and fees to be paid. Please make early contact with the coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water.

**38. Release of Subdivision Certificate**

The final plan of subdivision will not be issued by Council until the development has been completed in accordance with terms and conditions of the development consent.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

**39. Subdivision Certificate Application**

The Applicant shall submit a Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, four copies of the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to Council prior to the issue of the Subdivision Certificate. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919.

**40. Title Encumbrances**

The Applicant shall ensure all easements, rights of carriageway, positive covenants and restrictions as to user as detailed on the plans and required by the development consent are to be created on the title naming Council as the sole authority empowered to release or modify.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority

prior to the issue of the Subdivision Certificate.

Reason: To ensure proper management of land.

**STATEMENT OF REASONS:**

The Panel conducted a site inspection of the streetscape and heard detailed submissions from the applicant in relation to the amended plans submitted with the review application. The Panel also considered a further amended set of plans submitted at the meeting which provided a number of detailed responses to the street elevation and also responded to matters raised by the initial Panel when the application was refused on 19 June 2019. Given the responses received were complimentary to the streetscape and addressed the external appearance of the building and addressed the design concerns raised by the Panel on 19 June 2019 it was considered that these latest amendments were worthy of approval which resulted in the Panel deciding to overturn the original Panel's decision and grant consent to the development application.

Vote: 4/0

#### 4.2 REV2019/0059 - 118 BOWER STREET, MANLY - REVIEW OF DETERMINATION OF APPLICATION DA2018/1930 FOR ALTERATIONS AND ADDITIONS TO THE BUILDING AND CHANGE OF USE TO AN ATTACHED DUAL OCCUPANCY

##### PROCEEDINGS IN BRIEF

Steve Kennedy declared a conflict of interest in relation to this item and took no part in the site inspection, public meeting and deliberations for this item.

The application seeks a review of Northern Beaches Local Planning Panel (NBLPP) refusal of DA2018/1930, for the alterations and additions to the building and change of use to an attached dual occupancy.

The application is amended as follows:

- Reduction in the floor space ratio of 0.07 sqm, from 565.5sqm to 558.5sqm,
- Increase in the front setback of the garages from 2.1m to 3.8m,
- Reduction in the height of proposed garages by 0.32m and 0.2m;
- Additional landscaping forward of the proposed garages.

The Panel viewed the site and its surrounds. At the public meeting which followed the Panel was addressed by 1 representative on behalf of 2 neighbours and 1 representative of the applicant.

##### DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is not satisfied that:

- 1) the applicant's written request under clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of clause 4.4 Floor Space Ratio development standard has adequately addressed and demonstrated that:
  - a) compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
  - b) there are sufficient environmental planning grounds to justify the contravention.
- 2) the proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.

##### DECISION ON REVIEW APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. REV2019/0059 for Review of Determination of Application DA2018/1930 Alterations and additions to the building and change of use to an attached dual occupancy at Lot 29 DP 3806, 118 Bower Street, Manly for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of the Manly Local Environmental Plan 2013 in that the proposal:
  - a) does not comply with Clause 4.4 (Floor Space Ratio) of the Manly Local Environmental Plan 2013 and results in an unacceptable bulk and scale; and
  - b) is inconsistent with the requirements of Clause 4.6 Exceptions to Development Standards in that the request to vary Clause 4.4 does not demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify

contravening the development standard.

2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the requirements of Clause 3.4.3 'Maintenance of Views' in the Manly Development Control Plan 2013 in that the building, by virtue of its bulk and scale, has unacceptable view impacts.
3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the requirements of Clause 3.1.1 'Streetscape (Residential area)' and Clause 4.1.4 'Setbacks (front, side and rear) and Building Separation' in the Manly Development Control Plan 2013, in that it does not provide an appropriate presentation for the garages and fencing to Bower Street and will not be consistent with the streetscape.

The Panel notes that the applicant has failed to adequately address the issues identified within the original assessment report, particularly in relation to the view loss as a result of the bulk and scale of the building and the presentation of the proposed double garages to the Bower Street streetscape. A more sympathetic design could minimise the view impacts. The cumulative effect of the non-compliances with the relevant development controls is symptomatic of over-development of the site. The Panel further noted that the applicants town planner did provide advice that the applicant was prepared to a portion of the roof by 150mm to mitigate the view impacts the adjoining neighbour at 3/114 Bower Street, Manly however given the inadequacy of the clause 4.6 written request the Panel did not consider these amendments to be relevant.

Vote: 3/0

*The meeting concluded at 4.10pm*

This is the final page of the Minutes comprising 40 pages  
numbered 1 to 40 of the Northern Beaches Local Planning Panel meeting  
held on Wednesday 11 December 2019.