

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF MAJOR PROJECT NO. MP08_0238

(FILE NO. S08/01859-3)

**DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF A MIXED USE
DEVELOPMENT COMPRISING A RETAIL/COMMERCIAL BUILDING AND A
HOTEL BUILDING AT 77-81 BERRY STREET AND 88 WALKER STREET, NORTH
SYDNEY**

I, the Minister for Planning, having considered all relevant matters prescribed under Section 75J(2) of the *Environmental Planning and Assessment Act 1979*, including those relevant matters prescribed by Section 75I(2) as contained in the Director General's Environmental Assessment report determine Major Project (MP08_0238) by **granting approval** to the major project described in the attached Schedule 1 subject to the conditions of approval in the attached Schedule 2, pursuant to Section 75J(1) of the *Environmental Planning and Assessment Act 1979*.

This approval applies to the plans, drawings and documents cited by the Proponent in their Environmental Assessment, Preferred Project Report and the Proponent's revised Statement of Commitments in Schedule 3, subject to the conditions of approval in the attached Schedule 2.

The reason for the imposition of these conditions are:

- (1) To ensure the site is appropriately managed for the proposed use;
- (2) To adequately mitigate the environmental and construction impacts of the development;
- (3) To reasonably protect the amenity of the local area; and
- (4) To protect the public interest.



The Hon Tony Kelly MLC
Minister for Planning

Sydney,

25 FEB 2010₂₀₀₉

SCHEDULE 1

PART A — TABLE

Application made by:	Eastmark Holdings Pty Ltd
Application made to:	Minister for Planning
Major Project Application:	MP No. 08_0238
On land comprising:	Stratum Lot 2, 3 & 4 in DP 1078998 (77-81 Berry Street, North Sydney) and Lot 1 in DP 832416 (88 Walker Street, North Sydney)
Local Government Area	North Sydney Council
For the carrying out of:	Demolition of existing buildings and erection of a mixed use development comprising a retail/commercial building and a hotel building
Estimated Cost of Works	\$291 Million
Type of development:	Major Project
S.119 Public inquiry held:	No
Determination made on:	
Date approval is liable to lapse:	5 years from the date of determination unless the Project is physically commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 08_0238

Responsibility for other consents / agreements

The Proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000* (as amended).

Legal notices

Any advice or notice to the approval authority shall be served on the Director-General.

PART C—DEFINITIONS

In this approval,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Advisory Notes means advisory information relating to the approved development but do not form a part of this approval.

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means North Sydney Council.

CPI means Consumer Price Index.

Department means the Department of Planning or its successors.

Director-General means the Director-General of the Department (or his nominee).

Environmental Assessment means the Environmental Assessment prepared by JBA Urban Planning and dated 29 May 2009.

Minister means the Minister for Planning.

MP No. 08_0238 means the Major Project described in the Proponent's Environmental Assessment.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

PPR means Preferred Project Report.

Proponent means Eastmark Holdings Pty Ltd or any party acting upon this approval.

Regulation means the *Environmental Planning and Assessment Regulation, 2000* (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2

RECOMMENDED CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 08_0238

PART A - ADMINISTRATIVE CONDITIONS

A1 Development Description

(1) Development approval is granted only to carrying out the development described in detail below:

- **Demolition:** Demolition of the existing buildings on **both sites** including the pedestrian bridge linking 77-81 Berry Street with Tower Square.
- **Excavation:** Excavation for 4 levels of basement at 77-81 Berry Street and 2 levels of basement at 88 Walker Street.
- **Construction** of a part 28/part 37 storey commercial and retail building on the southern portion of 77-81 Berry Street together with 4 levels of basement car parking with vehicular access via Little Spring Street and loading/unloading facilities including drop-off/pick-up for hotel (buses) and provision of 42 public car parking spaces and 10 motorcycle spaces;
- **Construction** of a 33 storey x 200 room hotel at 88 Walker Street, including a connecting service tunnel below Little Spring Street to provide access to the Basement Level 2 of the commercial building, together with back-of-house facilities, ground floor hotel lobby with through site link between Walker Street and Little Spring Street (open business hours), Level 2 conference, Level 3 reception and bar and Level 4 restaurant;
- **Reconstruction** of the Tower Square pedestrian bridge; and
- **Off - Site Works including Public Domain and Landscaping:** Construction of a new pedestrian plaza in Denison Street and public forecourt to Spring Street; construction of a new through-site road between Denison Street and Little Spring Street; together with various public domain improvements in Denison, Spring and Little Spring Streets, including road re-alignments/partial public road closures, tree planting, paving, street furniture and lighting, and, public art.

A2 Development in Accordance with Plans and Documentation

The development will be undertaken in accordance with MP No. 08_0238 and the Environmental Assessment dated May 2009 prepared by JBA Urban Planning, except where amended by the Preferred Project Report dated October 2009 prepared by JBA Urban Planning and additional information, plans and reports provided with the Preferred Project Report, and the following drawings prepared by Rice Daubney:

Architectural (or Design) Drawings prepared by Rice Daubney at Appendix A of the Environmental Assessment except where superseded by the Preferred Project Report			
Drawing No.	Rev	Name of Plan	Date

DA 01	C	Cover Page and Drawing Register	09.10.09
DA 02	C	Photomontage looking up Walker Street	09.10.09
DA 03	C	Photomontage corner of Little Spring St and Spring St	09.10.09
DA 04	C	Photomontage looking up Denison Street	09.10.09
DA 05	C	Photomontage of the New Cross Road	09.10.09
DA 06	C	Photomontage views from Neutral Bay and Warringah X-Way	09.10.09
DA 07	A	Photomontage new through Street viewed from Denison Street	09.10.09
DA 08	A	Existing Building Survey	09.10.09
DA 09	C	Location Plan and Survey Plan	09.10.09
DA 10	C	Basement 5 – Plant	09.10.09
DA 11	C	Basement 4 – Commercial Plan	09.10.09
DA 12	C	Basement 3 – Commercial Plan	09.10.09
DA 13	C	Basement 2 – Commercial and Hotel Plan	09.10.09
DA 14	C	Basement Plan 1 – Commercial and Hotel Plan	09.10.09
DA 15	C	Lobby and Ground Floor Introduction Page	09.10.09
DA 16	C	Commercial Lower Ground and Hotel Lobby	09.10.09
DA 17	C	Commercial lobby & Hotel bridge Link	09.10.09
DA 18	C	Commercial Food Court Retail and Hotel Conference	09.10.09
DA 19	C	Commercial Conference/Meeting & Hotel Restaurant	09.10.09
DA 20	C	Commercial Plant & Hotel Bar	09.10.09
DA 21	C	Commercial and Hotel Towers Introduction	09.10.09
DA 22	C	Commercial Low rise & Hotel Plant	09.10.09
DA 23	C	Commercial Low Rise Typical & Hotel Administration	09.10.09
DA 24	C	Commercial Mid Rise Typical & Hotel Typical	09.10.09
DA 25	C	Commercial High Rise Typical & Hotel Typical	09.10.09
DA 26	C	Commercial High Rise Typical (small) & Hotel Plant	09.10.09
DA 27	C	Commercial Plant & Hotel Roof	09.10.09
DA 28	C	Commercial Roof & Hotel Roof	09.10.09
DA 29	C	Commercial North/South section looking West	09.10.09
DA 30	C	Section through Commercial and Hotel looking North	09.10.09
DA 31	C	Section through Hotel looking West	09.10.09
DA 32	C	Commercial East Elevation	09.10.09
DA 33	C	Commercial & Hotel North Elevation/Section	09.10.09
DA 34	C	Commercial West Elevation	09.10.09
DA 35	C	Commercial & Hotel South Elevation	09.10.09

DA 36	C	Hotel East Elevation	09.10.09
DA 37	C	Hotel West Elevation	09.10.09
DA 38	C	Detailed Street Elevation – Little Spring Street West	09.10.09
DA 39	C	Detailed Street Elevation – Spring Street	09.10.09
DA 40	C	Detailed Street Elevation – Denison Street	09.10.09
DA 41	C	Detailed Street Elevation – New Cross Street	09.10.09
DA 42	C	Detailed Street Elevation – Little Spring Street East/Walker Street	09.10.09
DA 43	C	Commercial Tower Setback Diagram	09.10.09
DA 44	C	Hotel Setback Diagram	09.10.09
Landscape Plan & Public Domain Plan prepared by OCULUS at Appendix I of the Preferred Project Report			
	D	Indicative Public Domain Plan	23.09.09
	D	Landscape Roof Garden Plan	23.09.09
	D	Landscape Sections	23.09.09
	D	Public Domain Plan	23.09.09

except for:

- (1) any modifications which are 'Exempt and Complying Development' as identified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and
- (2) otherwise provided by the conditions of this approval.

A3 Inconsistency between documents

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, including the Proponent's Revised Statement of Commitments, the conditions of this approval prevail.

A4 Prescribed Conditions

The Proponent shall comply with the prescribed conditions of approval under Clause 98 of the *Environmental Planning and Assessment Regulation 2000* in relation to the requirements of the *Building Code of Australia (BCA)*.

END OF SECTION

PART B - PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

B1 Design Modifications

Prior to the issue of the relevant construction Certificate, the design of the building shall be amended as follows:

- (1) The maximum RL of the proposed commercial tower on the southern portion of No.77-81 Berry Street shall be RL 170 metres AHD except for plant rooms levels, which are permitted to extend to RL 178.675 metres AHD, subject to Condition B1(4).

- (2) The maximum RL for the proposed commercial tower on the northern portion of No. 77-81 Berry Street shall be RL 155 metres AHD.
- (3) The connecting service tunnel below Little Spring Street shall be deleted, and alternative arrangements shall be made to provide for servicing access between the hotel building and the commercial building basement level, and shall include building modifications and amendments to the Transport and Pedestrian Management Plans as required;
- (4) The plant room levels between RL 170 metres AHD and RL 178.675 metres AHD shall be redesigned to minimise the footprint area and minimise the width of the east-west section and shall comprise a high quality design which contributes to the skyline of the North Sydney CBD.
- (5) The roof terrace shall be deleted and the area above the northern portion of the commercial tower shall be made non – trafficable to ensure that there are no adverse acoustic or privacy impacts on the Beau Monde building.

Details demonstrating compliance with Condition B1 shall be submitted to and approved by the Director-General of the Department of Planning prior to the issue of a Construction Certificate for any building.

B2 Compliance with the Building Code of Australia (BCA)

Details shall be provided to the satisfaction of the Certifying Authority, with the application for a Construction Certificate, which demonstrate that the proposal complies with the prescribed conditions of approval under Clause 98 of the *Environmental Planning and Assessment Regulation* in relation to the requirements of the *Building Code of Australia* (BCA).

B3 Structural Details

Prior to the issue of the relevant Construction Certificate, the Proponent shall submit to the satisfaction of the Certifying Authority, structural drawings prepared and signed by a suitably qualified practising Structural Engineer that complies with:

- (1) the relevant clauses of the BCA,
- (2) the relevant development approval,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

B4 Monetary Contributions

The Proponent shall pay the following monetary contributions in accordance with the North Sydney Section 94 Contributions Plan:

(1) Amount of Contribution

Contribution Category	Amount
Administration	\$111,772.92
Child Care Facility	\$473,245.59
Community Centres	\$272,505.18
Library Acquisition	\$55,566.57
Library Premises and Equipment	\$168,935.98
Multi Purpose Indoor Sports Facility	\$63,937.73
Olympic Pool	\$208,316.31
Open Space Acquisition	\$203,736.09

Open Space Increased Capacity	\$403,842.69
Public Domain Improvements	\$4,570,180.90
Traffic Improvements	\$275,937.35
Total	\$6,807,977.31

(2) Adjustments

Should the total GFA be reduced as a result of compliance with **Condition B1**, the amount payable may be eligible for adjustment.

(3) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to North Sydney Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council.

Evidence of the payment to Council shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

(4) Indexing

Contributions will be adjusted at the time of payment in accordance with the quarterly consumer price index (All Groups Index of Sydney).

(5) Works-in-kind

In accordance with Section 2.4 of the North Sydney Contributions Plan, the Proponent may apply to Council, in writing, with an offer that a monetary Section 94 contribution be met by way of a material public benefit (for an item not included on the works schedule of the North Sydney S94 Contributions Plan) and may include the dedication of land to Council, or as works - in - kind (for an item included on the works schedule of the North Sydney S94 Contributions Plan).

B5 Public Car Parking

The Proponent shall allocate to Council forty-two (42) car parking spaces and ten (10) motorcycle spaces at Basement 1 level of the commercial tower as public parking. Details of the allocation of the required spaces shall be provided to the Department and the Certifying Authority prior to the issue of a Construction Certificate.

B6 Railway Infrastructure

The Proponent shall enter into a Voluntary Planning Agreement (VPA) in accordance with the offer made on 21 December 2009 with the Minister for Planning to provide a Railway Infrastructure Contribution totalling \$6,303,162.00 to be paid to the Transport Administration Corporation. Evidence of the Agreement shall be provided to the Certifying Authority prior to the issue of the relevant Occupation Certificate for either of the Hotel Tower, or the Commercial Tower, whichever building is to be issued an Occupation Certificate first.

Should the total GFA be reduced as a result of compliance with Condition B1, the amount payable may be eligible for adjustment. In this case, a report by an appropriately qualified Surveyor shall be submitted to and approved by the Director-General demonstrating the total amount of constructed GFA.

Contributions will be adjusted at the time of payment in accordance with the quarterly consumer price index (All Groups Index of Sydney).

B7 Off - Site Works

The following Off - Site works are required to be provided by the Proponent;

(i) Berry/Walker Street Intersection Upgrading

Upgrading of the Berry/Walker Street intersection in order to improve the level of queuing in Berry Street and Walker Street (to the value of \$10,000).

(ii) Proposed Streetscape Improvements

Streetscape improvements to Denison Street, Spring Street, Little Spring Street, Walker Street and the new laneway (between Little Spring Street and Denison Street) in accordance with the approved plans shall be designed to the satisfaction of Council's Director of Engineering & Property Services. Written confirmation of the proposed improvements must be obtained from Council's Director of Engineering & Property Services by the Certifying Authority prior to issue of any Construction Certificate.

(iii) Proposed Traffic/Streetscape Improvements

- a) The proposed traffic modifications to Denison Street, Spring Street, Little Spring Street and the new laneway in accordance with the approved plans shall be designed to the satisfaction of Council's Director of Engineering & Property Services. The proposed modifications shall be submitted to, and approved in writing by the North Sydney Traffic Committee, prior to the issue of any Construction Certificate.

Note:

- 1) The Shared Zone in the new laneway end on the western side of the intersection with Little Spring Street is not to include the intersection of the new laneway and Little Spring Street.
 - 2) That the proposed Shared Zone in Little Spring Street is to commence on the southern side of the proposed new driveway to No.77-81 Berry Street.
- b) The existing angle parking on the northern side of Mount Street between Walker Street and Denison Street should be banned during peak hours (i.e. weekdays 7am-10am and 3pm-7pm). The proposed parking bans will require approval from the North Sydney Traffic Committee, prior to the issue of the Construction Certificate.
 - c) Future Shared Zones must satisfy RTA requirements. All future Shared Zones shall be endorsed by Council and submitted to the RTA for approval
 - d) A taxi pick-up/drop-off facility shall be provided to the satisfaction of Council.
 - e) All costs associated with relocating parking meters and parking signs including all sign changes, parking bay line markings must be paid in full to North Sydney Council prior to acceptance by Council of any changes

(iv) Street Lighting

Street lighting on Little Spring Street, Spring Street, Denison Street, and the Walker Street frontage of No.88 Walker Street is to be upgraded to meet the North Sydney CBD Lighting Upgrade Specification and to the satisfaction of the Director of Engineering & Property Services.

B8 Required Public Domain Works – Submission and Approval of Plans under Roads Act 1993

Prior to the issue of any Construction Certificate referencing building works at or above ground floor level, the Proponent must have construction issue engineering design plans and specifications prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide technical engineering detail and specification for the following road reserve infrastructure works that must be completed as part of the development consent:

- All public domain works as specified in Environmental Assessment, Preferred Project Report, and as agreed with North Sydney Council's Director of Engineering and Property Services.

Cross sections at a scale of 1:50 along the centre-line of each ground level access point to the site the must be provided. All the entry points are to comply with the Building Code of Australia (BCA), particularly disability requirements. The Council approved footpath levels must be accommodated at the building entry points.

As levels set by Council may impact on ground floor levels within the site, the Certifying Authority must not issue any Construction Certificate referencing building works at or above ground floor level without the formal approved plans and written approval of Council (as Roads Authority) under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for RoadWorks, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected/proposed by the works, erosion control requirements and traffic management requirements during the course of works. Detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998). Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.

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

B9 Long Service Levy

Prior to the issue of the Construction Certificate, receipt of payment to the Long Service Payments Corporation in accordance with Section 34 of the Building Construction Industry Payments Act 1986 must be presented to the Certifying Authority.

B10 Security Bond Schedule

All fees and security bonds in accordance with the schedule below must be paid or in place prior to the issue of any Construction Certificate:

Security Bonds	Amount (\$)
Street Tree Bond (on Council Property)	20,000.00
Public Infrastructure Bond	200,000.00
TOTAL BONDS	\$220,000.00

This bond is applied pursuant to clause 80A of the EP&A Act to cover the cost of:

- Making good any damage that may be caused to any public infrastructure as a consequence of doing or not doing any thing to which this approval relates,
- Completing any public infrastructure works that are required in connection with this consent.

If any tree to be retained is removed or damaged Council shall deduct from this Bond 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 Bond for that tree will be forfeited to Council and used to provide replacement street plantings.

The bond shall be lodged in the form of a deposit or bank guarantee and will be refundable following completion of all works relating to the proposed development (recognised by issue of a final Occupation Certificate) and at the end of any maintenance period stipulated by consent conditions, upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b) The applicant has not repaired nor 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.

The Certifying Authority must ensure that bond is lodged with North Sydney Council prior to issue of any Construction Certificate.

B11 Bonds

Council will accept a bank guarantee for the purpose of any security bond imposed by these conditions of consent. Such bank guarantee shall be in a form acceptable to the Council and shall be in place prior to the issuing of any Construction Certificate and shall remain in place until the submission of the certificate required prior to the occupancy of the completed works.

B12 Additional Details - Stone Plinth to Hotel (88 Walker Street)

The stone plinth at the entry level is to be sandstone. Compliance with this condition is to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

B13 Details of Materials, Colours and Finishes

The colour and type of all external materials shall be generally be in accordance with the commercial materials board dated April 2009 and the hotel materials board dated September 2009 and prepared by Rice Daubney Architects.

B14 Construction Management Program – Local Traffic Committee

A Construction Management Program prepared in accordance with Section 23.2 of the North Sydney DCP 2002 shall be submitted and approved in writing by North Sydney Traffic

Committee prior to the issue of any Construction Certificate. Any use of Council property for construction purposes shall require appropriate approvals prior to such work commencing. The program shall specifically address the following matters:

- a) A plan view (min 1:100 scale) of the entire site and surrounding roadways indicating:
 - i. Dedicated temporary construction site driveway entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways and footways,
 - ii. The proposed signage for pedestrian management to comply with AS1742.3 and AS1742.10, including pram ramps;
 - iii. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
 - iv. The locations of any proposed Work Zones in the frontage roadways (to be approved by Council's Traffic Committee),
 - v. Locations of hoardings proposed,
 - 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.
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) A detailed heavy vehicle access route map through the Council area to Arterial Roads. Provision is to be made to ensure through traffic is maintained at all times.
- c) The proposed phases of works on the site, and the expected duration of each phase;
- d) How access to neighbouring properties will be maintained at all times and the proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of process;
- e) The road is not to be used as a waiting area for trucks delivering to or awaiting pick up of materials;
- f) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified engineer and practising structural and shall not involve any permanent or temporary encroachment onto Councils property;
- g) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of "B" class hoardings over footpaths and laneways; and

All traffic control work and excavation, demolition or construction activities shall be undertaken in accordance with the approved Construction Management Plan and any conditions attached to the approved plan. A copy of the approved Construction Management Plan, and any conditions imposed on that plan, shall be kept on the site at all times and made available to any officer of Council upon request.

Notes:

- 2) North Sydney Council's adopted fee for certification of compliance with this condition shall be payable on lodgement, or in any event, prior to the issue of the relevant approval.
- 3) Any use of Council property shall require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 4) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction Management Plan be lodged with Council as early as possible, as a minimum six (6) weeks notice is required to refer items to the Traffic Committee.
- 5) Dependent on the circumstances of the site, Council may request additional information to that detailed above.

B15 Transport Management Plan

A Transport Management Plan for service, delivery and garbage vehicles to the site shall be submitted and approved in writing by North Sydney Traffic Committee prior to the issue of any Construction Certificate.

B16 Car Park

The proposed car park shall satisfy the following requirements:

1. That all vehicles, including delivery vehicles and garbage collection vehicles must enter and exit the site in a forwards direction.
2. The design of the carpark shall comply generally with Australian Standard AS2890.1.
3. The loading dock and access to it shall have a clear height of 3.6m. All other aspects shall generally comply with the Australian Standard AS2890.2.
4. The driveways to the site must be modified such that there are minimum sight lines for pedestrian safety as per Figure 3.3 of AS 2890.1.
5. The location of any boom gate or other vehicular access control for driveway entry to the car park should be located a minimum of 12 metres within the boundary of the property to avoid queuing onto Little Spring Street.
6. That all aspects of the bicycle parking and storage facilities comply with the Australian Standard AS2890.3.
7. That "Stop" signage and "Give Way to Pedestrians" signage be installed at the exit from the car park

Details from an appropriately qualified person showing that these design requirements have been met shall be submitted with the relevant Construction Certificate and approved by the Certifying Authority prior to issuing of the relevant Construction Certificate.

B17 Applicant not to alter existing Public Parking Restrictions without Approval

Changes to existing public parking restrictions are only to be approved via the North Sydney Local Traffic Committee. The Applicant will be held responsible for any breaches of this condition, and will incur any fines associated with enforcement by Council regulatory officers.

B18 Geotechnical Investigation and Report appropriate to works

Prior to issue of the relevant Construction Certificate allowing excavation, the applicant shall have a Geotechnical Engineering investigation and resultant report prepared which addresses (but is not limited to) the following:

- a) The type and extent of substrata formations by the provision of a representative bore hole logs (determined as necessary by the professional) 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 shall be related to Australian Height Datum.
- b) The appropriate means of excavation/shoring in light of point (a) above and the proximity of excavations to adjacent property and/or structures.
- c) Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations shall be identified and ameliorated.
- d) 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 to be provided within the subject site).
- e) Underpinning of adjacent structures as necessary.
- f) The existing groundwater levels in relation to the basement structure, where influenced.
- g) 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 flowpath is constructed, artificial drains such as perimeter drains and through drainage may be utilised.

- h) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including as necessary 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 a consulting geotechnical / hydrogeological engineer with previous experience in such investigations and reporting. It is the responsibility of the engaged geotechnical 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 shall 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:

- No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.
- 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.
- 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.
- 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.
- Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles.
- An adverse impact can be assumed to be crack damage which would be classified as Category 2 or greater damage according to the classification given in Table C1 of AS 2870 – 1996.

The report, satisfying the requirements of this condition, must be provided as part of the supporting documentation lodged with the Certifying Authority for approval of the relevant Construction Certificate application authorising any excavation. The professional recommendations of the report shall be implemented in full during the relevant stages of excavation and construction.

B19 Prepare detailed Excavation Methodology in conjunction with Geotechnical Engineer

Prior to issue of the relevant Construction Certificate referencing excavation, an excavation methodology report must be provided to the Certifying Authority that addresses all geotechnical aspects of the excavation and construction support process. This must be produced in consultation with the geotechnical, structural and excavation contractors and must resolve the method and staging of the excavation, installation of monitoring devices, temporary and permanent support and retention measures, groundwater control (where required), retention of groundwater flow paths and reinstatement. The report must recommend appropriate plant and equipment to minimise vibration and localised damage

from installation of supports and noise. All excavation shall proceed in accordance with the methodology report and the appropriate inspections shall be undertaken the engineering experts at the nominated hold/inspection points.

B20 Use of Rock Anchors

The use of permanent rock anchors to support excavated faces below ground level are not permitted. Where temporary rock anchors are proposed during excavation, an application must be made to Council for temporary anchors pursuant to section 138 of The Roads Act 1993. The use of rock anchors in Council property must not occur until such an application is approved in writing. Council will require specific engineering plans of temporary rock anchor proposals, prepared by a structural/geotechnical engineer. These plans shall show the exact cut face elevational and plan location of anchors and shall show the exact location and depth of services (drainage, water, cable and the like) in relation to the anchors.

A damage bond will be applied on any approval. Where temporary rock anchors are part of the design plans, the Certifying Authority must not issue a Construction Certificate involving any excavation until the formal written approval is obtained from Council, pursuant to the Roads Act 1993.

B21 Obtain Driveway Crossing Permit from Council

Prior to issue of any Construction Certificate referencing building works at or above ground floor level, a driveway crossing and road infrastructure works permit to suit the approved off-street parking and loading facilities shall be obtained from North Sydney Council. In order to obtain the permit, an application must be made to Council on a 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable permit issue. The permit application should be accompanied the engineering plans required for all infrastructure works surrounding the development site, as outlined in the 'Required infrastructure works' condition. The civil design drawings with respect to the driveway crossing and layback shall detail all requirements of Council's Infrastructure specifications.

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

B22 Required Trunk Drainage Diversion Works – submission and approval of plans by Council under Roads Act 1993

Prior to issue of the relevant Construction Certificate and prior to any excavation for the development, the applicant must have construction issue engineering design plans and specifications prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide technical engineering detail and specification for the following drainage infrastructure works that must be completed as part of the development consent:

- Drainage line relocation works in accordance with 'option 5' in the Aurecon Australia Drainage and Flooding Assessment report, reference 29239, revision 3 dated 20 March 2009.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for RoadWorks, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected/proposed by the works, erosion control requirements and traffic management requirements during the course of

works. Detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998). Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.

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

B23 Completion of Drainage Line Relocation prior to any Excavation for Development

All drainage lines to be relocated shall be decommissioned and re-routed to enable the development, prior to commencement of any works affecting those drainage lines. Works shall proceed in accordance with the construction issue plans issued by Council under the Roads Act 1993, and as inspected and signed off by Council engineers.

B24 Stormwater Management and Control Plan Required

Prior to issue of any Construction Certificate for building works, the applicant shall have a site drainage management and control plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:

- a) Show all drainage components in compliance with BCA drainage requirements, Council's Development Control Plan and current Australian Standards and guidelines,
- b) Stormwater runoff and subsoil drainage generated by the approved development must be conveyed in a controlled manner by gravity directly into the (relocated) inground system via construction of suitable drainage inlet infrastructure as approved by Council. The connection point shall ensure no backflow to the site no damage to the public system. The pit shall be modified as required.
- c) New pipelines within Council land shall be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres.
- d) The design and installation of the Rainwater Tanks shall comply with Basix and Sydney Water requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system.
- e) Prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.
- f) Provide subsoil drainage to all necessary areas with pump out facilities as required.

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

B25 Boundary Alignment Levels and Pits

For new kerb and gutter, gutter invert levels must match existing. All new footpaths to be constructed shall be placed at 3% falling from the site boundary to the top of new 150mm high kerb. The property boundary alignment levels must be set to match the Council's requirements and the building plans and specifications issued with the relevant Construction Certificate must demonstrate these levels, unless otherwise approved. All service pits must be constructed with infill pavers.

B26 Work Method Statement

A Work Method Statement is to be prepared by the Contractor for the works in close proximity of the Firehouse Hotel (86 Walker Street) and is to be reviewed and approved by a suitably qualified and experienced heritage architect. Compliance with this condition is to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

B27 Proposed Street Trees

The proposed street tree planting in Denison Street, Spring Street, Little Spring Street and Walker Street shall be resolved through further discussion with Council and that an amended landscape plan including agreed species, shall be submitted and approved by Council prior to the undertaking of the road works.

B28 Services to be Underground

All services associated with the development are to be located underground and works associated with this are to be fully borne by the Proponent, within the development and along all street frontages for the length of the development. Any redundant power poles shall be removed. All energy related works shall be completed to Energy Australia's requirements and details to be provided with any application for Construction Certificate.

B29 Sydney Water

Prior to the issue of a Construction Certificate, a Notice of Requirements under Part 6, Division 9 of the Sydney Water Act 1994 shall be obtained and a copy must be submitted to the Certifying Authority (Council or a private accredited certifier).

B30 Dilapidation Report Damage to Public Infrastructure

The applicant must have a dilapidation survey and report (including photographic record) prepared which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. The developer may be held liable to 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 applicant shall bear the cost of restoration of all infrastructure damaged as a result of the development, and no occupation of the development shall occur until damage is rectified. A copy of the dilapidation report must be lodged with North Sydney Council by the Certifying Authority with submission of any Construction Certificate documentation making reference to demolition works.

B31 Dilapidation Report Private Property (Excavation)

Prior to issue of any Construction Certificate making reference to demolition works, the applicant must submit, for verification by the Certifying Authority, a full dilapidation report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations. This zone is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

This report is to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property. The report shall have regard to protecting the Applicant from possible spurious claims for structural damage and must be verified by all stakeholders as far as practicable.

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 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.

B32 Dilapidation Survey Private Property (Neighbouring Buildings)

A photographic survey of adjoining properties No's. 86 Walker Street (The Firehouse Hotel), 100 Walker Street and the Beau Monde Building located on the northern portion of No. 77-81 Berry Street detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, **SHALL BE** submitted to Council and the Certifying Authority (where Council does not issue the Construction Certificate) prior to the issue of any Construction Certificate making reference to demolition works. This survey is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the 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 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.

B33 Shoring for Adjoining Property

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, shall be submitted to the Certifying Authority for approval with the Construction Certificate. A copy of this documentation must be provided to the Council for record purposes.

B34 Structural Adequacy of Adjoining Properties – Excavation Works

A certificate prepared by an appropriately qualified and practising structural engineer, at no cost to the Council, detailing the structural adequacy of adjoining properties No's. 86 Walker Street (The Firehouse Hotel), 100 Walker Street and the Beau Monde located on the northern portion of No. 77-81 Berry Street and certifying their ability to withstand the proposed excavation and any measures required to be incorporated into the work to ensure that no damage will occur to adjoining properties during the course of the works, shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate making reference to excavation.

B35 Erosion and Sedimentation Control

Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater – Soils & Construction Volume 1 (2004)* by Landcom. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

B36 Waste Management Plan

A Waste Management Plan is to be submitted with the relevant Construction Certificate. The plan should include, but not be limited to: -

- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
- b) The design of the on-site waste storage and recycling area; and
- c) Administrative arrangements for waste and recycling management during the construction process.

B37 Reflectivity

The visible light reflectivity from building materials used on the facades of the buildings shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B38 Wind Impact

The proposed development shall incorporate the recommendations contained in the "Pedestrian Wind Environment Study" prepared by Windtech Consultants Pty Ltd, dated 7 October 2009. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B39 No External Service Ducts

Service ducts shall be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

B40 Work Zone

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

Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.

B41 Number of Car/Motorcycle Spaces

The maximum number of car/motorcycle spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

Car parking allocation	Number
Commercial/Retail car parking spaces	152
Number of commercial/retail car spaces to be disabled spaces	6
Hotel	32
Bus	1x25 seater
Public - cars	42
Public - motorcycle	10
Motorcycle	32

B42 Car Park and Service Vehicle Layout

- (1) The layout of the car park shall comply with Australian Standard AS2890.1: 1993 *Parking Facilities Part 1: Off Street Parking*. All parking spaces are to be linemarked.
- (2) The layout of the service vehicle area shall comply with Australian Standard AS2890.2: 1989 *Off Street Parking Part 2 – Commercial Vehicles Facilities*.
- (3) Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior the issue of the relevant Construction Certificate.

B43 Bicycle Storage and Parking

The bicycle storage area shall accommodate a minimum of one hundred and sixty-one (161) bicycles. In addition, a visitor parking bicycle rail(s) shall be provided within the public domain adjacent to the approved commercial building. Such bicycle storage lockers and bicycle rail shall be designed in accordance with the applicable Australian Standards. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

B44 Cycle Shower Facilities

Shower facilities shall be provided and made accessible without charge to cyclists who work in the building. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

B45 Footpath, Entries and Fire Exit Details

The following details must be designed by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority for approval with the application for Construction Certificate: -

- a) Cross section along the centre-line of each access point to the building including fire exits at a scale of 1:50 to be taken from the centre of the road and shall include all changes of grade both existing and proposed.
- b) The sections shall show all relevant levels and grades (both existing and proposed) including those levels stipulated as boundary levels.

- c) The sections shall show the calculated clearance to the underside of any overhead structure.
- d) A longitudinal section along the boundary line showing how it is intended to match the internal levels of the building with the boundary footpath levels. The footpath shall be designed (at a single straight grade of 3% falling to top of kerb) so that it is smooth without showing signs of dipping or rising particularly at entrances.
- e) A longitudinal section along the gutter and kerb line extending 5 metres past property lines showing transitions.

All details are to be certified as complying with the Building Code of Australia (BCA) and Council's standard footpath specifications. Written concurrence confirming there will be no change to existing boundary and footpath levels is to be provided to North Sydney Council, prior to issue of a Construction Certificate.

B46 Garbage and Recycling Facilities

An appropriate area shall 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 shall be met:

- a) All internal walls of the storage area shall be rendered to a smooth surface, covered at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
- b) Include provision for the separation and storage in appropriate categories of material suitable for recycling;
- c) The storage area shall be adequately screened from the street, with the entrance to the enclosures no more than 2m from the street boundary of the property;
- d) If a storage facility is to be provided at another suitable location within the building, a complementary garbage bin holding bay shall be provided no more than 2m from the street boundary of the property;
- e) Garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and
- f) Garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

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

Note: The applicant may wish to discuss bin storage requirements and location with Council prior to finalisation of the required detail, and obtain a copy of Council's Waste Handling Guide for reference purposes.

B47 Noise from Plant

A certificate from an Acoustic Engineer, who is a member or eligible to be a member of the Association of Australian Acoustical Consultants, must be submitted to the Certifying Authority certifying that the noise from plant and mechanical equipment will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm to 6.00 am) when measured at the boundary of the property, and will comply with the Environment Protection Authority Industrial Noise Policy.

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

B48 Mechanical Exhaust Ventilation

A statement from an appropriately qualified and practising Mechanical Engineer is required detailing how the exhaust ventilation system will be installed in accordance with the applicable Australian Standard. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

B49 Disabled Access

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

B50 Outdoor Lighting

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B51 Construction Management Plan

Prior to the issue of a Construction Certificate, a Construction Management Plan shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work,
- (2) contact details of site manager,
- (3) traffic management (see also B54 below),
- (4) noise and vibration management (see also B55 below),
- (5) waste management (see also B39 above),
- (6) erosion and sediment control (see also B38),
- (7) flora and fauna management, and

The Proponent shall submit a copy of the approved plan to the Department and Council.

B52 Traffic & Pedestrian Management Plan

Prior to the issue of a Construction Certificate, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes,
- (4) pedestrian and traffic management methods, and

The Proponent shall submit a copy of the approved plan to the Department and Council.

B53 Noise and Vibration Management Plan

Prior to the issue of a Construction Certificate, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) Identification of the specific activities that will be carried out and associated noise sources,
- (2) Identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment,
- (3) The construction noise objective specified in the conditions of this approval,
- (4) The construction vibration criteria specified in the conditions of this approval,
- (5) Determination of appropriate noise and vibration objectives for each identified sensitive receiver,
- (6) Noise and vibration monitoring, reporting and response procedures,
- (7) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- (8) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- (9) Justification of any proposed activities outside the construction hours specified in the conditions of this approval.
- (10) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
- (11) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
- (12) Contingency plans to be implemented in the event of non-compliances and/or noise complaints,

The Proponent shall submit a copy of the approved plan to the Department and Council.

B54 Compliance Report

Prior to the issue of a Construction Certificate, the Proponent, or any party acting upon this approval, shall submit to the Private Certifying Authority a report addressing compliance with all relevant conditions of this Part.

B55 Green Star/NABHERS

The Proponent shall ensure the office building and hotel building achieve the relevant star rating as indicated in the Environmentally Sustainable Development (ESD) Report prepared by Cundall dated March 2009. The Proponent shall submit to the Certifying Authority a statement demonstrating compliance with the requirements of this condition.

END OF SECTION

PART C - PRIOR TO COMMENCEMENT OF WORKS

C1 Commencement of Works

Demolition, excavation, clearing, construction, subdivision or associated activities must not commence until a Construction Certificate has been issued for the proposed development pursuant to the *Environmental Planning and Assessment Act, 1979*.

C2 Commencement

The erection of a building / subdivision works in accordance with this development consent must not be commenced until:

- a) Detailed plans and specifications have been endorsed with a Construction Certificate (by the consent authority or an accredited certifier), and
- b) The person having benefit of the Development Consent has appointed a 'principal certifying authority' (PCA), and has notified the consent authority and the Council (if Council is not the consent authority) of the appointment, and
- c) The person having benefit of the development consent has given at least 2 days notice to the Council of their intention to commence the development works the subject of this consent.

C3 Statement of Compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 *The Demolition of Structures*. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance shall be submitted to the satisfaction of the PCA prior to the commencement of works.

C4 Notice to be Given Prior to Excavation

The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site.

C5 24 Hour Contact Telephone Number

Prior to the commencement of the works, the Proponent shall forward to Department and the Council a 24 hour telephone number to be operated for the duration of demolition, excavation and all construction works. The Proponent shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

C6 Protection of Street Trees

Street trees that are to be specifically nominated to be retained by notation or condition as a requirement of development consent shall be maintained and protected during demolition, excavation and construction on the site. Protection methods shall be provided to the Principal Certifying Authority by an appropriately qualified person prior to commencement of any works on the site, and any recommendations (or methods) to ensure the protection of trees shall be undertaken for the duration of works on the site.

C7 Public Liability Insurance – Works on Public Land

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

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

C8 Notification of New Address Developments

Prior to the commencement of any building works, the Private Certifying Authority must ensure that the person acting upon this consent has complied with the following:

- (a) Apply to North Sydney Council and receive written confirmation of the allocated street address. These details will be recorded in Council records and must be displayed at the property in accordance with the provisions of the applicable Australian Standard relating to rural and urban addressing.

C9 Removal of Hazardous Materials

All hazardous materials shall be removed from the site and shall be disposed of at an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines, prior to the commencement of any building works. Details demonstrating compliance with the relevant legislative requirements, particularly the method of containment and control of emission of fibres to the air, are to be submitted to the satisfaction of the PCA prior to the removal of any hazardous materials.

C10 Site Audit

Prior to the commencement of building works, a Site Audit conducted by a suitably qualified person shall be undertaken to ascertain that all identified hazardous materials have been removed from the site and shall be submitted to the PCA.

C11 Compliance Report

Prior to the commencement of works, the Proponent, or any party acting upon this approval, shall submit to the Private Certifying Authority a report addressing compliance with all relevant conditions of this Part.

C12 Remediation of Land

The Proponent shall implement all recommendations contained within the Phase 1 Environmental Site Assessment prepared by Hyder dated 9 February 2009. The Proponent shall submit to the Certifying Authority a statement demonstrating compliance with the requirements of this condition prior to the issue of the relevant Construction Certificate.

END OF SECTION

PART D - DURING CONSTRUCTION

D1 Construction Hours

Building construction shall be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works shall be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. For the purposes of this condition:

- i. "Building construction" means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.
- ii. "Demolition works" means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste

and the unloading of plant or machinery.

- iii. "Excavation work" means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

The builder and excavator shall display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

D2 Out of Hours Work Permits

Where it is necessary for works to occur outside those hours allowed by these conditions, approval for such will be subject to issue of a permit on each occasion from Council's Customer Services Centre. Such occurrence shall be limited to two occasions per calendar month and shall only be approved to avoid damage to property, or if public safety or convenience is at risk.

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) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.
- 3) It is recommended that applications for permits be lodged as early as possible to allow sufficient time for determination by Council and avoid disruption or delay due to conflicting priorities.

D3 Erosion and Sediment Control

All erosion and sediment control measures, as designed in accordance with Condition B38, are to be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

D4 Sediment and Erosion Control Signage

A durable sign, which is available from Council, shall be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained.

D5 Temporary Disposal of Stormwater Runoff

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 shall be to the satisfaction of the Principal Certifying Authority.

D6 Structures Clear of Drainage Easements

It is the full responsibility of the Applicant 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 Certifying Authority and Council 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.

D7 *Setting Out of Structures*

The buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the PCA certifying that structural works are in accordance with the approved development application.

D8 *Approved Plans to be On-site*

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

D9 *Site Notice*

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Principal Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (4) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

D10 *External Lighting*

External Lighting shall be installed and maintained to comply with AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Upon installation of lighting, but before it is finally commissioned, the Proponent shall submit to the Certifying Authority evidence from an independent qualified practitioner demonstrating compliance in accordance with this condition.

D11 *Dust Control Measures*

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
- (2) Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
- (3) All materials shall be stored or stockpiled at the best locations,
- (4) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
- (5) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (6) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
- (7) Gates shall be closed between vehicle movements and shall be fitted with shade cloth,
- (8) Cleaning of footpaths and roadways shall be carried out regularly,
- (9) Materials must not be burnt on the site, and
- (10) Vehicles entering and leaving the site with soil or fill material must be covered.

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

D12 Compliance

All works shall be undertaken in accordance with the approved Traffic and Pedestrian Management Plan, the approved Construction Management Plan and the approved Noise and Vibration Management Plan to minimise adverse effects experienced on any adjoining land.

D13 Geotechnical Stability during Works

A contractor with specialist excavation experience must undertake the excavations, shoring and underpinning for the development and suitably qualified and consulting geotechnical/structural engineers must oversee the excavation, shoring and underpinning procedure at the appropriate hold points. Geotechnical aspects of the development work, namely:

- Appropriate excavation method and vibration control;
- Support and retention of excavated faces/foundations;
- Hydrogeological considerations,

Must be undertaken in accordance with the recommendations of the Geotechnical Report and the subsequent professional inspections necessary during the excavations, shoring and underpinning phases. Approval must be obtained from all affected property owners, including North Sydney Council where anchors are proposed below adjacent private or public property. The overriding principles for the geotechnical aspects of the work are as follows:

- No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to the existing or adjoining property and/or infrastructure.
- Vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the excavations of the development.
- Appropriate support and retention systems are to be implemented and suitable designs prepared to allow the proposed development to safely proceed without damage to adjacent Council infrastructure and neighbouring private property.

D14 Council Inspection of Public Infrastructure Works

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

- (a) After placement of formwork, prior to pouring of concrete
- (b) Prior to covering of drainage connections to the inground Council system.
- (c) Completion of works.

Further, all works shall proceed and be inspected in accordance with Roads Act approvals 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.

D15 Services

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

D16 Northern Wall of the Firehouse Hotel (No.86 Walker Street)

Conservation of the exterior finish and colour of the northern wall of the Firehouse Hotel is to be undertaken in consultation with a suitably experienced and qualified heritage consultant after demolition has occurred. The consultant is to ensure that the Firehouse northern wall is sympathetically conserved and that the interface of the Firehouse Hotel and the proposed glazed podium respects the heritage significance of the Firehouse Hotel. Written compliance with this condition from the heritage consultant is to be provided to the certifying authority. All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent and is to be undertaken only with the consent of the owner/s of the Firehouse Hotel (No.86 Walker Street).

D17 Cigarette Butt Receptacle

A cigarette butt receptacle is to be provided on the site for the duration of excavation/demolition/construction process, for convenient use of site workers.

D18 Parking Restrictions

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 are only to be approved via the North Sydney Local Traffic Committee. The Applicant will be held responsible for any breaches of this condition, and will incur any fines associated with enforcement by Council regulatory officers.

D19 Road Reserve Safety

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. Construction materials and plant must not be stored in the road reserve without approval. 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 Applicant 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.

D20 Progress Survey

In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, shall 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) shall be provided to the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveals discrepancies between the approved plans and the proposed works.

D21 Applicant's Cost of Work on Council Property

The applicant shall bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

D22 No Removal of Trees on Public Property

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

D23 Recycling of Concrete

Any existing concrete of suitable volume, which is not used as fill, shall be taken to a concrete recycling works and evidence that this has occurred shall be provided to the PCA.

D24 Compliance Report

The Proponent, or any party acting upon this approval, shall, for the duration of construction period, submit to the Department a three monthly report addressing compliance with all relevant conditions of this Part.

D25 Anti Graffiti

All ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place is to be removed within 24 hours.

D26 Special Permits

Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely on the property. The applicant, owner or builder must apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property pursuant to S138 of the Roads Act. A minimum of forty-eight (48) hours notice is required for any permit:

1) On-street mobile plant

Eg. 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 applicant'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

The applicant's attention is drawn to the existing kerbside restrictions adjacent to the development. Should the applicant require alteration of existing kerbside restrictions, or the provision of a construction zone, the appropriate application must be made and the fee paid. Applicants should note that the alternatives of 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.

D27 Site Amenities and Facilities

The provision and maintenance of amenities, at a site where work involved in the erection and demolition of a building is being carried out, must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements. The type of work place determines the type of amenities required.

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

D28 Health and Safety

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

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

D29 Plant & Equipment Kept Within Site

All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, shall 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 shall 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.

D30 Waste Disposal

All records demonstrating the lawful disposal of waste will be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council, the Department of Environment, Climate Change and Water or WorkCover NSW.

D31 Vehicular Crossing

All new vehicular crossings are to be constructed in accordance with Council's specifications.

D32 Construction of Kerb & Gutter

The Proponent shall construct new kerb and gutter and associated roadwork/pavement unless otherwise determined by Council in accordance with Council's specification for the full frontage of the development

D33 Mandatory Critical Stage Inspection

Building work must be inspected by the PCA on the mandatory critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed PCA.

D34 Excavation/Demolition

- 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) 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.
- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

D35 Support for Neighbouring Buildings

- 1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:-
 - a) must preserve and protect the building from damage;
 - b) if necessary, must underpin and support the adjoining building in an approved manner (Subject to adjoining owner's consent); and
 - c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner

of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- 2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- 3) In this clause, allotment of land includes a public road and any other public place.

D36 Protection of Public Places

- 1) If the work involved in the erection or demolition of a building:-
 - a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - b) building involves the enclosure of a public place, a hoarding and site fencing must be erected between the work site and the public place.
- 2) 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.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- 5) 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.

END OF SECTION

PART E - PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

E1 Occupation Certificate to be Submitted

An Occupation Certificate must be obtained from the Certifying Authority and a copy submitted to the Department and Council prior to the commencement of occupation or use of the building.

The following documents should be forwarded to the Department and council within two (2) days of the date of the Certificate being determined:

- (1) A copy of the determination;
- (2) Copies of any documents that were lodged with the Occupation Certificate application;
- (3) A copy of Occupation Certificate, if it was issued;
- (4) A copy of the record of all critical stage inspections and any other inspection required
- (5) by the PCA;
- (6) A copy of any missed inspections; and
- (7) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

E2 Certification and Works as Executed - Drainage Works

Prior to issue of any Occupation Certificate the Applicant shall obtain a certification from a qualified and experienced engineer that the site drainage system is installed and operating as designed in the plans and specifications referenced by the Construction Certificate. In addition, a registered surveyor must provide a works-as executed drawing showing the as built levels at all pit inlet and outlet inverts, as well as the connection point to the inground pit in Willoughby Street.

E3 Certification of Geotechnical Excavation, Shoring and Underpinning Works

An appropriately qualified and practicing Geotechnical Engineer, in conjunction with the designing structural engineer, shall provide certification to the Principal Certifying Authority that the geotechnical excavation, shoring and underpinning process was conducted with the necessary geotechnical and structural input at the appropriate hold points, and in accordance with the submitted geotechnical report. The applicant shall, upon completion of the development works, submit the copy of the aforementioned letter of certification to enable issue of the final Occupation Certificate by the PCA.

E4 Certification of Civil Works in Road Reserve

An appropriately qualified and practicing Civil Engineer shall provide certification to Council and to the Principal Certifying Authority that the vehicular access structure and associated works, and road works were constructed in accordance with this consent and are structurally sound. The applicant shall, upon completion of the development works and prior to the issue of a final Occupation Certificate, submit the copy of the aforementioned letter of certification.

E5 Public Infrastructure Repair and Completion of Works

Prior to issue of any Occupation Certificate all required works in the road reserve must be completed in full and any damaged public infrastructure caused as a result of construction works on the subject site (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's engineers at no cost to Council.

E6 Public Carparking Signage

Appropriate signage, clearly legible from the street, shall be permanently displayed to indicate that public car parking is available on the site. Details of the proposed signage and location are to be submitted to and approved by Council and the signage erected prior to the release of the Occupation Certificate.

E7 Covenant for Windows on Southern Elevation of No.88 Walker Street

A covenant pursuant to the provisions of Part 6, Division 4 of the Conveyancing Act shall be placed on title indicating that the windows on or near the southern boundary of No.88 Walker Street are not protected from any redevelopment of the adjoining property at No.86 Walker Street that may be allowed to build to the boundary and these windows could be blocked off. North Sydney Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Evidence of the lodgement of the instrument referred to in this condition is to be provided to Council with a copy of the Occupation Certificate.

E8 Green Travel Plan

A workplace green travel plan is to be developed to highlight to staff the available public and alternative transport options for travelling to the site. This is to be submitted to Council for

approval by the Director of Engineering and Property Services prior to the issue of the Occupation Certificate.

E9 Public Art

The applicant shall submit an Arts Plan for the proposed development to Council's Arts and Culture Officer for approval.

The applicant shall consult with Council's Arts and Culture Officer in the design and execution stages of the Art Plan. The Artwork shall be installed in accordance with the approved Art Plan prior to completion and issue of any interim Occupation Certificate for either of the two approved buildings.

E10 Infrastructure Repair and Completion of Works

Prior to issue of any Occupation Certificate all required works in the road reserve must be completed in full and any damaged public infrastructure caused as a result of construction works on the subject site (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.

E11 Line Marking

226 off-street car-parking spaces and 42 motorcycle parking spaces, including 42 public parking spaces, together with access driveways, shall be constructed, paved, line marked and signposted in accordance with the approved development plans, appropriate Australian Standards and industry best practice as appropriate. The plans shall also nominate the allocation of parking spaces for specific purposes as required by conditions of this consent. A certificate prepared and certified by an appropriately qualified and practising Civil Engineer for the construction of these areas in accordance with this requirement shall be submitted to the Certifying Authority prior to issue of the final Occupation Certificate.

E12 Access for People with Disabilities

Prior to issue of any Occupation Certificate, provision shall be made for access and facilities for persons with a disability in accordance with the Building Code of Australia.

E13 Noise from Plant

Prior to issue of the final Occupation Certificate, a certificate from an Acoustic Engineer is to be submitted to the Certifying Authority certifying that the noise from plant and mechanical equipment will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm to 6.00 am) when measured at the boundary of the property, and will comply with the Environment Protection Authority Industrial Noise Policy.

E14 Certification for Mechanical Exhaust Ventilation

Certification, from an appropriately qualified and practising Mechanical Engineer, is to be submitted to the Principal Certifying Authority, detailing that the exhaust ventilation system has been installed in accordance with the applicable Australian Standard, prior to completion and the issue of any Occupation Certificate.

E15 Damage to Adjoining Properties

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.

On completion of the works and prior to the issue of a final Occupation Certificate, a certificate is to be prepared to the effect that no damage has resulted to adjoining premises, and is to be provided to Council and the Principal Certifying Authority.

Alternatively, if damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to the issue of a final Occupation Certificate.

E16 Utility Services

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

E17 Regulated Systems- Air Handling

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

- 1) The Building Code of Australia;
- 2) The applicable Australian Standards;
- 3) The Public Health Act;
- 4) Public Health (Microbial Control) Regulation; and
- 5) Work Cover Authority.

The regulated system must be registered with Council prior to commissioning the system and prior to issue of the final Occupation Certificate.

E18 Basement Pump-Out Maintenance

Prior to issue of the final Occupation Certificate a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority to be included with the Occupation Certificate documentation. The regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.

E19 Notification of New Address Developments

Prior to any Occupation Certificate being issued for the building works, the person acting upon this consent must notify Australia Post of the address(es) as issued by Council and the location in plan form of any secondary, internal addresses, in relation to built public roads. To find your nearest Australia Post Delivery Facility contact 13 13 18.

E20 Asbestos Clearance Certificate

Prior to issuing any Occupation Certificate 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 the Principal Certifying Authority (and a copy forwarded to Council) for the building work which certifies 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.environment.nsw.gov.au

E21 Certification of Tree Condition

Prior to the issue of a final Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) shall be submitted to the Principal Certifying Authority, detailing the health of the street trees to be retained.

The report shall detail the condition and health of the trees and shall certify that the trees have not been significantly damaged during the works on site, and have reasonable prospects for survival.

E22 Vehicle Egress Signs

Prior to the issue of an Occupation Certificate, appropriate sign(s) shall 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.

E23 Disposal Information

Upon completion of works and prior to occupation, the person entitled to act on this consent shall provide to Council's Open Space and Environmental Services Department a hard copy of the following information:

- (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.

E24 Required Tree Planting

Trees in accordance with the revised schedule agreed with Council under the terms of condition B30 (Proposed Street Trees) shall be planted prior to the issue of the final Occupation Certificate required on completion of works.

The installation of such trees, their current health and their prospects for future survival shall be certified upon completion by an appropriately qualified horticulturalist.

END OF SECTION

PART G - POST OCCUPATION

G1 Treatment of Vehicular Entry

In order to improve the appearance of the building when viewed from the street, any part of the walls and ceilings of vehicular entry points that are visible from the street shall be finished in high quality materials and no service ducts or pipes are to be visible.

G2 Fire Safety Certificate

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of any Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the approval authority and Council by the PCA.

G3 Annual Fire Safety Statement

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the approval authority initial Fire Safety Certificate is received.

G4 Structural Inspection Certificate

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of any Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:

- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

G5 Road Damage

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Proponent/developer prior to the issue of any Occupation Certificate.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

G6 Post-construction Dilapidation Report

- (1) The Proponent shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works. This report to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads.
- (2) The report is to be submitted to the PCA. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the PCA must:
 - (a) compare the post-construction dilapidation report with the pre-construction dilapidation report required by Condition B11, and
 - (b) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
- (3) A copy of this report is to be forwarded to the Director, Metropolitan Projects of the Department and Council.

G7 Annual Fire Safety Certification

The owner of the building shall certify to Council every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

G8 Loading and Unloading

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.

G9 Unobstructed Driveways and Parking Areas

All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

G10 Noise Control – Plant and Machinery

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not exceed 5dB(A) above the background noise level when measured at the boundary of the site.

G11 Public Way to be Unobstructed

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

G12 Allocation of Spaces

Two hundred and twenty-six (226) carparking spaces and forty-two motorcycle spaces shall be provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:

152	car	Commercial/retail tenant
32	car	Hotel spaces
32	motorcycle	Commercial/retail tenant
42	car	Public
10	motorcycle	Public

Such spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Carparking provided shall only be used in conjunction with the uses contained within the development and in the case of Strata subdivision, shall be individually allocated to residential units. Under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building.

G13 Separate Occupation

The specific commercial and retail use(s) or occupation of the premises shall be the subject of further development approval for such use or occupation from North Sydney Council.

G14 Minimum Headroom for Car Parking

Minimum headroom of 2.2m shall be provided over all car-parking areas.

G15 Waste Collection

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

G16 Delivery Hours

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

G17 Roof Top Lighting

An 11pm to dawn curfew on lighting of rooftop or podium level areas shall apply. All lighting shall be directed away from any adjacent dwelling.

END OF SECTION**ADVISORY NOTES****AN1 Replacement Pipeline**

Sydney Water believes that it may be feasible to abandon the existing pipeline and construct a replacement pipeline along Spring Street. The Proponent will need to undertake a detailed investigation of the stormwater and overland flow system upstream, downstream and in the immediate vicinity of the proposed development. These investigations need to be done before preliminary concept agreement to the proposed deviation could be given. The Proponent will be required to fund all costs associated with the deviation. Subject to the outcomes of this investigation, Sydney Water may require the development to have an On-site Stormwater Detention system.

AN2 Sydney Water

An application shall be made to Sydney Water for a Certificate under Part 6, Division 9, Section 73 of the *Sydney Water Act, 1994* (Compliance Certificate). Evidence that a Compliance Certificate has been applied for (i.e. Notice of Requirements) shall be produced to the satisfaction of the PCA prior to the issue of a Construction Certificate. The Section 73 Certificate shall be submitted to the PCA prior to the occupation of the development or release of the linen plan.

AN3 Compliance Certificate, Water Supply Authority Act, 2000

Prior to issuing a subdivision certificate, a Compliance Certificate shall be provided to the approval authority showing that the development has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

The developer shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the certifying authority before release of the Construction Certificate,
- (2) the approval authority before the release of the subdivision certificate, and
- (3) the principal certifying authority prior to occupation.

AN4 Requirements of Public Authorities for Connection to Services

The Proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Proponent. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

AN5 Excavation – Aboriginal Objects

Should any Aboriginal objects be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the National Parks and Wildlife Service shall be informed in accordance with Section 91 of the *National Parks and Wildlife Act, 1974*.

AN6 Excavation – Historical Relics

Should any historical relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the Heritage Council of NSW shall be informed in accordance with Section 146 of the *Heritage Act, 1977*.

AN7 Disability Discrimination Act

This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The Proponent/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia.