



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Pursuant to Section 4.18 of the Environmental Planning and Assessment Act 1979

Application Number:	DA387/2024/01 PAN-495145
Land to which this applies:	105-153 Miller Street, North Sydney Lot No.: 2, DP: 792740
Applicant:	Investa Custodian (2) Pty Ltd
Description of development:	Integrated Development of the State heritage listed building at 105-153 Miller Street, North Sydney including refurbishment, alterations and additions for the purpose of a commercial building with ground level retail and associated works
Determination:	Approved
Date of Determination:	29 September 2025
Consent to operate from:	29 September 2025
Consent will lapse on:	29 September 2030

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

Reasons for Approval

The Sydney North Planning Panel determined to uphold the Clause 4.6 variation to height of buildings and Miller Street setback and approve the application for the reasons below and in Council's comprehensive Assessment Report.

The proposed development has been assessed with respect to relevant provisions of the Act, and applicable provisions of relevant SEPPs, the LEP, and the DCP. The North Sydney Local Infrastructure Contributions Plan and strategic documents related to the North Sydney CBD have also been considered, including the North Sydney CBD Public Domain Strategy 2020.

The Panel notes the proposal was referred to the Heritage Council of NSW for assessment of the State Heritage listed site. General terms of approval were provided as required for this integrated development application. The proposal has adopted an interpretive response to the site's history and heritage significance with the application aiming to maintain the essence of the original MLC building by retaining and rebuilding the large forecourt to Miller Street and restoring the existing Miller Street building to a scale and form commensurate with the original.

The Panel concurs with Council that after extensive consultation with the community, Council, Heritage Council and other state government bodies and a thorough assessment of the proposal, the proposed development achieves economic feasibility whilst meeting obligations for compliance with various building standards and satisfaction of the needs of contemporary office tenants. The Council's assessment has also considered the substantial public domain benefits associated with the project.

In summary, the Panel believes the proposal has been properly assessed against relevant planning controls and warrants approval.

Period of Consent

Subject to Section 4.20 of the Act, this consent becomes effective and operates from the date listed above. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To activate this consent, works must physically commence onsite prior to the date lapsing of consent.

How community views were taken into account:

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes issues of concern included:

- Heritage conservation and design
- Visual and view impacts
- Sustainability
- Bulk and scale of the proposed Denison building
- Solar access to adjacent buildings and Brett Whiteley Plaza
- Compliance with NSLEP and NSDCP 2013, including height breach.

Further, the Panel notes a number of late submissions were made in the days before the Panel met to determine the matter. The Panel considers that concerns raised by the community in the original and late submissions have been properly addressed in the Assessment Report and conditions.

Review of determination and right of appeal:

Within six months after the date of notification of the decision, a review of this determination can be requested under Division 8.3 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

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

Endorsed for and on behalf of North Sydney Council

29 September 2025

Jim Davies

Date

Signature on behalf of consent authority

Jim Davies

Executive Assessment Planner

i. Conditions

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the *Environmental Planning and Assessment Act 1979* (“the *Act*”) and the provisions of the *Environmental Planning and Assessment Regulation 2021* (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.17 of the *Act*.

ii. Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans means the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or AS/NZS means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

NCC means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

Council means North Sydney Council.

Court means the Land and Environment Court.

Local Native Plants means species of native plant endemic to North Sydney LGA.

Stormwater Drainage System means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner Builder has the same meaning as in the *Home Building Act 1989*.

Principal Certifier for building or subdivision work means the certifier appointed as the principal certifier for the building work under section 6.6 (1) or for the subdivision work under section 6.12 (1).

Principal Contractor for building work means the person responsible for the overall coordination and control of the carrying out of the building work.

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the *Home Building Act 1989*.

Professional Engineer has the same meaning as in the *NCC*.

Public Place has the same meaning as in the *Local Government Act 1993*.

Road has the same meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.

Site means the land being developed subject to this consent.

NSLEP 2013 means North Sydney Local Environmental Plan 2013

NSDCP 2013 means North Sydney Development Control Plan 2013

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of any waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: **Interpretation of Conditions** - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council

In accordance with the provisions of Section 4.17 of the *Environmental Planning and Assessment Act 1979*, and section 88(1)(c) of the *Environmental Planning and Assessment Regulations 2021* approval has been granted subject to the following conditions:

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

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

Plans

Plan No.	Rev	Title	Drawn by	Date
DA00.000	A	Drawing List	Bates Smart	29.11.2024
DA01.001	A	Proposed General Arrangement Plan – Site Plan	Bates Smart	29.11.2024
DA01.3B1	A	Demolition Plan Basement	Bates Smart	29.11.2024
DA01.3LG	A	Demolition Plan Lower Ground	Bates Smart	29.11.2024
DA01.300 to DA01.315	A	Demolition Plan (Level 4 to Level 14)	Bates Smart	29.11.2024
DA01.901 to DA01.904	A	Demolition Elevation	Bates Smart	29.11.2024
DA03.000	A	Proposed General Arrangement Plan Upper Ground Floor	Bates Smart	29.11.2024
DA03.0B1	A	Proposed General Arrangement Plan Basement	Bates Smart	29.11.2024
DA03.0LG	A	Proposed General Arrangement Plan Lower Ground	Bates Smart	29.11.2024
DA03.001 to DA03.003	A	Proposed General Arrangement Plan	Bates Smart	29.11.2024
DA03.013 to DA03.014	A	Proposed General Arrangement Plan	Bates Smart	29.11.2024
DA03.021 to DA03.023	A	Proposed General Arrangement Plan	Bates Smart	29.11.2024
DA09.001 to DA09.004	A	Proposed Elevations	Bates Smart	29.11.2024
DA01.010	A	Proposed Materials – Elevation Materials Legend	Bates Smart	29.11.2024
DA10.001	A	Proposed Section – Section A	Bates Smart	29.11.2024
LA-DA-01	D	Cover Page and Drawing Schedule	360 Landscape Architecture	29.11.2024
LA-DA-02	D	Landscape Schedules and Planting Palettes	360 Landscape Architecture	29.11.2024

LA-DA-03	D	Tree Retention and Removal Plan	360 Landscape Architecture	29.11.2024
LA-DA-04 to LA-DA-06	D	Landscape Plan	360 Landscape Architecture	29.11.2024
LA-DA-07	D	Landscape Sections	360 Landscape Architecture	29.11.2024
214031-CV-0000	1	Civil Engineering Works – Cover Sheet	Enstruct group Pty Ltd	21/11/2024
214031-CV-0100	1	Civil Engineering Works – Sediment and Erosion Control Plan	Enstruct group Pty Ltd	21/11/2024
214031-CV-0401	1	Civil Engineering Works – Siteworks Plan Sheet 1	Enstruct group Pty Ltd	21/11/2024
214031-CV-0402	1	Civil Engineering Works – Siteworks Plan Sheet 2	Enstruct group Pty Ltd	21/11/2024
214031-CV-0403	2	Civil Engineering Works – Siteworks Plan Sheet 3	Enstruct group Pty Ltd	29/11/2024
214031-CV-0404	1	Civil Engineering Works – Siteworks Plan Sheet 4	Enstruct group Pty Ltd	21/11/2024
214031-CV-0601	2	Civil Engineering Works – Sections Sheet 1	Enstruct group Pty Ltd	29/11/2024

Documents

Title/Rev	Author	Date
Heritage Impact Statement	Curio Projects	10/12/2024
Landscape Design Report	360 Landscape Architecture	29/11/2024
Civil Engineering Report	Enstruct group Pty Ltd	29/11/2024
Arboricultural Impact Assessment	Green Spaces Consultancy	29/11/2024
BCA Capability Statement	Bmplusg	3/12/2024
Acoustic and Vibration Impact Assessment	RWDI Australia Pty Ltd	2/12/2024
Access Review - Final	MGAC (Australia) Pty Ltd	2/12/2024
Preliminary Construction Management Plan	Investa	3/12/2024
Report on Detailed Site Investigation	Douglas Partners Pty Ltd	29/11/2024
Report on Geotechnical Investigation	Douglas Partners Pty Ltd	29/11/2024
Net Zero Services Statement	ARUP	28/11/2024
ESD Report – Commercial	Inhabit Australasia Pty Ltd	29/11/2024
External Reflected Glare Report – Commercial	Inhabit Australasia Pty Ltd	29/11/2024
DA Submission Structural Report	Enstruct group Pty Ltd	29/11/2024
Transport Impact Assessment	SCT Consulting	4/12/2024
Hazardous Building Materials Survey	JBS&G	30/9/2024
Operational Waste Management Report	Foresight Environmental	29/11/2024

Construction & Demolition Waste Management Report	Foresight Environmental	29/11/2024
Pedestrian Wind Study	RWDI Australia Pty Ltd	2/12/2024

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

Plans on Site

A2. A copy of the latest approved plans under this development consent, specifications and documents (including the plans, specifications and documents submitted and approved with all Construction Certificates) must be always kept on site and be readily available for perusal by an officer of Council or the Principal Certifier.

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

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

No Demolition of Extra Fabric

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

(Reason: To ensure compliance with the approved development)

No approval of signage or illumination

A4. This consent does not permit the erection or installation of signage, or illumination of the building, unless for public convenience and safety, including road safety, or where expressly required by another condition of this consent.

(Reason: To ensure signage and illumination are assessed appropriately)

Transport for NSW Requirements

A5. The following conditions of Transport for NSW shall be complied with:

1. All buildings and structures together with any improvements integral to the future use of the site (apart from any kerb and gutter replacement, stormwater/drainage works, and required public utility works) are to be wholly within the freehold property unlimited in height or depth along the Pacific Highway boundary
2. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@transport.nsw.gov.au. If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
3. Any public utility adjustment/relocation works on the state road network will require detailed civil design plans for road opening /underboring to be submitted to TfNSW for review and acceptance prior to the issue of a Construction Certificate and the commencement of any works. The developer must also obtain necessary approvals from the various public utility authorities and/or their agents. Please send all documentation to development.sydney@transport.nsw.gov.au. A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.
4. A construction/work zone will not be permitted on the Pacific Highway.

5. A Construction Pedestrian and Traffic Management Plan (CPTMP) should be prepared in consultation with TfNSW and a copy of the final CPTMP should be submitted to TfNSW at development.ctmp.cjp@transport.nsw.gov.au for endorsement, prior to the issue of any Construction Certificate or any preparatory, demolition or excavation works, whichever is earlier. The CPTMP shall include, but not be limited to: a) a description of the development, b) a construction program and construction methodology, c) proposed construction hours, d) a detailed plan of any proposed hoarding and/or scaffolding, e) details of crane arrangements including location of any crane(s), f) location(s) where it is proposed to park construction vehicles, g) location of any proposed work zone(s) noting the requirements of Condition 4, h) pedestrian and traffic management measures, i) haulage routes, j) the predicted number of construction vehicle movements and detail of vehicle types, identification of any potential impacts to general traffic, cyclists and pedestrians, bus services and existing signalised pedestrian crossings and intersections within the vicinity of the site from construction vehicles during the construction of the proposed works, k) details of specific measures to ensure the arrival of construction vehicles to the site do not cause additional queuing on public road, etc.
6. A Road Occupancy Licence (ROL) shall be obtained from the Transport Management Centre for any works that may impact on traffic flows on Pacific Highway during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.
7. Should the development's construction impact the operation of the bus stops on Miller Street adjacent to the development site's western boundary, further discussions must be had with TfNSW/the bus operator and a written agreement on a solution provided prior to the commencement of works.

(Reason: Compliance)

B. Matters to be completed before the lodgement of an application for a construction certificate

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

- B1. Prior the commencement of any works, a Construction and Traffic Management Plan must be prepared. The following matters must be specifically addressed in this Plan:
- a. A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
 - i. Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
 - ii. Signage type and location to manage pedestrians in the vicinity;
 - iii. The locations of any proposed Work Zones in the frontage roadways;
 - iv. Locations and type of any hoardings proposed;
 - v. Area of site sheds and the like;
 - vi. Location of any proposed crane standing areas;
 - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
 - b. A Traffic Control Plan(s) for the site incorporating the following:

- i. Traffic control measures proposed in the road reserve that are in accordance with the RMS publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum RMS 'red card' qualification).
- ii. The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- c. A detailed description and map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided detailing light traffic roads and those subject to a load or height limit must be avoided at all times.
A copy of this route is to be made available to all contractors and must be clearly depicted at a location within the site.
- d. Evidence of RMS concurrence where construction access is provided directly or within 20m of an Arterial and/or Classified Road;
- e. A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements; and
- f. For those construction personnel that drive to the site, the Site Manager shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

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

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

The construction management measures contained in the approved Construction and Traffic Management Plan must be implemented prior to the commencement of, and during, works on-site.

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

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

Notes:

- 1) To apply for certification under this condition, an 'Application to satisfy development consent' must be prepared and lodged with North Sydney Council. North Sydney Council's adopted fee for certification of compliance with this condition must be paid upon lodgement.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction and Traffic Management Plan be lodged with Council as early as possible.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed in the condition above.

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

Street Awnings

- B2. The proposed awnings extending from the colonnade on the Miller street façade and to the Denison Street frontage, including the proposed retail premises on the building's south eastern corner (adjacent to the intersection of Denison Street and Brett Whiteley Plaza) are to be amended to provide for continuous weather protection and refuge to the site's frontages.

The required awnings must be capable of being detached from the building façade, must have a low profile and be constructed of either glass or other lightweight material to match the height of adjoining awnings (if present or practical). Cutouts are to be provided in the awnings as necessary to allow for existing street trees or growth of new trees.

Plans detailing the final design of the required awnings must be submitted to and approved by the Council prior to the lodgement of the relevant Construction Certificate.

(Reason: To provide continuous weather protection and refuge for the entire site frontage as required by the Area Character Statement)

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

- C1. The following matters must be addressed before the relevant Construction Certificate is issued, including documentary evidence of same being provided to the Principal Certifier.

a. A photographic archival recording on a USB device (or other suitable digital medium) of the existing development, being the Miller Street building, the core and Denison Street Building, and grounds, is to be prepared in accordance with the NSW Heritage Office Guidelines for Photographic Recording of Heritage Items and the principles of the Burra Charter, and submitted to Council and the NSW State Archives for archival purposes.

b. Selection of street furniture, lighting and the like is to complement the site's heritage qualities and/or placemaking and Connecting with Country principles adopted or implemented by the plan or strategy required by condition C2, and Council's North Sydney CBD Design and Style guide.

(Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.)

Placemaking and Connecting with Country

- C2. Prior to the issue of the relevant Construction Certificate, a placemaking and connecting with Country plan or strategy is to be prepared in collaboration with Council and other stakeholders, as agreed with Council. This plan may be developed in conjunction or combined with the Public Art Plan required by condition G22. The plan or strategy is to develop a methodology and plans for detailing the approved public domain works, having regard to placemaking and Connecting with Country principles, using publications such as those published by the NSW Government Architect.

(Reason: To ensure the public domain on the site is detailed in accordance with appropriate guidelines and principles)

BCA and Fire Safety Requirements

- C3. Pursuant to Section 64 of the *Environmental Planning & Assessment Regulation 2021*, the following works are to be undertaken with the construction certificate works to conform with the National Construction Code:

- a. A review must be undertaken of the structural resistance of the load-bearing elements (including columns, slabs and beams) to confirm compliance with B1P1 and B1P2 of the BCA. Where any element is found to be non-compliant, the engineer must design, document, and certify the necessary strengthening or remedial works (including any temporary works) to upgrade the structure to achieve compliance with the current B1P1 and B1P2 of the BCA.
- b. Unprotected steel beams and columns must be upgraded to have adequate resistance to maintain structural stability during a fire to comply with C1P1 of the BCA.
- c. Concrete slabs including openings connecting levels (e.g. open stairways) must be upgraded to have adequate resistance to maintain structural stability during a fire to comply with C1P1 and C1P2 of the BCA.
- d. A review of existing fire isolated exits in the building is to be undertaken to ensure that suitable landings are to be provided to doorways to comply with D1P2 and D1P4 of the BCA.
- e. Fire resisting shafts of the fire-isolated exits openings connecting levels must be upgraded to have adequate resistance to maintain structural stability during a fire to comply with C1P1, C1P2 and D1P5 of the BCA.
- f. All voids, plant rooms and service spaces located within the fire-isolated stairways must be upgraded comply with C1P2, D1P5 and E2P2 of the BCA.
- g. The existing handrails servicing the fire-isolated stairways are to be upgraded to comply with D1P2 and D1P3 of the BCA.
- h. All penetrations, construction joints and the like in the concrete slabs that are required to be fire resisting must be upgraded to comply with C1P1, C1P2 and C1P8 of the BCA.
- i. All penetrations, construction joints and the like in the fire resisting walls of the fire-isolated stairways are upgraded to comply with C1P8 of the BCA.
- j. All doors that provide egress into the fire-isolated exits must be reviewed and upgraded to have a fire-resistance level and comply with C1P2 of the BCA.
- k. A review of the ceiling heights in the fire-isolated stairway is to be undertaken allow occupants to evacuate the building safely to comply with D1P4 and E2P2 of the BCA.
- l. A review of the width of the unobstructed exit width in the fire-isolated stairway(s) is to be undertaken allow occupants to evacuate the building safely to comply with D1P4 and E2P2 of the BCA.
- m. The fire-isolated exit is to be upgraded to ensure that there is separation of rising and descending stair flights appropriate to D1P4, D1P5 and E2P2 of the BCA.
- n. A review of the egress provision is to be undertaken to ensure that re-entry is available and where required the building is to be upgraded to comply with the requirements of D1P4 and E2P2 of the BCA.
- o. Services located in the fire-isolated exits that are not permitted under the deemed-to-satisfy provisions of the BCA are to be upgraded to comply with the building in accordance with C1P2, C1P8 and D1P5 of the BCA.
- p. The existing hydrant system serving the building is to be upgraded to comply with the E1P3 of the BCA.
- q. Hose reels are to be upgraded throughout the premises in accordance with E1P1 of the BCA.
- r. Exit signage and directional exit signage is to be provided to facilitate evacuation appropriate to E4P2 of the BCA.
- s. Emergency lighting within the fire isolated exits must be upgraded to comply with E4P1 of the BCA.
- t. The fire suppression system is to be upgraded to comply with E1P4 of the BCA.
- u. Openings located in the existing external walls located within 3m of a fire source feature must be upgraded to comply with C1P2 of the BCA.
- v. External walls within 3m of a fire source feature must be upgraded to comply with C1P1 and C1P2 of the BCA.

- w. All existing exit door hardware in a path of travel must be upgraded to comply with D1P6 of the BCA.

Plans and specifications showing the above works must be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate.

Note:

- 1) The Principal Certifier issuing the Construction Certificate has no power to remove the requirements to upgrade the existing building as required by this condition.
- 2) Where this condition specifies compliance with the performance requirements of the NCC, the Principal Certifier, subject to their level of accreditation, may be satisfied as to such matters.

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

Dilapidation Report Damage to Public Infrastructure

- C4. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the predeveloped condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Principal Certifier with submission of the relevant Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Dilapidation Report Private Property (Excavation)

- C5. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey are to be prepared by a consulting structural/ geotechnical engineer and a copy to be given to the owner of any affected adjoining property.

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

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

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

(Reason: To record the condition of property/ies prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C6. A photographic survey and dilapidation report of adjoining properties that share a lot boundary detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, MUST BE submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The survey and report are to be prepared by an appropriately qualified person and a copy to be given to the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Principal Certifier, prior to the issue of the relevant Construction Certificate.

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

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

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

(Reason: Proper management of records)

Shoring for Adjoining Property

- C7. Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements, must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. A copy of this documentation must be provided to the Council for record purposes.

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

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

Geotechnical Report

- C8. Prior to issue of the relevant Construction Certificate a Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:

- a. the type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
- b. the appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
- c. the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
- d. the existing groundwater levels in relation to the basement structure, where influenced;
- e. the drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilised; and
- f. recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

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

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

The design principles for the geotechnical report are as follows:

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

- f. an adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The report, satisfying the requirements of this condition, must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

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

Erosion and Sediment Control

- C9. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils and Construction* (4th Edition, Landcom, 2004) commonly referred to as the "Blue Book" or a suitable and effective alternative method.

An Erosion and Sediment Control Plan must be prepared and submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Erosion and Sediment Control Plan must be consistent with the Blue Book and disclose:

- a. All details of drainage to protect and drain the site during the construction processes;
- b. All sediment control devices, barriers and the like;
- c. Sedimentation tanks, ponds or the like;
- d. Covering materials and methods; and
- e. A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- f. Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Sediment Control plan.

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

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

- C10. A Construction Waste Management Plan prepared in accordance with the provisions of Part B Section 19 of *the North Sydney DCP 2013*, must be submitted for approval by the Principal Certifier prior to the issue of the relevant Construction Certificate. The plan must include, but not be limited to:

- a. The estimated volume of waste and method of disposal for the construction phases of the development;

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Heritage Architect to be Commissioned

- C11. Written details of the engagement of the experienced heritage architect as conditioned in the Heritage Council of NSW - General Terms of Approval must be submitted to the Principal Certifier prior to the issue of the relevant Construction Certificate.

Note: If advice provided by the heritage architect is to the effect that works requiring development consent be carried out, such works would require a Modification under s4.55 of the Environmental Planning and Assessment Act 1979, or further development application. This condition, and any advice given by the heritage architect, should not be construed as authorising the carrying out of development with/otherwise than in accordance with the development consent.

(Reason: To ensure that all matters relating to significant fabric and spaces are resolved and recorded using best practice for heritage conservation)

Reflectivity Index of Glazing

- C12. The glazing for windows, walls or roof finishes of the approved development must be factory pre-finished with low glare and reflectivity properties. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

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

Roofing Materials - Reflectivity

- C13. Roofing materials must be factory prefinished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

No External Service Ducts

- C14. Service ducts must be provided within the building to keep external walls free of plumbing, drainage or other utility installations. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate

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

Work Zone

- C15. If a Work Zone is required a Work Zone permit is to be obtained from Council prior to the issue of the relevant Construction Certificate.

Note: For major development an application for work zone permit must be considered by the North Sydney Local Traffic Committee.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Principal Certifier to enable issue of the relevant Construction Certificate.

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

(Reason: Amenity and convenience during construction)

Bicycle Storage and Parking

C16. The bicycle storage area must accommodate 434 bicycles. The bicycle storage lockers and bicycle rail shall be designed in accordance with the applicable Australian Standards. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

Staff Shower and Change Facilities (Commercial)

C17. Shower and change facilities shall be provided and made accessible without charge to staff who work in the building. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

All Vehicle Parking and Manoeuvring to Comply with Relevant Standards

C18. All vehicle parking and manoeuvring areas must comply with all requirements of Australian Standard AS2890.1(2004), and other applicable Australian Standards. Certification from a suitably qualified and practicing Traffic Engineer that the design of these areas will comply with the requirements of applicable Australian Standards and enable all vehicles reasonably expected to access and egress the site to do so, must be provided to the Principal Certifier for approval prior to issue of the relevant Construction Certificate.

Specifically, the following requirements must be complied with:

- a. All aspects of the bicycle parking and storage facilities comply with the Australian Standard AS2890.3. All bicycle parking and storage facilities must be accommodated in the basement parking area.
- b. All aspects of commercial vehicle facilities, including for waste/recyclables collection vehicles, must comply with Australian Standard AS2890.2 Off-street Commercial Vehicle facilities
- c. Parking spaces for people with disabilities must comply with the Australian Standard AS 2890.6.
- d. Motorcycle parking spaces must have a minimum dimension of 1.2m x 3.0m.
- e. The driveway to the site must be designed such that there are minimum sight lines for pedestrian safety as per Figure 3.2 of AS 2890.1 and not impact existing parking on adjoining streets.
- f. No applications are to be made to Council for 'No Parking' or 'Loading Zone' restrictions to benefit the development the subject of this consent.

- g. That the developer upgrades the lighting on streets within the adjoining Council public domain in accordance with AS1158.3.

Any deviations from Australian Standards must be reviewed and certified by a practicing traffic engineer, certifying that the intent of the applicable Australian Standard is still present, with all parking areas to be accessible and manoeuvrable, ensuring that convenience for drivers is provided throughout the entire parking area.

(Reason: To ensure vehicle parking and manoeuvring areas comply with relevant standards)

Accessible Parking Spaces to be Provided

- C19. Accessible parking spaces shall be provided as part of the total car-parking requirements. Consideration must be given to the means of access from the car-parking spaces to adjacent buildings, to other areas within the building and to footpath and roads. All details shall be prepared in consideration of, and construction completed in accordance with applicable Australian Standards to achieve compliance with the Disability Discrimination Act 1992 (Commonwealth). Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

Any deviations from Australian Standards must be reviewed and certified by a suitably qualified access consultant.

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

Basement car park to comply with relevant standards

- C20. The basement layout must comply with all requirements of Australian Standard AS2890.1 (2004). & AS2890.2. Certification from a suitably qualified and practicing Traffic Engineer that the basement design will comply with the requirements of the Australian Standard must be provided to the Principal Certifier for approval prior to issue of the relevant Construction Certificate.

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

Required Infrastructure Works – Roads Act 1993

- C21. Prior to issue of the relevant Construction Certificate engineering design plans and specifications must be prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development.

Note: Application for approval of Infrastructure Works under this condition must be submitted to Council using the 'Application to satisfy development consent' form accompanied by payment of the adopted assessment/inspection fees.

Road Works

- a. The applicant must design all street frontages in consultation with engineers from the Engineering Property Services Department and Public Domain Officers and have regard to the North Sydney Council Public Domain Strategy for the CBD area. The ground levels at the property boundary must be approved by Council prior to the issue of the relevant Construction Certificate for required infrastructure works, or any building works interfacing with the required infrastructure.
- b. Where the vehicular access is proposed, the proposed vehicular access way must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification

(gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.

- c. The design detail has to be provided to Council and must include sections along centre line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, both existing and proposed.
- d. A longitudinal section along the relevant street gutter line at a scale of 1:50 showing how it is intended to transition the layback with the existing gutter levels and shall include all changes of grade and levels, both existing and proposed.
- e. A longitudinal section along the relevant footpath property boundary at a scale of 1:50 is required and shall include all changes of grade and levels, both existing and proposed, especially on all building entrances.
- f. The sections must show the calculated clearance to the underside of any overhead structure.
- g. A swept path analysis is required demonstrating that vehicles are able to manoeuvre in and out of the proposed vehicular access over Council's public domain
- h. All details of internal ramps between parking levels.
- i. Cross sections at a scale of 1:50 along the centreline of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All the entry points are to comply with the Building Code of Australia (BCA), including disability requirements. The Council approved footpath levels must be accommodated at the building entry points.
- j. All inspection openings and utility services must be adjusted to match the proposed driveway and footpath levels at any location.

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

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for Road Works, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. A detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 - 1996 - Field Guide for Traffic Control at Works on Roads - Part 1 and RMS Traffic Control at Work Sites (1998).

Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.

Note: A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining the relevant Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

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

Stormwater Management and Disposal Design Plan – Construction Issue Detail

- C22. Prior to issue of the relevant Construction Certificate, a site drainage management plan must be prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:
- a. Compliance with NCC drainage requirements, Council's Engineering Performance guide and current Australian Standards and guidelines, including the Plumbing Code of Australia (PCA);
 - b. Stormwater runoff and subsoil drainage generated by the approved development must be conveyed in a controlled manner by gravity to Council's underground stormwater system. When a direct connection to the pit option is implemented then the pipeline within the footpath area shall have a minimum cover of 300mm and within the road carriage way, the minimum cover must be 450 mm.
 - c. The applicant shall engage a specialist Hydraulics Engineer to carry out an evaluation of Council's stormwater drainage system and the effect of the proposed development on this system. The results of this evaluation shall be submitted with all other drainage details to Council prior to issue of the relevant Construction Certificate by the Certifying Authority.
 - d. All civil and drainage works within the road reserve and Council's stormwater drainage easement must be designed and built in accordance with Council's current "Infrastructure Specification" and New Public Domain Manual. Prior to issue of the relevant Construction Certificate the applicant must have engineering plans and specifications, prepared by a qualified civil drainage design engineer. Council must approve the plans and specifications, in writing, prior to issue of the relevant Construction Certificate by the Certifying Authority. The documentation must provide engineering construction detail for the following public infrastructure works that must be completed as part of the approved development. Council reserves the right of keeping all bonds on infrastructure works for 12 month defects liability period.
 - e. A digital video inspection recording of completed drainage work within the public domain must be carried out by a suitably qualified person and the recording submitted to Council for review by Council's Development Engineer or Drainage to support the certification. Bonds held by Council will be returned after receipt of satisfactory information.
 - f. The design and installation of the rainwater tank(s) must comply with Sydney Water requirements. Overflow from the tank(s) shall be connected by gravity to the stormwater disposal system.
 - g. All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit. Details of all plans certified as being adequate for their intended purpose and compliant with the provisions of AS3500.3.2 by an appropriately qualified and practising civil engineer shall be submitted with the application for the relevant Construction Certificate.
 - h. Provide subsoil drainage to all necessary areas with pump out facilities as required.
 - i. The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only.
 - j. The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm.
 - k. The pump system shall be regularly maintained and serviced, every six (6) months.

A site drainage management plan which complies with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

On-site Stormwater Detention

C23. On site detention must be provided to ensure that the maximum discharge from the site does not exceed discharge which would occur during a 20% AEP storm for the time of concentration determined for the site, for the existing site conditions. All other stormwater run-off from the site for all storms up to the 1% AEP is to be retained on the site for gradual release to the kerb and gutter or drainage system. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur

Determination of the required cumulative storage must be based on stage-storage curve or determined by DRAINS computer modelling, or any other available comp. modelling method.

Engineering calculations, design and certification complying with this condition must be provided by an appropriately qualified and practicing Civil Engineer and submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

Floor Levels for Flooding

C24. Ground floor levels are to be a minimum of 1% AEP flood event level. Any opening to below ground levels (such as lift shaft openings, stairwells, ventilation ducts, risers and vehicle entrances) are to be protected from flooding to a level that is the lower of the PMF, or the 1% AEP flood. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Prevention of damage to dwellings as a result of flood events)

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

C25. Prior to the issue of the relevant Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$2,522,800.00 to be held by Council for the payment of cost for any/all of the following:

- a. Making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates.
- b. Completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.
- c. Remedying any defects in any such public work that arise within 6 months after the work is completed.
- d. Council reserves the right to retain all bonds on infrastructure works relating to the completion of required Infrastructure work for a 12-month defect liability period. Council may elect to provide a lesser period for minor residential work.

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

The security will be refundable following the expiration of six months from the issue of the final Occupation Certificate or completion of public work required to be completed (whichever is the latest)

but only upon inspection and release by Council's Development Engineers or Manager of Development Services.

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

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

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

Arborist to be Commissioned

- C26. An experienced AQF Level 5 consulting arborist ("the project arborist") must be commissioned to assist the design development, contract documentation, and overseeing of all works on the site for their duration by undertaking regular inspections of the works in progress and providing advice on tree-related matters.

The project arborist must hold a minimum Australian Qualification Framework Level 5 in Arboriculture, be a registered consulting member of a nationally recognised arboricultural organisation or association, not remove or prune trees in the North Sydney local government area and be engaged before work commences for the duration of site preparation, demolition, construction and landscaping.

The project arborist shall inspect, monitor, supervise, provide recommendations and written reports and certification relating to protection of the trees and compliance with the conditions of consent.

The contact details of the project arborist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within seven days.

Written details of the engagement of the project arborist must be submitted to Council for works prior to issue of the relevant construction certificate and the Principal Certifier prior to the issue of the relevant Construction Certificate.

This condition, and any advice given by the project arborist, do not authorise the carrying out of development or works not in accordance with the development consent.

(Reason: To ensure that all matters relating to trees and the proposed development are properly managed using best practice)

Tree Protection and Management Plan

- C27. A site-and-tree specific Tree Protection and Management Plan (TPMP) is to be prepared by an AQF5 qualified arborist and implemented prior to or upon the commencement of works authorised by this consent. The TPMP is to be prepared in accordance with the principles and specifications of Australian Standard 4970-2009, "Protection of Trees on Development Sites," and must include, as a minimum, the following:

- a. A site plan showing the locations of proposed tree protection fencing, type and extent of ground protection and other tree protection devices within the tree protection zones of all trees identified to be retained, as detailed in other condition(s). Recommendations must be specific; generic recommendations are unacceptable.

- b. Amended tree height and spread dimensions as noted in these conditions.
- c. Specifications for acceptable and unacceptable activities within the tree protection zones of each tree to be retained.
- d. Specifications for tree protection fencing, Tree Protection Zone signage, and trunk, branch, and ground protection for each tree to be retained.
- e. Details of site monitoring and reporting requirements, including hold points (e.g., sewer and/or stormwater works within the Tree Protection Zone).
- f. Details for compliance reporting (e.g., inspection observations, date-stamped photographs).
- g. Specifications for excavation and root pruning within the tree protection zones of each tree to be retained.

The TPMP is to complement the Construction and Traffic Management Plan.

(Reason: Adoption and maintenance of tree protection during the development)

Additional tree protection

- C28. A revised or additional arborist report is to be prepared and implemented by the project arborist, which must address the following matters before any works commence on the site:
- a. The impact of hoarding erection, construction zone, traffic access and egress, crane erection, operation and dismantling, and the removal and delivery of demolition and construction materials, and the like, by assessing the associated risks and identifying means of eliminating or managing those risks, to any tree protected by this consent.
 - b. The Works Zone and all site access shall be restricted to the Denison Street frontage – no access shall be permitted via the Miller St frontage to prevent any impact on any tree protected by this consent, for the duration of works permitted by this consent
 - c. Hoardings must be designed in consultation with a suitably qualified arborist to minimise impact to any trees protected by this consent or other public trees.

(Reason: Tree preservation)

Bond for Public Trees

- C29. Prior to any works authorised by this consent commencing, security in the sum of \$170,000 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

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

The security will be refundable following the expiration of six months from the issue of the relevant Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement trees in streets and other public places.

SCHEDULE

Tree Number and Species	Location	Bond
T4-T9 <i>Platanus acerifolia</i> (to	Council verge in front of 105-153	\$105,000

20x14m)	Miller St	
<i>Platanus acerifolia</i>	Council verge, NW corner, rear of 80-100 Walker St (Denison St frontage)	\$25,000
5 x northernmost <i>Prunus sp.</i>	Brett Whiteley Place	\$40,000

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

Tree Protection Measures to be shown on Construction Drawings

C30. The tree protection measures contained in the arborist report cited in condition A1, as amended by any conditions of consent, shall be shown clearly on the relevant Construction Certificate drawings, and other relevant plans for works authorised by this consent. Plans and specifications showing the said tree protection measures must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

Protection of Trees

C31. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 - Protection of trees on development sites:

Tree	Location	Height
T1-T3 <i>Platanus acerifolia</i>	Forecourt of Miller Steet Building 105-153 Miller St	To 25x20m
T4-T9 <i>Platanus acerifolia</i>	Council verge in front of 105-153 Miller St	To 20x14m
<i>Platanus acerifolia</i>	Council verge, NW corner, rear of 80-100 Walker St (Denison St frontage)	18m
5 x northernmost <i>Prunus sp.</i>	Brett Whiteley Place	5m

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

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

(Reason: Protection of existing environmental and community assets)

Approval for removal of Trees

C32. The following tree(s) are approved for removal in accordance with the development consent:

Trees that are acceptable to remove	Location	Height
T10 . <i>Hibiscus tiliaceus</i> 'Rubra'	SE courtyard-105-153 Millers St	5m

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

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

(Reason: Protection of existing environmental and community assets)

Pruning of Trees

- C33. All pruning works to the following tree(s) shall be undertaken under the guidance of an appropriately qualified arborist/tree surgeon in accordance with Australian Standard AS 4373-2007 - Pruning of Amenity Trees:

Trees that may Require Pruning	Location	Height
T1-T3 <i>Platanus acerifolia</i>	Forecourt of Miller Street Building 105-153 Miller St	To 25x20m

Minor pruning only shall be permitted. Scaffolding, hoarding, cranes, piling rigs, Construction Zones, and any other associated building works shall be designed/located in order to minimise/negate the need for any pruning. No more than 10% canopy shall be removed.

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

All measures required by the said report must be complied with at all times in the carrying out of the development.

(Reason: To ensure the protection and longevity of existing significant trees)

Garbage and Recycling Facilities

- C34. An appropriate area must be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements must be met:

- a. all internal walls of the storage area must be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
- b. provision for the separation and storage in appropriate categories of material suitable for recycling;
- c. the storage area must be adequately screened from the street.
- d. waste storage and collection areas must be accessible by vehicles expected to collect waste from the premises.
- e. garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

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

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

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

Asbestos and Hazardous Material Survey

C35. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a SafeWork NSW licensed contractor;
- b) all removal must be in strict accordance with the requirements of the SafeWork NSW in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Principal Certifier as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

Noise from Plant and Equipment

C36. The use of all plant and equipment installed on the premises must not:

- a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in **Fact Sheet C** of the *NSW Environment Protection Authority Noise Policy for Industry 2017* shall be applied.
- b) Cause "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.

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

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

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

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

Vibration from Plant and Equipment

C37. The use of all plant and equipment to be installed on the premises must comply with the vibration limits specified in "Assessing Vibration: a technical guideline," issued by the NSW Environment Protection Authority, at the boundary of any affected receiver.

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

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

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

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

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

Compliance with Acoustic Report

C38. The recommendations contained in the acoustic report cited by condition A1, must be implemented during construction and use of the development.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied, must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

Mechanical Exhaust Ventilation

C39. A statement from an appropriately qualified and practising Mechanical Engineer is required detailing how the exhaust ventilation system will be installed in accordance with AS1668.

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

Construction Noise Management Plan

C40. A Construction Noise Management Plan must be prepared by an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, and must include the following:

- a) Identification of noise affected receivers near to the site.
- b) A prediction as to the level of noise impact at noise affected receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite.
- c) Details of work schedules for all construction phases.
- d) A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the Environment Protection Authority’s Interim Construction Noise Guideline (ICNG).
- e) Representative background noise levels should be submitted in accordance with the ICNG.
- f) Confirmation of the level of community consultation that is to be undertaken by occupants at noise affected receivers likely to be most affected by site works and the operation of plant/machinery during the carrying out of works authorised by this consent.
- g) Confirmation of noise monitoring methodology that is to be undertaken during the noise intensive stages of work including details of monitoring to be undertaken at the boundary of any noise-affected receiver.

- h) The course of action to be undertaken following receipt of a complaint concerning offensive noise.
- i) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise, that will be deployed on site to reduce noise impacts on the occupants at noise-affected receivers.
- j) Details of selection criteria for any plant or equipment that is to be used on site, the level of sound mitigation measures to be undertaken in each case, and the criteria adopted in their selection considering the likely noise impacts on occupants at noise-affected receivers and other less-intrusive technologies available; and
- k) Details of site induction to be carried out for all employees and contractors undertaking work at the site.

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

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

The Construction Noise Management Plan must be provided to Council and a copy kept on site for the duration of the works.

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

Underground Electricity and Other Services

- C41. All electricity and telecommunication infrastructure provision to the site is to be designed in conjunction with Ausgrid and any other relevant authority so that it can be easily connected underground when the street supply is relocated underground. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

Security Deposit/Guarantee Schedule

- C42. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of the relevant Construction Certificate:

Security Deposit / Guarantee	Amount
Street Tree Bond (on Council Property)	\$170,000
Infrastructure Damage Bond	\$1,445,600.00
Drainage Construction Bond	\$200,000.00
Engineering Construction Bond	\$707,200.00
TOTAL BONDS	\$2,522,800.00

Note: The following fees applicable

Fees	Amount (\$)
Local Infrastructure Contributions	\$3,960,247.00

TOTAL FEES	\$3,960,247.00
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The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

Local Infrastructure Contributions

C43. A monetary contribution of **\$3,960,247.00** pursuant to the provisions of section 7.11 of *the Environmental Planning and Assessment Act 1979*, in accordance with and as detailed by the North Sydney Council Local Infrastructure Contributions Plan, must be paid to Council.

The contribution must be paid prior to the issue of the first Construction Certificate authorising above ground works.

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

A copy of the North Sydney Local Infrastructure Contributions Plan can be viewed at North Sydney Council’s Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council’s website at www.northsydney.nsw.gov.au.

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

Housing Productivity Contribution

C44. A housing and productivity contribution (HPC) is required to be paid for the approved development. Payment must be made before the first Construction Certificate.

Housing and Productivity Contribution	Amount
Greater Sydney – Commercial Development	\$606,630.98
Total housing and productivity contribution	\$606,630.98

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the Environmental Planning and Assessment Act 1979 agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

(Reason: To require contributions towards the provision of regional infrastructure)

Under Awning Lighting

C45. Under awning lighting must be provided to the Brett Whiteley Plaza and Denison Street frontages of the site and under the colonnade at the ground level facing Miller Street. Such lighting is to be designed to P1 standard in accordance with AS/NZS 1158.3:2020. The luminaries must be:

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

Certification from a suitably qualified commercial electrician must be obtained to demonstrate compliance with the requirements of this condition and certification must be submitted to the Principal Certifier prior to the issue of the relevant Construction Certificate.

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

Outdoor Lighting

C46. All outdoor lighting must comply with, where relevant AS/NZ1158.3:2020 Pedestrian Area (Category P) Lighting and AS4282:2019 Control of the Obtrusive Effects of Outdoor lighting. Details demonstrating compliance with these requirements must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To maintain the amenity of adjoining land uses)

Remediation

C47. Prior to the release of the relevant Construction Certificate, the site must be remediated in accordance with:

- a) A Remediation Action Plan prepared by a suitable qualified consultant; and
- b) *North Sydney Development Control Plan 2013* - Section 14 - Contamination and Hazardous Building Materials; and
- c) *State Environmental Planning Policy (Resilience and Hazards) 2021*,
- d) The guidelines in force under *the Contaminated Land Management Act 1997*.

Within thirty (30) days after the completion of the remediation works, and prior to the issue of the relevant construction certificate, a notice of completion, including validation and/or monitoring report is to be provided to Council. This notice must be consistent with *State Environmental Planning Policy (Resilience and Hazards) 2021*.

Prior to the issue of the relevant Construction Certificate, the validation and/or monitoring report is to be independently audited, and a Site Audit Statement issued. A copy of the Site Audit Statement is to be provided to the Principal Certifier and Council (if Council is not the Principal Certifier). The audit is to be carried out by an independent auditor accredited by the Environment Protection Authority. Any conditions recorded on the Site Audit Statement must be complied with at all times.

(Reason: To ensure the land is suitable for its intended purpose)

D Prior to the Commencement of any Works (and continuing where indicated)**Protection of Trees**

- D1. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites). A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Certifying Authority for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be undertaken for the duration of works on the site.

Sensitive construction techniques including hand excavation, pier & beam construction & flexible location of piers/footings shall be used within the TPZ of any protected tree. No roots greater than 40mm shall be cut. No stormwater or any other underground services shall be directed through the TPZ of any protected tree.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Tree Protection

- D2. The tree protection measures detailed in the approved Tree Protection and Management Plan, and as directed by the project arboriculturist shall be established before work commences.

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

Project Arborist Engaged

- D3. The project arboriculturist shall undertake the following duties:

- a) Inspect tree protection measures and certify in writing to the Principal Certifier the measures comply with the approved Tree Protection Plan and as directed by the project arboriculturist before work commences.
- b) Provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained is not compromised.
- c) Contact the tree pruning contractor and Council's Tree Management Officer (giving at least 2 working days' notice) to arrange a joint site meeting, prior to commencing any pruning, to determine the exact location and extent of pruning that is permissible, with the tree pruning contractor to comply with any instructions issued by Council, acting reasonably.
- d) Ensure pruning is undertaken by a practicing arborist with a minimum Australian Qualification Framework Level 3 in arboriculture, in accordance with the principles of the Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and the NSW Work Cover Code of Practice for the Amenity Tree Industry (1998), as well as any instructions issued on site by Council, acting reasonably.
- e) Keep a log of dates and times of when they attended the site, the type of works that were performed, and must form part of the certification required prior to Occupation.

C1. (Reason: Tree protection measures)

Notice of Proposed Work (Remediation Work)

- D4. Notice of proposed work, if required, must be given to the Council in accordance with relevant

provisions of *the State Environmental Planning Policy (Resilience and Hazards) 2021*.

The following additional information must be submitted with the notice to the Council:

- a) Copies of any preliminary investigation, detailed investigation and remediation action plan for the site; and
- b) Contact details for the remediation contractor and any other party responsible for ensuring compliance of remediation work with regulatory requirements.

Note: Thirty (30) days' notice is required for any remediation work. In the case of work required to be carried out immediately under the terms of a remediation order, a minimum of two days' notice is required.

(Reason: Protection of the environment, *SEPP (Resilience and Hazards) 2021* compliance)

Public Liability Insurance – Works on Public Land

D5. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

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

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

Sydney Water Approvals

D6. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Note: Sydney Water Building Plan Approvals can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains, and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13 000 TAP IN (1300 082 746).

(Reason: To ensure compliance with Sydney Water requirements)

Commencement of Works' Notice

D7. Works in accordance with this development consent must not be commenced until the Applicant has given at least two days' notice to North Sydney Council of the person's intention to commence works in accordance with this development consent.

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

E. During Demolition and Building Work

Parking Restrictions

- E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerb side parking provisions are not compromised during works)

Road Reserve Safety

- E2. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads." **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

- E3. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Principal Certifier.

(Reason: Stormwater control during construction)

Structures Clear of Drainage Easements

- E4. It is the full responsibility of the Developer and their contractors to: -

- a. Ascertain the exact location of the Council drainage infrastructure traversing the site in the vicinity of the works;
- b. Take full measures to protect the in-ground Council drainage system; and
- c. Ensure dedicated overland flow paths are satisfactorily maintained through the site.

Drainage pipes can be damaged through applying excessive loading (such as construction plant, material storage and the like). All proposed structures and construction activities are to be located clear of Council drainage pipes, drainage easements, watercourses and trunk overland flow paths on the site. Trunk or dedicated overland flow paths must not be impeded or diverted by fill or structures unless otherwise approved.

In the event of a Council drainage pipeline being uncovered during construction, all work is to cease and the Principal Certifier and Council (if it is not the Principal Certifier) must be contacted immediately for advice. Any damage caused to a Council drainage system must be immediately repaired in full as directed, and at no cost to Council.

(Reason: Protection of public drainage assets)

Geotechnical Stability during Works

- E5. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.

Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydrogeological considerations must be undertaken in accordance with the recommendations of the Geotechnical Engineer and all subsequent geotechnical inspections carried out during the excavation and construction phase.

Approval must be obtained from all affected property owners, including North Sydney Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

(Reason: Ensure appropriate professional are engaged at appropriate stages during construction)

Council Inspection of Public Infrastructure Works

- E6. During the works on public infrastructure reverting to Council's care and control, Council's development engineer may undertake inspections of the works at the following hold points:

- a. Formwork for layback, kerb/gutter, footpaths;
- b. All reinforcement for the concrete base beneath pavers;
- c. Formwork and reinforcement for in-situ stormwater pits; and
- d. Pipe connections prior to back filling

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours' notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

Removal of Extra Fabric

- E7. Should any portion of the existing building, trees, or curtilage of the site, which is indicated on the approved plans to be retained, be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

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

Dust Emission and Air Quality

- E8. The following must be complied with at all times:

- a) Materials must not be burnt on the site.
- b) Vehicles entering and leaving the site with soil or fill material must be covered.
- c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.

- d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

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

Compliance with Construction Noise Management Plan

- E9. All works conducted on site which form part of this development must be carried out in accordance with the submitted Construction Noise Management Plan submitted with the relevant Construction Certificate.

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

No Work on Public Open Space

- E10. No work can be undertaken within adjoining public lands (i.e., parks, reserves, roads, etc.,) without the prior written consent of Council. In this regard the Applicant is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

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

No Removal of Trees on Public Property

- E11. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

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

Protection of Trees

- E12. All trees required to be retained, as part of this consent must be protected from any damage during all works in accordance with AS4970-2009. All recommendations contained within the arborist's report cited in condition A1 must be implemented for the duration of the works and as amended by other conditions of this consent.

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

Notes:

- 1) If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.
- 2) An application to modify this consent pursuant to section 4.55 of the Environmental Planning and Assessment Act 1979 will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

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

Trees to be Removed

E13. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal:

Trees that are acceptable to remove	Location	Height
T10. <i>Hibiscus tiliaceus</i> 'Rubra'	SE courtyard-105-153 Miller	5m

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

Construction Hours (Commercial Centre and Mixed-use Zones)

E14. Works and activities approved under this consent must be restricted to within the hours stipulated in the following table:

Standard Construction Hours	
Day	Hours
Monday – Friday	7.00am – 7.00pm
Saturday	8.00am – 1.00pm
Sunday Public holiday	No work permitted

Activities for development approved under this consent must be carried out in accordance with the standard construction hours above, *the EPA Noise Policy for Industry 2017* and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of works, Council take may take enforcement action under Part 9 of *the Environmental Planning and Assessment Act 1979* and in accordance with Council’s adopted Compliance and Enforcement Policy.

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

Out-of-hours Work Permits

E15. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council’s Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued, the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is not at risk**. Applications which seek a variation to construction hours solely to benefit the Applicant will require the lodgement and favourable determination of a modification application pursuant to the provisions of section 4.55 of *the Environmental Planning and Assessment Act 1979*.

Notes:

- 1) Failure to obtain a permit for work outside of the approved hours will result in on-the-spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out-of-hours’ work cease, without prior warning.
- 2) Applications for out-of-hours’ works should be lodged with Council no later than seven (7) calendar days prior to the date of the intended works.
- 3) Examples of activities for which permits may be granted include:

- the erection of awnings,
 - footpath, road, and other infrastructure works which cannot be carried out for public convenience reasons within normal hours,
 - the erection and removal of hoardings and site cranes, and
 - craneage of materials which cannot be done for public convenience reasons within normal working hours.
- 4) Examples of activities for which permits WILL NOT be granted include:
- extended concrete pours
 - works which are solely to convenience the Applicant or client, and
 - catch up works required to maintain or catch up with a construction schedule.
- 5) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.

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

Applicant's Cost of Work on Council Property

E16. The applicant or the person, company or other entity that is acting upon this consent, must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

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

Special Permits

E17. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours' notice is required for any permit:

1) On-street mobile plant

e.g., cranes, concrete pumps, cherry-pickers, etc., restrictions apply to the hours of operation, the area of operation, etc.

Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

2) Hoardings

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

3) Storage of building materials and building waste containers (skips) on Council's property

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

4) Kerbside restrictions, construction zones

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

(Reason: Proper management of public land)

Installation and Maintenance of Erosion and Sediment Control

E18. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the relevant Construction Certificate. Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils and Construction (4th Edition, Landcom, 2004), commonly referred to as the "Blue Book" and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

E19. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Site Amenities and Facilities

E20. Where work involved in the erection and/or demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any SafeWork NSW requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

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

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

Health and Safety

E21. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any SafeWork NSW requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

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

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

Community Information

E22. Reasonable measures must be undertaken at all times to keep nearby building owners and occupants informed about the proposed work, such as by way of signs, leaflets, websites, public meetings and telephone contact numbers, to ensure that adjoining residents are aware of the likely duration of the construction works on the site.

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

Prohibition on Use of Pavements

E23. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

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

Plant and Equipment Kept Within Site

E24. All plant and equipment used in the undertaking of the development/works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc., must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

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

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

Waste Disposal

E25. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environment Protection Authority.

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

Asbestos Removal

E26. All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current SafeWork NSW Asbestos or "Demolition Licence," and a current SafeWork NSW "Class 2 (Restricted) Asbestos Licence" (or equivalent). Removal must be carried out in accordance with National Occupational Health and Safety Commission requirements.

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

Service Adjustments

E27. Where required, the adjustment or inclusion of any new utility service or facilities must be carried out by an appropriate contractor in accordance with the requirements of the relevant utility authority.

These works shall be at no cost to Council. It is the Applicant's responsibility to contact the relevant utility authorities to ascertain the impacts of the proposal upon utility services prior to the commencement of any work, including demolition (including water, phone, gas and the like).

Council accepts no responsibility for any impact on or influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

Progress Survey

E28. In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, must be prepared by a Registered Surveyor showing the following: -

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

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

(Reason: To ensure compliance with approved plans)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifier

F2. Building or excavation works in accordance with the development consent must not be commenced until the Applicant has appointed a Principal Certifier for the building work in accordance with the provisions of *the Environmental Planning and Assessment Act 1979* and its Regulation.

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

Construction Certificates

- F3. Building works in accordance with the development consent must not be commenced until the relevant Construction Certificate for the relevant part of the work has been issued.

Note: For clarity, this condition does not apply to demolition of whole buildings and works. A Construction Certificate is not required for these works. Demolition is controlled by AS 2601-2001 - Demolition of Structures. This Australian Standard requires safeguards to be in place before demolition commences, including traffic control and management, which may form part of the Construction Traffic Management Plan. Vegetation may also be removed or cleared unless the development consent requires that specified vegetation must not be removed.

(Reason: Statutory, to ensure appropriate safeguards are in place prior to the commencement of any works)

Occupation Certificates

- F4. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless the relevant Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory compliance)

Critical Stage Inspections

- F5. Building work must be inspected by the Principal Certifier at the critical stages prescribed by *the Environmental Planning and Assessment Act 1979* and *the Environmental Planning and Assessment Regulation 2021*, and as directed by the appointed Principal Certifier.

(Reason: Statutory)

Commencement of Works

- F6. Works in accordance with this development consent must not be commenced until the Applicant has given at least two days' notice to North Sydney Council of the intention to commence those works.

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

Excavation/Demolition

- F7. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

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

Protection of Public Places

- F8. A hoarding and site fencing must be erected between the work site and adjoining public place.
- a. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - b. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
 - c. Any such hoarding, fence or awning is to be removed when the work has been completed.
 - d. No access across public reserves or parks is permitted.

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

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

Site Sign

- F9. 1) A sign must be erected in a prominent position on the site:
- a. stating that unauthorised entry to the work site is prohibited;
 - b. showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c. showing the name, address and telephone number of the Principal Certifier for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

F. Prior to the Issue of an Occupation Certificate**Infrastructure Repair and Completion of Works**

- G1. Prior to the issue of the relevant Occupation Certificate any and all works relating to the development:
- a. In the road reserve must be fully completed; and
 - b. To repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council. Council's development engineer must be contacted to arrange inspections of the completed works in the Public Domain.

(Reason: Maintain quality of Public assets)

Line Marking

- G2. A certificate prepared by an appropriately qualified and practising Civil Engineer certifying the construction, paving, line marking and signposting of off-street car-parking spaces, together with access driveways, in accordance with the approved development plans, appropriate Australian Standards and industry best practice as appropriate must be submitted to, and approved by, the Principal Certifier prior to issue of the relevant Occupation Certificate.

(Reason: To ensure ongoing compliance with this development consent and Australian Standards relating to manoeuvring and access of vehicles)

Access to Premises

- G3. Prior to the issue of the relevant Occupation Certificate, a certificate must be prepared by an appropriately qualified and practising Civil Engineer, certifying that access and facilities for persons with a disability, in accordance with the National Construction Code and AS Disability (Access to Premises – Buildings) Standards 2010 (Premises Standards) has been provided. This certificate must be submitted to, and approved by, the Principal Certifier prior to issue of the relevant Occupation Certificate.

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

Operational Waste Management Plan

- G4. An Operation Waste Management Plan prepared in accordance with the provisions of Part B Section 19 of the North Sydney DCP 2013, must be submitted for approval by the Principal Certifier prior to the issue of the relevant Occupation Certificate. The plan must include, but not be limited to:

- a. The estimated volume of waste and method of disposal for the operational phases of the development;
- b. The design of the on-site waste storage and recycling area; and
- c. Administrative arrangements for waste and recycling management during the construction process.
- d. The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Certification – Civil Works

- G5. A.
- a. An appropriately qualified and practising Civil Engineer must certify to the Principal Certifier that the stormwater drainage system is constructed in accordance with this consent and the provisions of the applicable Australian Standard. A copy of the certificate must be submitted to Council (if it is not the Principal Certifier) upon completion of the development works and prior to the issue of the relevant Occupation Certificate.
 - b. An appropriately qualified and practicing Civil Engineer must certify to the Principal Certifier that the vehicular crossing and associated works and road works were constructed in accordance with this consent and any approval for works in the road reserve issued by the Council. A copy of the certificate must be submitted to Council (if it is not the Principal Certifier), upon completion of the development works and prior to the issue of the relevant Occupation Certificate.

(Reason: Compliance with the Consent)

Certification for Mechanical Exhaust Ventilation

- G6. Prior to issue of the relevant Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with clause A2.2(a)(iii) of the National Construction Code, must be

submitted to, and approved by, the Principal Certifier.

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

Damage to Adjoining Properties

G7. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

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

Utility Services

G8. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of the relevant occupation certificate. This shall be at no cost to Council.

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

Regulated Systems - Air Handling

G9. To ensure that adequate provision is made for ventilation of the building, all mechanical and/or natural ventilation systems shall be designed, constructed installed and tested in accordance with the provisions of:

- a. The National Construction Code;
- b. The applicable Australian Standards;
- c. The Public Health Act 2010;
- d. Public Health Regulation 2012;
- e. SafeWork NSW.

The regulated system must be certified by an appropriately qualified engineer as compliant with the above provisions and registered with Council prior to commissioning the system and prior to issue of the relevant Occupation Certificate.

(Reason: Statutory, to ensure public health is maintained)

Covenant and Restriction (Stormwater Control Systems)

G10. An Instrument pursuant to Sections 88B and 88E of the Conveyancing Act 1919 and one copy must be submitted to Council in registrable form, providing for:

- a. A restriction as to user and positive covenant as to user as appropriate in favour of North Sydney Council burdening 105-153 Miller Street requiring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out).
- b. North Sydney Council being nominated in the Instrument as the only party authorised to release, vary or modify the Instrument.
- c. The wording on the Instrument making reference to the Council file/s which hold:
 - i. the Construction plans, and
 - ii. the "Work-as-Executed" (as built) plans.

The terms of the Instrument must be executed by an authorised delegate of North Sydney Council prior to submission to the NSW Land Registry Services for registration.

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

wording for the Instrument can be sourced from Council's "Specification for the Management of Stormwater".

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

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

(Reason: Compliance and adequate maintenance of drainage system)

Asbestos Clearance Certificate

G11. For building works where asbestos-based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Principal Certifier (and a copy forwarded to Council if it is not the Principal Certifier) for the building work prior to the issue of the relevant Occupation Certificate. The asbestos clearance certificate must certify the following:

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

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

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

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

Basement Pump-out Maintenance

G12. Prior to issue of the relevant Occupation Certificate a Maintenance Regime must be prepared for the basement stormwater pump-out system and submitted to the Principal Certifier for approval with the Occupation Certificate documentation. The regime must specify that the system is to be regularly inspected and checked by qualified practitioners.

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

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

Vehicle Egress Signs

G13. Prior to the issue of the relevant Occupation Certificate, appropriate sign(s) must be provided and maintained within the site at the point(s) of vehicular egress to ensure all vehicles stop before proceeding onto the public way.

(Reason: To ensure pedestrian safety)

Certification of Tree Condition

G14. Prior to the issue of the relevant Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below: -

Tree	Location	Height
T1-T3 <i>Platanus acerifolia</i>	Forecourt of Miller Street Building, 105-153 Miller St	To 25x20m
T4-T9 <i>Platanus acerifolia</i>	Council verge in front of 1 05-153 Miller St	To 20x14m
<i>Platanus acerifolia</i>	Council verge, NW corner, rear of 80-100 Walker St (Denison St frontage)	18m
5 x northernmost <i>Prunus sp.</i>	Brett Whiteley Place	5m

The report must detail the condition and health of the nominated tree(s) upon completion of the works and shall certify that the health, vigour & likelihood of longevity of the tree(s) has/have not been significantly impacted.

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

Disposal Information

G15. Upon completion of works and prior to occupation, a report including the following information must be provided to Council's Open Space and Environmental Services Department:

- a. the total tonnage of all waste and excavated material disposed of from the site (including any tipping dockets); and
- b. the disposal points and methods used.

(Reason: To ensure appropriate disposal methods are undertaken for auditing and inspection purposes)

Verification Statement (External Finishes and Materials)

G16. Prior to the issue of the relevant Occupation Certificate, a verification statement from a qualified designer or architect (preferably the original designer), must be submitted to Council and the Principal Certifier certifying that external finishes and materials of the development are in accordance with the approved schedule of finishes and materials identified in this consent.

"qualified designer" means a person registered as an architect in accordance with the Architects Act 2003.

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

Landscaping

G17. The landscaping shown in the approved landscape documentation cited in condition A1 and as amended by this consent, must be completed prior to the issue of the relevant Occupation Certificate.

(Reason: To ensure compliance)

Final Survey

G18. Upon completion of the works and prior to the issue of the relevant Occupation Certificate a final survey of the development and site is to be carried out by an appropriately qualified and practising registered surveyor to demonstrate whether the completed works encroach on any public or private property, both above and below the ground.

(Reason: To ensure compliance with the terms of this development consent and identify any encroachments outside the site boundaries.

Sydney Water

G19. A section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

The final section 73 Certificate must be submitted to the Principal Certifier prior to release of any linen plan for subdivision or prior to occupation of the development, whichever is the earlier.

The section 73 Certificate must be submitted to the Principal Certifier prior to the issue of the Strata Certificate. [Delete as appropriate]

Note: Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site www.sydneywater.com.au/customer/urban/index, or telephone 13 20 92.

Following application, a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

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

Green Travel Plan

G20. A Green Travel Plan is to be prepared by a suitably qualified traffic engineer or traffic planner and is to be submitted to Council and the Principal Certifier prior to the relevant Occupation Certificate.

The Green Travel Plan must incorporate the following:

- a. empirical analysis of typical travel demand and mode share outcomes for walking, cycling, public transport and private vehicular use for similar developments (base case scenario);
- b. a vision and objectives for the Travel Plan that are consistent with the community's vision for transport as detailed in the North Sydney Transport Strategy;
- c. specific, measurable, ambitious and realistic targets, including timeframes for achieving them;
- d. an action plan, with links to identified targets, that demonstrates how these actions will deliver the Travel Plan vision, reduce travel demand and/or increase walking, cycling, public transport and ride sharing for trips to and from the site. This could include:
 - (i) Identification and promotion of public transport options to access the site (for example, on a website and/or business cards);
 - (ii) Preparation of a Transport Access Guide (TAG) for the site.
 - (iii) Implementation of a carpool system for employees;
 - (iv) Introduce staff car sharing scheme for fleet vehicles;
 - (v) Use taxis or public transport for work related journeys;

- (vi) Provide priority parking for staff who carpool with more than two passengers;
- (vii) Encouragement of cycling and walking to the site through generous provision of bicycle parking, showers and lockers;
- (viii) Incentive schemes to encourage employees to commute using sustainable transport modes (such as the provisions of public transport vouchers/subsidised public transport tickets);
- (ix) Allocation of designated parking spaces for a car sharing scheme;
- (x) Prominent display of a large map of cycling routes (i.e., in the foyer of a residential, educational or business complex); and
- (xi) Provide staff with cycling allowances, loans and insurance together with bicycle storage and showering and changing facilities.

The recommendations, amenities and travel arrangements outlined in the GTP required by this condition are to be implemented and maintained at all times for the life of the development.

Note:

- Transport Access Guides (TAGs) provide information to staff and clients on how to reach places via public transport, walking or cycling.
- The strategies listed above do not comprise an exhaustive list and Council may consider alternative strategies that reduce the reliance on the use of private motor vehicles.

(Reason: To encourage use of public transport and active transport and to minimise reliance on the private motor vehicle)

Charging Facility for Electric Vehicles to be Provided

- G21. Appropriate provisions must be incorporated into the design of car parking areas to allow for providing power to and the installation of charging facilities for electric vehicles.

Certification confirming the ability to install charging facilities as required by this condition is to be provided to the Principal Certifier with the relevant Occupation Certificate. All costs incurred in achieving compliance with this condition shall be borne by the Applicant.

(Reason: To promote sustainability and energy efficiency)

Public Art

- G22. Prior to the issue of the relevant Occupation Certificate, a Public Art Strategy or Plan must be submitted to Manager Arts and Culture (or other position responsible for public art) for approval and the public art installed as shown in the approved plan or strategy.

(Reason: To ensure public art is provided in accordance with Council's Public Art Master Plan)

Compliance with Certain Conditions

- G23. Prior to the issue of the Occupation Certificate, Condition C3 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

I Ongoing Operational Conditions

First Use of Premises - Further Consent Required

11. A separate development application for the fit-out and use of the premises for retail or business premises must be submitted to and approved by Council prior to that fit-out or use commencing.

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

Loading within Site

12. All loading and unloading operations must be carried out wholly within the confines of the site, at all times and must not obstruct other properties or the public way.

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

Maintenance of Approved Landscaping

13. The owner of the premises at 105-153 Miller Street North Sydney is to maintain the landscaping approved by this consent generally in accordance with approved plans.

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

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

Ongoing Street Tree Care

14. Trees to be planted, if any, in the Council verge on the Miller Street and Denison Street frontages of the site and in Brett Whiteley Plaza shall be watered for a period of six (6) months after the final construction certificate is issued. The watering shall be approximately 300 litres per tree per week (min) delivered gently by hose or watering can so that the surrounding soil can absorb the water. "Seasol" solution (or similar liquid fertiliser) is recommended once a month over this period.

(Reason: To ensure the landscaping objectives and amenity are achieved)

L. General terms of approval - Division 4.8 of the Environmental Planning and Assessment Act 1979 and Concurrence – State Environmental Planning Policy (Transport and Infrastructure) 2021

- L1. The General Terms of Approval and Concurrence issued which form part this consent are attached:

Appendix 1 - Heritage Council of NSW

Appendix 2 - Sydney Metro

Appendix 1 – Heritage Council of NSW - General Terms of Approval

Mr Jim Davies
North Sydney Council
PO BOX 12
NORTH SYDNEY NSW 2059
By email: jim.davies@northsydney.nsw.gov.au

Dear Mr Davies

HERITAGE COUNCIL OF NSW – GENERAL TERMS OF APPROVAL

Integrated Development Application

Address: 105-153 Miller Street NORTH SYDNEY NSW 2060
SHR item: MLC Building North Sydney (former), SHR no. 02069
Proposal: Refurbishment, alterations and additions of the State heritage listed building at 105-153 Miller Street, North Sydney (historically referred to as the “MLC Building”) (the site) for the purpose of a commercial office building with ground level retail.
IDA application no: HMS ID 8956, received 11 February 2025

At its meeting on 14 July 2025 the Heritage Council of NSW resolved, in accordance with section 4.47 of the *Environmental Planning and Assessment Act 1979*, to grant the following General Terms of Approval:

Approved development

1. All work shall comply with the information contained within:
 - a) Development must be in accordance with the Architectural drawings prepared by Bates Smart:

Dwg No	Dwg Title	Date	Rev
Project Name: 105 Miller Street			

Dwg No	Dwg Title	Date	Rev
DA00.000	Drawing List	29.11.24	A
DA01.001	Proposed General Arrangement Plan – Site Plan	29.11.24	A
DA01.3B1	Demolition Plan Basement	29.11.24	A
DA01.3LG	Demolition Plan Lower Ground	29.11.24	A
DA01.300	Demolition Plan Upper Ground Floor	29.11.24	A
DA01.301	Demolition Plan Level 1	29.11.24	A
DA01.302	Demolition Plan Level 2	29.11.24	A
DA01.303	Demolition Plan Level 3	29.11.24	A
DA01.304	Demolition Plan Level 4	29.11.24	A
DA01.305	Demolition Plan Level 5	29.11.24	A
DA01.306	Demolition Plan Level 6	29.11.24	A
DA01.307	Demolition Plan Level 7	29.11.24	A
DA01.308	Demolition Plan Level 8	29.11.24	A
DA01.309	Demolition Plan Level 9	29.11.24	A
DA01.310	Demolition Plan Level 10	29.11.24	A
DA01.311	Demolition Plan Level 11	29.11.24	A
DA01.312	Demolition Plan Level 12	29.11.24	A
DA01.313	Demolition Plan Level 13	29.11.24	A
DA01.314	Demolition Plan Level 14	29.11.24	A
DA01.901	Demolition Elevation - Elevation North	29.11.24	A
DA01.902	Demolition Elevation - Elevation East	29.11.24	A
DA01.903	Demolition Elevation - Elevation South	29.11.24	A
DA01.904	Demolition Elevation - Elevation West	29.11.24	A
DA03.000	Proposed General Arrangement Plan Upper Ground Floor	29.11.24	A
DA03.0B1	Proposed General Arrangement Plan Basement	29.11.24	A
DA03.0LG	Proposed General Arrangement Plan Lower Ground	29.11.24	A
DA03.001	Proposed General Arrangement Plan Level 01	29.11.24	A
DA03.002	Proposed General Arrangement Plan Level 02	29.11.24	A
DA03.003	Proposed General Arrangement Plan Typical Lower (Level 3-12)	29.11.24	A
DA03.013	Proposed General Arrangement Plan Level 13	29.11.24	A

Dwg No	Dwg Title	Date	Rev
DA03.014	Proposed General Arrangement Plan Typical Upper (Level 14-20)	29.11.24	A
DA03.021	Proposed General Arrangement Plan Level 21 Lower Plant	29.11.24	A
DA03.022	Proposed General Arrangement Plan Level 21 Upper Plant	29.11.24	A
DA03.023	Proposed General Arrangement Plan Roof	29.11.24	A
DA09.001	Proposed Elevations – Elevation North	29.11.24	A
DA09.002	Proposed Elevations – Elevation East	29.11.24	A
DA09.003	Proposed Elevations – Elevation South	29.11.24	A
DA09.004	Proposed Elevations – Elevation West	29.11.24	A
DA09.010	Proposed Materials – Elevation Materials Legend	29.11.24	A
DA10.001	Proposed Section – Section A	29.11.24	A
DA24.001	Visualisations from Pacific Highway/Mount Street	29.11.24	A
DA24.002	Visualisations from South East Elevated	29.11.24	A
DA24.003	Visualisations Miller Street Forecourt	29.11.24	A
DA24.004	Visualisations Brett Whiteley Plaza Entry	29.11.24	A
DA24.005	Visualisations Denison Street Retail	29.11.24	A

b) Development must be in accordance with the following landscape drawings prepared by 360:

Dwg No	Dwg Title	Date	Rev
Project Name: 105 Miller Street			
LA-DA-01	Cover Page and Drawing Schedule	29.11.24	D
LA-DA-02	Landscape Schedules and Planting Palettes	29.11.24	D
LA-DA-03	Tree Retention and Removal Plan	29.11.24	D
LA-DA-04	Landscape Plan – Lower Ground Floor – Denison Street	29.11.24	D
LA-DA-05	Landscape Plan – Ground Floor – Miller Street	29.11.24	D
LA-DA-06	Landscape Plan – Level 13	29.11.24	D
LA-DA-07	Landscape Sections	29.11.24	D

c) *Heritage Impact Statement, prepared by Curio Projects, dated 10/12/2024*

d) *Statement of Environmental Effects, prepared by Beam, dated 09/12/2024*

e) *Existing Façade Assessment, prepared by inhabit Living Engineers, dated 28/11/2024.*

- f) *Arboricultural Impact Assessment, prepared by Green Space Consultancy, dated 29 November 2024*
- g) *Stage 1 Heritage Interpretation Strategy, prepared by Curio Projects, dated 25/11/2024*
- h) *Civil Engineering Report. prepared by enstruct Group Pty Ltd, dated November 2024*
- i) *Conservation Management Plan, prepared by Curio Projects, dated November 2023*
- j) *Request for information response, prepared by Beam Planning, Bates Smart, Curio Projects, Jensen Hughes, WSP and Investa, dated 14.03.2025*
- k) *Request for information response, Beam Planning, Bates Smart, Curio Projects, Jensen Hughes, WSP and Investa, dated 15.04.2025*
- l) *Heritage Presentation, prepared by Batesmart and Curio Projects, dated May 2025*
- m) *Supplementary Visual Impact Assessment report, prepared by Virtual Ideas, dated 22 May 2025*
- n) *Submission/s to Public Notification*

EXCEPT AS AMENDED by the General Terms of approval:

Details to be submitted for approval

2. The following information is to be submitted with the s.60 application for approval by the Heritage Council of NSW (or delegate):
 - a. A detailed dismantlement methodology of all external materials within the curtain wall of the Miller Street Wing including
 - i. condition assessment for re-use within the proposed design
 - ii. retention of a sample section.
 - iii. hold points for inspection and storage details

The proposed restoration works are to be prepared by a tradesperson with experience working with the preservation and repair of tiled exterior finishes and curtain walls.
 - b. A methodology detailing the removal, storage, relocation any cleaning or repair works and re-installation methodology for the Gerald Lewers sculptures and Bas-relief by artist Andor Meszaros. This work should also include demonstrated consultation with the family member of Gerald Lewer and Andor Meszaros to ensure that the works are faithfully restored and re-installed.
 - c. Details of the proposed replacement glazed terracotta tiles to match existing, supported by suitability testing in accordance with policy 10.2 of the Conservation Management Plan.
 - d. Amended landscape plans demonstrating the sympathetic incorporation of the architectural planting and river pebbles surrounding the Gerald Lewers Sculptures.
 - e. A movable heritage strategy, detailing a catalogue of all moveable objects on site, and future management policies for those items.
 - f. A fabric board to be prepared with samples of both the existing fabric and proposed fabric. The approved board is to be retained on site and used as part of the interpretation strategy.

- g. A detailed fabric analysis of the Auditorium and Squash Courts demonstrating the extent of surviving original fabric.
- h. A detailed dismantlement methodology of all internal original fabric to be retained including squash courts and auditorium. The methodology is to include a condition assessment for re-use within the proposed design. This should include hold points for inspection, storage details, proposed restoration works and prepared in accordance with an experienced tradesperson.
- i. Plans of the proposed auditorium design supported by the original Bate Smart plans.

Reason: The details requested were not supplied during the assessment of the application. The assessment and management of these details is considered essential in order to obtain a good heritage outcome.

Heritage architect

- 3. A suitably qualified and experienced heritage architect must be nominated for this project. The nominated heritage architect must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage architect must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.

Specialist tradespersons

- 4. All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.

Site protection

- 5. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure significant fabric including vegetation is protected during construction.

Heritage Interpretation Plan

- 6. An interpretation plan must be prepared in accordance with the *Stage 1 Heritage Interpretation Strategy, prepared by Curio Projects, dated 25/11/2024* and the Heritage NSW publication 'Interpreting Heritage Places and Items Guidelines' (2005) and submitted for approval to the Heritage Council of NSW (or delegate) prior to the issue of a Construction Certificate/ Government certification.

7. The interpretation plan must detail how information on the history and significance of the MLC will be provided for the public, the interpretation plan should also demonstrate the original design and form of the building and the original services within the building. The interpretation plan should make recommendations regarding public accessibility, signage and lighting. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project.
8. The approved interpretation plan must be implemented prior to the issue of an Occupation Certificate
Reason: Interpretation is an important part of every proposal for works at heritage places.

Photographic Archival Recording

9. A photographic archival recording of the *Miller Street Building North Sydney (former)* must be prepared prior to the commencement of works, and may be requested during works and at the completion of works. This recording must be prepared in accordance with the Heritage NSW publication 'Guidelines for preparing archival recordings of heritage items as a condition of consent' (2025). Only the digital copy of the archival record must be submitted electronically to Heritage NSW. The required format and specifications of the record are published on the Heritage NSW website.
Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.

Unexpected finds

9. The Applicant must ensure that if substantial intact archaeological deposits are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
Reason: All significant fabric within a State Heritage Register curtilage should be managed according to its significance. This is a standard condition to identify to the applicant how to proceed if historical archaeological relics, or other unexpected buried discoveries such as works are identified during the approved project.

Aboriginal objects

10. Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the *National Parks and Wildlife Act 1974*. Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the *National Parks and Wildlife Act 1974*.
Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.

Compliance

11. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

Section 60 application

12. An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

Advice

Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

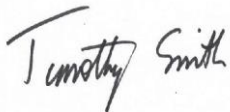
Right of appeal

If you are dissatisfied with this determination, section 70A of the Act gives you the right of appeal to the Land and Environment Court.

If you have any questions about this correspondence, please contact Tempe Beaven, Practice Lead, Heritage Referrals at Heritage NSW on (02) 9873 8500 or

heritagemailbox@environment.nsw.gov.au

Yours sincerely



Tim Smith, OAM

Director Assessments

Heritage NSW

Department of Climate Change, Energy, the Environment and Water

As delegate of the Heritage Council of NSW

21 July 2025

Appendix 2 - Sydney Metro - Concurrence SEPP (Transport and Infrastructure 2021)



Jim Davies
North Sydney Council
via NSW Planning Portal

State Environmental Planning Policy (Transport and Infrastructure) 2021 2 September 2025
Development Application – DA/387/2024
105-153 Miller Street, North Sydney

Dear Jim Davies,

Sydney Metro refers to Development Application DA/387/2024 (DA) submitted by Investa (Applicant) that has been referred to Sydney Metro via the NSW Planning Portal on 3 April 2025, in accordance with section 2.99 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (T&ISEPP).

Transport for NSW (TfNSW) has delegated its rail authority functions in relation to the rail corridor to Sydney Metro. Therefore, Sydney Metro is the relevant rail authority for the rail corridor for the purpose of the T&ISEPP.

Assessment requirements under the T&ISEPP

Sydney Metro has reviewed the DA documents that were uploaded onto the NSW Planning Portal on 02/01/2025.

Sydney Metro has assessed the development proposed by the DA in accordance with the requirements of section 2.99(4) of the T&ISEPP.

In this regard, Sydney Metro has taken into account:

- (a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:
 - (A) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and
 - (B) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and
- (b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.

OFFICIAL

Level 43, 680 George Street, Sydney NSW 2000
PO Box K659, Haymarket NSW 1240

sydneymetro.info
ABN 12 354 063 515

Concurrence granted subject to conditions

Sydney Metro has taken the above matters into consideration and has decided to grant its concurrence to the development proposed in the DA, subject to the consent authority imposing the conditions at *Attachment A*.

Should the consent authority determine not to impose the conditions provided in Attachment A in the form provided, then concurrence from Sydney Metro has not been granted to the DA.

The consent authority is also advised that Sydney Metro's concurrence is not to be amended, replaced or superseded by any concurrence which may be issued by any other authority, without further agreement from Sydney Metro.

Next steps

If, at any point, the DA is amended prior to the consent authority's determination, please ensure that the amended DA and any new or amended supporting documents are provided to Sydney Metro for further assessment. Any amendments to the DA may alter the impacts of the proposed development on the Sydney Metro rail corridor assessed by Sydney Metro, so Sydney Metro may need to amend (or refuse) its concurrence.

Sydney Metro would be grateful if a copy of the Notice of Determination and any conditions of consent for the DA are forwarded to Sydney Metro should the consent authority determine to grant consent to the DA.

In the event that the proposed development is the subject of a Land and Environment Court appeal, the consent authority's attention is also drawn to section 8.12 of the *Environmental Planning and Assessment Act 1979* which requires the consent authority to give notice of that appeal to a concurrence authority.

Sydney Metro thanks Council for its assistance.

Please contact Peter Bourke, Senior Manager Corridor Protection or Lauren Saunders Corridor Protection Coordinator via email sydneymetrocorridorprotection@transport.nsw.gov.au should you have any further enquiries on this matter.

Sincerely,

**Stuart Phillips**

Executive Director

Northwest & City Operations

DA/387/2024 - 105-153 Miller Street, North Sydney

Attachment A

1 Prior to issue of a Construction Certificate

Engineering

1.1 All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings, measures and recommendations detailed in the following documents:

- (a) Report on Geotechnical Metro Impact Assessment, (ref.86964.03.R.0002.Rev0), prepared by Douglas Partners, dated 7 July 2025.
- (b) Geotechnical Memo (ref. 86964.03 R.003 Rev0), prepared by Douglas Partners, dated 22 July 2025.
- (c) Structural Impact Assessment of Sydney Tunnel Lining (ref: PS214031-WSP-SYD-LTR-Rev A), prepared by WSP, dated 1 July 2025.
- (d) Proposed Development Impacts From Sydney Metro Infrastructure Structural Report (ref PS214031), prepared by WSP, dated 2 July 2025.
- (e) Structural Response to Metro RFI (ref. PS214031-WSP-SYD-STR-LTR-250724-Rev A), prepared by WSP, dated 24 July 25
- (f) Electrolysis Study (ref: PS214031-WSP-NSW-SYD-TPT-REP-00001), Prepared by WSP, Rev A, dated 4 July 2025
- (g) Noise and Vibration Impact Assessment (ref: 2506347), prepared by RWDI Australia Pty Ltd, Revision C, dated 4 July 2025.
- (h) Technical Response (Updated) to Sydney Metro RFI – 105 Miller Street, North Sydney (Noise and Vibration Impact Assessment, prepared by RWDI Australia Pty LTD, dated 4 July 2025.
- (i) Detail Survey, Sheets 1 -7, drawing no. PR144264-DET-002-C, Issue D (Sheets 1-7), prepared by RPS AAP Consulting, dated 28 August 2025.

subject to any amendments to those documents required by Sydney Metro in accordance with this consent.

The Certifier must not issue a Construction Certificate for the development until the Certifier has confirmed which documents (including the versions of those documents) apply to the development and the Certifier has confirmed in writing to Sydney Metro that the construction drawings and specifications comply with those documents. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

Prior to the commencement of works, the Certifier must provide written verification to Sydney Metro that this condition has been complied with.

1.2 The Certifier must not issue a Construction Certificate for the development unless the Applicant has submitted to Sydney Metro and Sydney Metro has provided written approval of the following items:

- a) Final construction drawings for the Construction Certificate;

Prior to the commencement of works, the Certifier must provide written verification to Sydney Metro that this condition has been complied with.

Rail Corridor:

1.3 All structures must be designed, constructed and maintained to allow for the future operation and demolition of any part of the development without damaging or otherwise interfering with the rail corridor or rail operations. Where any part of the development is to be retained because its demolition would damage or otherwise interfere with the rail corridor or rail operations, that part of the development must have a minimum design life of 100 years.

Survey and services

1.4 Prior to the issue of a Construction Certificate:

- (a) the Applicant must provide Sydney Metro with an accurate survey of the development and its location relative to the rail corridor boundary and any rail infrastructure. The survey is to be undertaken by a registered surveyor, to the satisfaction of Sydney Metro; and
- (b) a registered surveyor shall peg-out the common property boundary between the development site and the rail corridor and any Sydney Metro easements to ensure that there is no encroachment by the development. A copy of the survey report indicating the location of pegs must be provided to Sydney Metro prior to the commencement of works.

1.5 Prior to the issue of a Construction Certificate, the Applicant must undertake a services search to establish the existence and location of any rail services and provide the results of the search to Sydney Metro. A services search must be based on current and not expired information and include information obtained through the Dial Before You Dig service. Persons performing the service search shall use equipment that will not have any impact on rail services and signalling. Should rail services be identified within the development site, the Applicant must discuss with Sydney Metro whether the services are to be relocated or incorporated within the development site.

Noise & Vibration

1.6 The development must:

- (a) *comply with State Environmental Planning Policy (Transport and Infrastructure) 2021 and the NSW Department of Planning & Environment's document titled "Development Near Rail Corridors and Busy Roads - Interim Guideline" (2008) and the Sydney Metro Underground Corridor Protection Guidelines (available from www.sydneymetro.info);*
- (b) *be designed, constructed and maintained so as to avoid damage or other interference which may occur as a result of air-borne noise, ground-borne noise and vibration effects that may emanate from the rail corridor during rail construction and operations; and*
- (c) *not have any noise or vibration impacts on the rail corridor or rail infrastructure.*

1.7 The Applicant must:

- (a) *prepare an acoustic assessment report which confirms compliance with each of the matters outlined in condition 1.6; and*
- (b) *incorporate as part of the development all the measures recommended in the acoustic assessment report; and*
- (c) *not have any noise or vibration impacts on the rail corridor or rail infrastructure.*

The Applicant must incorporate as part of the development all the measures recommended in the acoustic assessment report:

- Noise and Vibration Impact Assessment (ref: 2506347), prepared by RWDI Australia Pty Ltd, Revision C, dated 4 July 2025
- Technical Response (Updated) to Sydney Metro RFI – 105 Miller Street, North Sydney (Noise and Vibration Impact Assessment, prepared by RWDI Australia Pty LTD, dated 4 July 2025

A copy of the acoustic assessment report is to be provided to the Certifier and Council prior to a Construction Certificate being issued by the Certifier. The Certifier must ensure that the recommendations of the acoustic assessment report are incorporated in the construction drawings and documentation prior to issuing a Construction Certificate for the development.

Electrolysis

1.8 Prior to the issue of a Construction Certificate, the Applicant is to engage an electrolysis expert to prepare a report on the electrolysis risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the electrolysis report to control that risk. A copy of the electrolysis report is to be provided to the Certifier with the application for a Construction Certificate.

Prior to issuing a Construction Certificate for the development, the Certifier must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation.

Design

1.9 The roots and foliage of trees planted beside the rail corridor as part of the development must not impact on the rail corridor or rail operations. A final landscaping and planting plan demonstrating measures to ensure compliance with this condition must be prepared to the satisfaction of Sydney Metro. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

Construction

1.10 No work is permitted within the rail corridor, or any easements which benefit Sydney Metro, at any time, unless the prior approval of, or an Agreement with, Sydney Metro has been obtained by the Applicant. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

1.11 No rock anchors, rock bolts, ground anchors or rock ties, piles, foundations, rock pillars, transfer structures, basement walls, slabs, columns, beams, cut rock faces, are to be installed in the rail corridor, Sydney Metro property or easements. The Certifier must not issue a Construction

Certificate for the development until it has received written confirmation from Sydney Metro that this condition has been satisfied.

1.12 Prior to the issuing of a Construction Certificate, the following information must be submitted to Sydney Metro for review and endorsement:

- (a) Machinery to be used during excavation/construction;
- (b) Demolition, excavation and construction methodology and staging;

The Certifier must not issue a Construction Certificate for the development until it has received written confirmation from Sydney Metro that this condition has been satisfied.

1.13 If required by Sydney Metro, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements for the proposed works are to be submitted to Sydney Metro for review and endorsement regarding impacts on the rail corridor. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

1.14 If required by Sydney Metro, a tunnel monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Metro for review and endorsement prior to the issuing of a Construction Certificate. The Certifier must not issue a Construction Certificate until written confirmation has been received from Sydney Metro that this condition has been satisfied.

1.15 Prior to the issuing of a Construction Certificate, the Applicant must submit to Sydney Metro a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Metro requirements. If required by Sydney Metro, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Metro requirements. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from the Sydney Metro that this condition has been satisfied.

1.16 If required by Sydney Metro, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Metro's Corridor Protection Team to determine the need for public liability insurance cover and the level of insurance required. If insurance cover is deemed necessary, the Applicant must obtain insurance for the sum determined by Sydney Metro and such insurance shall not contain any exclusion in relation to works on or near the rail corridor or rail infrastructure and must be maintained for the period specified by Sydney Metro. Prior to issuing a Construction Certificate for the development, the Certifier must witness written proof of any insurance required by Sydney Metro in accordance with this condition, including the written advice of Sydney Metro to the Applicant regarding the level of insurance required.

Reason: construction of the proposed development presents a risk of potential damage to the Sydney Metro - City & Southwest rail corridor which is not in the public interest. This risk of damage to public infrastructure must be appropriately managed and mitigated.

1.17 If required by Sydney Metro, prior to the issue of a Construction Certificate the Applicant must contact the Sydney Metro Corridor Protection Team to determine the need for the lodgement of a bond or bank guarantee for the duration of the works and the sum of any required bond or bank guarantee. Prior to issuing a Construction Certificate for the development, the Certifier must

witness written confirmation from Sydney Metro that the Applicant has lodged any bond or bank guarantee required by this condition.

Reason: construction of the proposed development presents a risk of potential damage to the Sydney Metro - City & Southwest rail corridor which is not in the public interest. This risk of damage to public infrastructure must be appropriately managed and mitigated.

- 1.18 Prior to the issue of a Construction Certificate, the Applicant must prepare and provide to Sydney Metro for review and endorsement a hydrogeologic assessment report demonstrating that any dewatering during construction will not have any adverse settlement impacts on the rail corridor. The Certifier must not issue a Construction Certificate until this report has been endorsed by Sydney Metro in writing.
- 1.19 Prior to the issue of a Construction Certificate, the Applicant must prepare and provide to Sydney Metro for review of a Construction Traffic Management Plan to ensure no adverse impacts to Sydney Metro operations. The Certifier must not issue a Construction Certificate until this Plan has been endorsed by Sydney Metro in writing.
- 1.20 Prior to the issue of a Construction Certificate, any proposed alterations to Sydney Metro assets must be approved by Sydney Metro and any proposed changes may be subject to operator requirements. The Certifier must not issue a Construction Certificate until Sydney Metro approval has been provided in writing.

Drainage

- 1.21 The Applicant must ensure that all drainage from the development is adequately disposed of and managed and must ensure that no drainage is discharged into the railway corridor unless prior written approval has been obtained from Sydney Metro. The Certifier must not to issue a Construction Certificate or Occupation Certificate for the development unless this condition has been satisfied.

Documentation

- 1.22 Copies of any certificates, drawings, approvals or documents endorsed by, given to or issued by Sydney Metro must be submitted to Council for its records prior to the issue of any Construction Certificate.

2 During construction

Supervision

- 2.1 Unless advised by Sydney Metro in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects and who holds current professional indemnity insurance.

Consultation

- 2.2 The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Metro in writing), who:
- (a) *oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Metro;*
 - (b) *acts as the authorised representative of the Applicant; and*
 - (c) *is available (or has a delegate notified in writing to Sydney Metro that is available) on a 7 day a week basis to liaise with the representative of Sydney Metro as notified to the Applicant.*

- 2.3 Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Metro in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Metro in relation to the works.
- 2.4 Where a condition of consent requires consultation with Sydney Metro, the Applicant shall forward all requests and/or documentation to the relevant Sydney Metro interface team.

Drainage

- 2.5 The Applicant must ensure that all existing and future drainage works on the development site will be directed into the appropriate local council or approved drainage system.
- 2.6 The Applicant must ensure that during works no water collects on or near the railway corridor. Should water be allowed to pond adjacent to rail infrastructure facilities and service is interrupted, the Applicant shall be liable for any Sydney Metro expenditure involved with restoring or maintaining alternative services.

Inspections

- 2.7 If required by Sydney Metro, the Applicant must give Sydney Metro written notice at least 5 business days before any of the following events occur within 25 metres of the rail corridor:
- (a) *site investigations;*
 - (b) *foundation, pile and anchor set out;*
 - (c) *set out of any other structures below ground surface level or structures which will transfer any load or bearing;*
 - (d) *foundation, pile and anchor excavation;*
 - (e) *other excavation;*
 - (f) *surveying of foundation, pile and anchor excavation and surveying of as-built excavations;*
 - (g) *other concreting; or*
 - (h) *any other event that Sydney Metro has notified to the Applicant in writing*

so that Sydney Metro may inspect the carrying out or completion of those works on the development site.

- 2.8 If required by Sydney Metro, prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Metro, a joint inspection of the rail infrastructure and property in the vicinity of the development is to be carried out by representatives from Sydney Metro and the Applicant and a dilapidation survey prepared. The dilapidation survey(s) will establish the extent of any existing damage and enable any deterioration during construction to be observed and rectified at the Applicant's cost. The submission of a detailed dilapidation report by the Applicant for review and approval by Sydney Metro will be required within 10 days following the undertaking of any joint inspection, unless otherwise notified by Sydney Metro in writing.

3 Prior to the issue of an Occupation Certificate

Noise and Vibration

3.1 Prior to the issue of an Occupation Certificate, an acoustic assessment report must be prepared and submitted to the Certifying Authority, Council and Sydney Metro certifying that the completed development meets the requirements of:

- (a) State Environmental Planning Policy (Transport and Infrastructure) 2021;
- (b) the Department of Planning, Infrastructure and Environment's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines"; and
- (c) any other noise and vibration requirements imposed by this consent.

The acoustic report must demonstrate testing of external and internal noise levels for the completed development and ensure that external noise levels are representative of the typical maximum levels that may occur at the development and internal noise levels meet the required dB(A) levels. Where it is found that internal noise levels are greater than the required dB(A) level, necessary corrective measures must be carried out to ensure that internal noise levels are compliant with the requirements of this consent.

Documentation

3.2 Prior to the issue of an Occupation Certificate, the Applicant is to submit as-built drawings to Sydney Metro and Council. The as-built drawings are to be endorsed by a registered surveyor confirming that there has been no encroachment into the rail corridor or Sydney Metro easements, unless agreed to by Sydney Metro in writing. The Certifier must not issue an Occupation Certificate until written confirmation has been received from Sydney Metro that this condition has been satisfied.

3.3 Copies of any certificates, drawings, approvals or documents endorsed by, given to or issued by Sydney Metro must be submitted to Council for its records prior to the issue of any Occupation Certificate.

Inspections

3.4 If required by Sydney Metro, prior to the issue of an Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the development is to be carried out by representatives from Sydney Metro and the Applicant and a dilapidation survey prepared. The dilapidation survey will establish the extent of any existing damage and enable any deterioration during operation of the development to be observed. The Certifier is not to issue an Occupation Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

3.5 At any time during the use and occupation of the development, Sydney Metro may also require a joint inspection of the rail infrastructure and property in the vicinity of the development by representatives from Sydney Metro and the Applicant and a dilapidation survey prepared. Any

such dilapidation survey will establish the extent of any damage or deterioration during operation of the development to be observed and rectified at the Applicant's cost.

4 General

Inspections

4.1 At any time during the construction of the development, Sydney Metro and persons authorised by those entities may give reasonable notice to the Applicant or the Applicant's principal contractor that Sydney Metro or persons authorised by that entity seek to:

- (a) inspect the development site and all works and structures that may impact on the rail corridor, including at specified "hold points" in the construction of the development; and
- (b) attend on-site meetings with the Applicant and its contractors,

to enable Sydney Metro to determine whether the development has been or is being constructed and maintained in accordance with all approved plans and this development consent.

Other

4.2 Any conditions or other requirements imposed by Sydney Metro part of its approval/endorsement of any documents provided by the Applicant to Sydney Metro in accordance with these conditions of consent must also be complied with by the Applicant when implementing any approved/endorsed documents, plans, reports during the construction and operation of the development (as applicable).

4.3 Where a condition of consent requires Sydney Metro endorsement or approval, the Certifier must not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates by the Certifier dealing with specific works and compliance conditions can only occur subject to written confirmation from Sydney Metro.

4.4 All reasonable Sydney Metro costs associated with review of plans, designs and legal must be borne by the applicant.