

28 February 2025

C/o Andy Nixey
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Dear Sir,

Application Number SSD-76855210

Proposal Concept development application for a mixed-use development, including in-fill affordable housing

Application Number SSD-77608714

Proposal Detailed development application for demolition, early works, excavation, site remediation and construction of a 17 storey mixed-use development with in-fill affordable housing

Location 136-148 New South Head Road, Edgecliff

Thank you for your email dated 30 January 2025, inviting Woollahra Council to provide advice on the two abovementioned State Significant Development (SSD) applications.

It is understood that the concept and detail SSDs involve a mixed-use development with in-fill affordable housing (the proposal) at 136-148 New South Head Road, Edgecliff (the site) comprising of:

1. A concept development application for a mixed-use development, including in-fill affordable housing comprising:
 - the retention and restoration of the existing heritage item at 136 New South Head Road,
 - demolition of the existing buildings at 138 and 140-148 New South Head Road,
 - a building envelope with a maximum height of 17 storeys accommodating commercial and residential apartments, including in-fill affordable housing
 - vehicular access from Darling Point Road,
 - associated tree removal, landscaping and public domain works, including a publicly accessible through-site link, and
 - utility and service augmentation.
2. A detailed development application for demolition, early works, excavation, site remediation, and construction of a 17 storey mixed use development with in-fill affordable housing comprising:
 - retention, restoration and fit-out of the existing heritage item at 136 New South Head Road,

- a commercial podium and above ground car park,
- a residential tower with 62 apartments, including 20 affordable housing apartments,
- vehicular access from Darling Point Road,
- associated tree removal, landscaping and public domain works, including a publicly accessible through-site link, and
- utility and service augmentation.

Council understands that a fundamental policy objective of the NSW government is to deliver more housing across Sydney, with a focus on building housing within centres near railway stations to create vibrant and walkable communities.

In April 2024, Council adopted the Edgecliff Commercial Centre Strategy (the ECC Strategy), following a strategic review of the planning controls for the Edgecliff Commercial Centre (ECC), to provide a clear and coordinated planning approach to facilitate uplift and revitalisation of the ECC, which aligns with the NSW government's objective to deliver more housing. A planning proposal that implements the recommendations of the ECC Strategy has been prepared but is yet to be publicly exhibited.

In May 2024, Council introduced site specific local provisions for the site to allow a higher density of development. Subject to criteria being met, the site specific controls increase the maximum building height from 14.5m to 46m and the floor space ratio (FSR) from 1.5:1 to 5.1:1. The site specific provisions align with the NSW government's policy objective.

The proposal seeks to apply the site specific height and FSR provisions under clause 6.11 of the Woollahra Local Environmental Plan 2014 (WLEP) and utilise the 30% FSR and building height bonuses afforded by Chapter 2 of the State Environmental Planning Policy (Housing) 2021 (Housing SEPP) as 15% of the total floor space is affordable housing.

Council staff have reviewed both Environmental Impact Statements (EISs) and the supporting appendices and advise that:

- the proposal fails to exhibit design excellence in accordance with the mandatory considerations under clause 6.11(7) of the WLEP, which must be satisfied to unlock the higher density for the site permitted under clause 6.11(3),
- the proposal fails to establish a scale and design that is compatible with the desired future character of the precinct, which is a consideration under section 20(3) (Design requirements) of the Housing SEPP,
- the proposal is contrary to the underlying principles of the Housing SEPP, which aim to reinforce the importance of designing housing in a way that reflects and enhances locality (Chapter 1, section 3 (Principles of Policy) (f),
- the EISs make reference to the Edgecliff Commercial Centre Strategy, which is not a matter for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979,
- the proposed wind mitigation measures to the penthouse terrace, which are required under the Pedestrian Wind Environment Study, appear to breach the 59.8m height standard and a clause 4.6 variation has not been provided in accordance with clause 35B of the Environmental Planning and Assessment Regulation,

- the clause 4.6 variation to the floor space ratio development standard does not satisfy clause 4.6(3) of the WLEP,
- Council's Traffic Engineers raise serious concerns that the development will result in adverse traffic impacts in Darling Point Road, near its intersection with New South Head Road, and
- the design should be amended in accordance with the recommendations contained within Council staff's detailed advice.

Detailed advice is provided under the headings contained in the following table:

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A. Conditions

In the event that the proposal is approved, it is recommended that the conditions of consent provided, without prejudice to Council's advice, at Annexure 1 are included as part of any development consent.

B. Relevant background

A planning proposal (PP-2022-1646) was gazetted in May 2024 for the site, which introduced clause 6.11, a site-specific local provision under Part 6 Additional local

provisions of the WLEP, which permits a maximum building height of 46m and a floor space ratio FSR of 5:1, subject to satisfying certain considerations.

In February 2021, prior to the planning proposal, a Pre-Application was lodged with Council, which proposed a maximum building height of 66m and an FSR of 6:1. The Pre-Application advice concluded that a review of the planning controls for the site was supported, but the proposed increase in both maximum building height and FSR were significant in relation to the site and its context, creating a building envelope with excessive height and bulk. Council staff advised that the proposed amendments could not be justified on either strategic or site-specific merits.

Council staff recommended that the maximum building height be reduced to 12 storeys and the FSR be reduced to between 4.5:1 to 5:1, with consideration given to:

- creating an appropriate interface with the heritage-listed item at 136 New South Head Road,
- establishing a transition in scale from the existing two to nine storey building heights along New South Head Road, and
- responding to the desired future character.

C. Statutory context

Woollahra Local Environmental Plan 2014 (WLEP)

The site is subject to site-specific planning controls under clause 6.11 of the WLEP, which permits an increase to the maximum:

- building height from 14.5m (4 storeys) to 46m (12 storeys), and
- FSR from 1.5:1 to 5:1.

State Environmental Planning Policy (Housing) 2021 (Housing SEPP)

In addition to the site-specific height and FSR provisions under clause 6.11 of the WLEP, the proposal seeks to utilise the 30% FSR and building height bonuses afforded by Chapter 2 of the Housing SEPP, as 15% of the total floor space is affordable housing. This equates to a maximum building height of 59.8m (17 storeys) and a maximum FSR of 6.5:1. The Environmental Impact Statements (EISs) identify that the SSD applications propose a maximum building height of 59.8m and a maximum FSR of 6.65:1.

Woollahra Development Control Plan 2015 (WDCP)

The Woollahra Development Control Plan 2015 (WDCP) does not apply to the SSD applications pursuant to Section 2.10 of the Planning Systems State Environmental Planning Policy (Planning Systems SEPP).

However, for some matters the EISs have had regard to the WDCP, and for such matters, this advice has adopted the same approach.

Edgecliff Commercial Centre Strategy (ECC Strategy)

In April 2024, Council adopted the ECC Strategy following a strategic review of the planning controls for the Edgecliff Commercial Centre (ECC).

Whilst the site is located within the ECC, the ECC Strategy is not a matter for consideration under section 4.15 of the Act as the planning proposal, to amend controls for the ECC under the WLEP to implement the recommendations of the ECC Strategy, has not been the subject of public consultation. Accordingly, there is no certainty and imminence of the planning proposal coming into force.

D. Clause 6.11 of the Woollahra Local Environmental Plan 2014 (WLEP)

The site is subject to site-specific planning controls under clause 6.11 of the WLEP as set out above.

The objectives of clause 6.11 aim to allow a higher density of development, ensure development reflects the desired character of the area and exhibits design excellence, and provide non-residential floor space and diverse housing.

The higher density is subject to the development satisfying a number of criteria. Clause 6.11(3)(b) provides that for the higher FSR and height to apply, the development must be the result of a single development application. The proposal comprises of two SSD development applications and therefore the criteria, under clause 6.11(3)(b), to unlock the higher density has not been met.

In accordance with clause 6.11(6)(c), development consent must not be granted under clause 6.11 unless the consent authority is satisfied the development exhibits design excellence. Clause 6.11 (7) specifies the mandatory matters the consent authority must consider when determining whether the development exhibits design excellence.

The proposal fails to exhibit design excellence in accordance with the mandatory matters under clause 6.11(7), as discussed in the following section.

E. Design excellence

Clause 6.11(7) of the WLEP requires the following matters (shown in bold italics) to be considered when determining whether the proposal exhibits design excellence.

Council's Urban Design Consultant has reviewed each consideration and provides the following advice:

a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved

A podium and tower form is appropriate for the building type (to enable apartment amenity in accordance with the ADG) and is appropriate in an urban location where there is a need to mitigate the impact of bulk and scale and ensure amenity in the nearby area.

The four storey podium at the New South Head Road frontage is appropriate to the scale of the road and the urban character of the precinct, and is consistent with the desired future character. The four storey podium represents a comfortable pedestrian scale and fits with the wall height of 164 New South Head Road (adjoining to the east) providing compatibility at street level with the context.

The proposed materials (brick, concrete, steel and glass) and colours (grey, brown, green and blue-green) are modern but relatively muted. The palette is cohesive and

reflects natural colours and textures that are non-intrusive and compatible in the context. The proposed facades include some articulation that reflects the different uses within the building and exposes some structural elements.

While there is a substantial amount of glazing, much of it facing to the west, the EIS indicates the reflectivity will be below 20%. This needs to be ensured, as reflectivity could affect motorists/pedestrians on New South Head Road, and nearby building occupants.

Notwithstanding the above, the proposed height, bulk and scale is considered to be excessive, and therefore, do not meet design excellence criteria or consistency with the desired future character.

No buildings within the precinct are near the height of the proposal. The proposal would result in another individually tall building that dwarfs others around it and dominates the ridge/skyline in Edgecliff (noting that Ranelagh [3-17 Darling Point Road] is defined as an intrusive building and not to be used as a benchmark, and the Eastpoint residential tower [180 Ocean Street] is within the higher density local centre).

The large floorplate and minimal podium setbacks, make it difficult to delineate the tower from the podium, and inhibits compliance with ADG design criteria regarding solar access, natural ventilation, separation, deep soil and landscaping.

No setback or spatial articulation in the south western façade (the curtain wall that is cantilevered above the heritage item) contributes to the apparent bulk of the tower, particularly due to its sharp edges.

More setback (particularly above the podium) and more façade articulation, could reduce the apparent bulk, enhance the proposal's suitability for the site (including ADG compliance), and enhance the proposal's compatibility within the precinct and existing development, including the heritage item to be retained on site.

Given the proposed height and minimal setbacks (particularly above the podium), the proposal presents significantly more bulk than that of existing and future development within the precinct, and therefore, is not consistent with the precinct's desired future character.

The proposed height, bulk and scale, of the tower in particular, has potential negative impacts, such as being visually overwhelming to adjacent lower scale development, to people in that development, to people on the footpaths in the vicinity, and when viewed from wider viewpoints. There are also negative amenity impacts regarding solar access, natural ventilation, deep soil and landscape.

The proposed scale is significantly greater than the scale for the site in Clause 6.11 of the Woollahra LEP 2014 and the planning proposal that supported the clause. That height, 12 storeys, is considered the maximum acceptable increase in height given the precinct context of lower heights and its desired future character. The apparent bulk in that planning proposal is reduced through greater setbacks, where significant variations in setbacks provide for more articulated facades. The increase in height by 5 storeys is well beyond what would be considered reasonable in a variation of controls under Section 4.6 of the EP&A Act and is more relevantly considered through a planning proposal.

While the ECC Strategy is not a matter for consideration as set out above, if it were, the proposed height, bulk and scale is significantly greater than that recommended for other similar sites in proximity to Edgecliff Station (10-12 storeys). The ECC Strategy approach is based on urban design principles, reflects physical constraints and aims to minimise negative impacts. The ECC Strategy seeks to enable a modest scale of uplift that will maintain the ECC's local centre status (under Sydney's centres hierarchy) and recognises larger scale buildings are more appropriate in larger centres such as Chatswood and St Leonards.

The proposal is not consistent with the intent of the ECC Strategy to maintain a consistent and lower scale built form, with one taller building (maximum height of 26 storeys) predominant and landmarking the central point of the ECC (on 203-233 New South Head Road). The proposal introduces another taller building in the precinct that would reduce the dominance of the central landmark building and add confusion as to the hierarchy of buildings in the precinct (noting that Ranelagh is identified as an intrusive building and is not to be used as a benchmark).

The proposed setbacks do not entirely comply with the ADG specified minimums for visual privacy, specifically to the eastern boundary with 164 and 166 New South Head Road. As a result the proposed height, bulk and scale will be overbearing on these lower scale properties, and on those nearby at 168 – 180 NSHR, which are predominantly residential in character, and there will be negative amenity impacts.

The proposed large ground floorplate in combination with the excessively large tower floorplate, inhibits the capacity of the proposal to accommodate deep soil and effective landscaping (such as trees and extensive planting beds). (Refer to Point (f) below for more detail).

b) whether the form and external appearance of the development will improve the quality and amenity of the public domain

The form and external appearance of the proposal has the potential to improve the quality and amenity of the public domain. However, as discussed elsewhere in this advice, concerns are raised about the proposed height, bulk and scale, and its overwhelming visual impact and potential amenity impact on the public domain in the vicinity of the site and from wider viewpoints. (Refer to Points (a) and (e) for detail).

c) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form

The proposed cantilever above the heritage building is limited to a third of its floor plate, as required. However, the full height glass wall is oddly sharp against the remainder of the proposed built form and the heritage building (that both incorporate curves). More articulation and use of curves could soften the impact of the glass wall when viewed from the public domain and improve its heritage interface.

The impacts regarding minimal setbacks and separation, and the resulting built form are discussed at Points (a) and (d), and include unacceptable lack of separation to 164 and 166 New South Head Road, an excessively large tower floor plate, and non-compliance with ADG amenity/performance design criteria. (Refer to Points (a) and (d) for detail).

- d) whether the building resulting from the development will incorporate sustainable design principles, including in relation to the following—**
- i. sunlight,**
 - ii. natural ventilation,**
 - iii. wind,**
 - iv. reflectivity,**
 - v. visual and acoustic privacy,**
 - vi. safety and security,**
 - vii. resource, energy and water efficiency,**

Sunlight and natural ventilation

The applications' ADG Compliance Table indicates non-compliance with solar access/cross ventilation design criteria as follows:

- only 57% of the market component apartments' living rooms and private open spaces receive a minimum of 2 hours direct sunlight between 9 am and 3 pm mid-winter, rather than 70%,
- direct sunlight within living rooms and private open spaces, a minimum of 1m² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes, is achieved in only 57% of market rate apartments rather than 70%, and
- single facing apartments (affordable component) are deeper than typical apartments due to the large size floor plate. An alternative ventilation system will need to be used in these units for air flow.

Visual privacy

The proposal does not meet the ADG separation criteria at the eastern boundary in that there is lack of separation to 164 and 166 New South Head Road.

These ADG non-compliances support the comments made at Point (a) above regarding the bulk of the proposal and minimal setbacks, and the suggestion that the floor plate be reduced through greater setbacks and more articulation.

Reflectivity

The documentation lodged with the applications states reflectivity will be below 20%.

Wind

The wind study lodged with the applications states that, based on the results of wind tunnel testing, *wind conditions for the majority of trafficable outdoor locations within and around the development will be suitable for their intended uses. However, some areas will experience strong winds which will exceed the relevant criteria for comfort and/or safety.*

The wind study includes suggested *treatments to be included in the final design* and states that with these inclusions *it is expected that wind conditions for all outdoor trafficable areas within and around the development will be suitable for their intended uses.* Relevant to this advice, the measures include:

Ground level:

- Retention of existing [street] tree planting
- Inclusion of 1.5 to 2m high densely foliating vegetation at the entries to the nominated throughfare/gathering space (at Darling Point Road and New South Head Road).

Level 4 Communal Terrace:

- Inclusion of 1.5m to 1.8m high impermeable screening

Level 16 Penthouse Terrace:

- 2m high impermeable balustrades
- Full height impermeable screening southwest of the dining area between the building form and the column supporting awnings
- 2-3m high densely foliating evergreen tree planting along the northwestern perimeter and the south-eastern pool perimeter.

The required measures are not shown on the architectural or landscape plans, and when included, would result in significant changes. The plans, therefore, are not consistent with the wind study recommendations that are required to achieve acceptable impact.

The Ground Level measures rely on street trees that are outside the control of the site (and the continued mitigation effect is, therefore, uncertain), and the dense vegetation would inhibit access to the ground level throughfare and gathering space at both frontages.

The Level 4 and Level 16 measures could add bulk and scale to the proposal and change its visual impact. As landscape details [detailed planting schedule] are not provided, it is uncertain whether 2-3m planting will be provided, and whether it will be suitable in the high wind on the roof terrace.

Safety and security

The inclusion of the following recommendations from the CPTED Assessment, prepared by Ethos Urban, 2 December 2024) are not supported:

- consider softening the blind corner on the northern façade of the heritage building to minimise concealment opportunities,
- retail theft can be deterred by high levels of surveillance. Consider modifying the internal layout of the heritage retail space to avoid blind spots and areas of low visibility. This may be constrained by heritage requirements, and
- install an appropriate bollard/barrier system at the pedestrian entrance to lobbies at New South Head Road to prevent vehicles from driving into areas not intended for vehicles. A security consultant with a Class 2A licence under the Security Industry Act 1997 is recommended to be engaged to provide specific advice on the type, placement, and installation of a bollard/barrier system to stop vehicles moving at high velocities.

The CPTED Assessment should be amended to delete these requirements.

Resource, energy and water efficiency

The documentation lodged with the development applications indicates the proposal incorporates sustainable design principles and will meet the requirements of State

Environmental Planning Policy (Sustainable Buildings) 2022. The EIS states the *proposal exceeds the target Green Star Buildings 5-star by scoring 46 points.*

The documentation indicates the proposal is consistent with the ADG Performance design criteria (sections 4U and 4V regarding energy efficiency and water management) with the exception of solar access and cross ventilation. (Refer to discussion at the beginning of this Point regarding sunlight and natural vegetation).

e) whether the proposed development will detrimentally impact the following—

- i. view corridors and landmarks,***
- ii. pedestrian, cycle, vehicular and service access,***
- iii. circulation requirements, including the permeability of the pedestrian network,***

The proposed additional height will have impact on views from public places including the footpath on New South Head and Darling Point Roads, and long views of the precinct where it is expected the built form of the Edgecliff Centre (203-233 New South Head Road), will be the dominant built form.

The Views Evidence lodged with the applications demonstrates the impact of proposed additional height on the site. In particular the view from Trumper Park, where the 12 storey building is barely visible above the trees, and the solid bulk of the 17 storey tower fills the view above the trees.

The excessively large tower floorplate (discussed at Point (a)) will compound the overwhelming visual impact of the tower from the adjacent footpaths. Reference is made to the facades of the planning proposal indicative concept that were much more nuanced with varying setbacks in an articulation zone, that assisted in reducing the apparent bulk of the built form when viewed from the footpaths.

Potential negative impact on pedestrian circulation is discussed under Points (f) and (g).

f) the impact of the development on the public domain,

The removal of all trees from the site to accommodate the proposal, without any replacement, will have a negative impact on the public domain. The inability to plant replacement trees and significant landscaping at ground level adjacent to the public domain, is due to the lack of deep soil that is a result of:

- Minimal setbacks as discussed at Point (a)
- Limited unbuilt space at ground level
- Almost full hard surface coverage at ground level
- Lack of solar access due to large tower footplate
- Communal open space enclosed entirely within an undercroft
- No use of design measures such as structural soils.

The ADG design criteria indicate a deep soil zone is appropriate, of at least 7% and possibly 10%, with minimum dimension of 6m. No deep soil is proposed but is considered possible given the site will be significantly a clean slate and there will be no underground parking. The lack of deep soil and deep soil planting negatively impacts the public domain – there is a significant increase in built space and hard surfaces

without compensation of significant greenery or attempt to enhance microclimate with appropriately scaled trees for shade.

The concept gathering space would make a positive contribution to the public domain. However, the functionality and amenity of the nominated gathering space, the boundaries of which are blurred with the nominated through site link, is uncertain. There appears to be very little gathering space and it appears to be poorly designed as a place to gather or rest.

The functionality and contribution to the public domain of the nominated through site link is uncertain, noting that Council did not identify the need for a through site link in the planning proposal for the site.

Normally a through site link would provide a direct and shorter access to those already available in the public network. The nominated through site link appears to be no shorter or more direct than the footpath route along New South Head and Darling Point roads and appears to be poorly designed as a throughfare.

While the ground floor pedestrian space provides a suitable entry to the lobbies, it is not well-designed as a public place and throughfare. In particular, the space is narrow and cluttered (impediments include columns, opening doors and windows, café seating, bicycle parking in space that is too small to accommodate all this). The landscaping is minimal and solar access is severely impacted by the building footplate above, and the port cochere is a major impact on amenity and pedestrian safety.

The sandstone wall on the site is considered to be part of the public domain and its importance is best served by retaining it in situ. Parts of the wall where retention in situ is not practical, could be reused in the ground floor public spaces and should not be pulverised as indicated in the proposal.

The location and design of the proposed retail at the eastern end of the proposal will also impact on the public domain as discussed at Point (g).

g) whether there are appropriate interfaces at ground level between the buildings and the public domain

Heritage item views

The proposal includes setbacks at the lower levels to reflect the need to retain views to the heritage item on the site.

Notwithstanding, the extent of the commercial component along the north boundary, at levels 2 to 4, introduces an intrusive element into the public domain view of the heritage item from Darling Point Road.

While the zero setback for most of the New South Head Road frontage is appropriate to the urban character of the site and the precinct, this view also needs to be opened up further (such as by removal of clutter - there is a column located in the middle of the view) and more setback towards the east.

The wind study requires inclusion of 1.5m to 2m high densely foliating vegetation at the entries to the nominated throughfare and gathering space, and this is not shown on the architectural plans. These planting areas required to achieve pedestrian

comfort and safety at ground level, may also impact negatively on the public views towards the heritage item, and this conflict needs to be resolved.

Retail space

As proposed, the eastern ground floor retail space is poorly located, having no direct connection to the retail space in the retained heritage item and the nominated pedestrian/gathering space within the site.

There is a bus stop (and approved bus shelter that will be constructed in the near future) adjacent to what appears to be the entrance to the eastern retail space. There is also signage, a light pole and street tree on the adjacent footpath. The footpath is narrow and busy (given the proximity to Edgecliff Station, bus services, and the signalised pedestrian crossing adjacent to 164 New South Head Road. A retail space opening directly onto this section of New South Head Road has the potential to compete with the limited available space and outdoor seating will not be possible.

The proposed substation on the New South Head frontage negatively impacts the public domain of the adjacent footpath and inhibits full activation along the frontage.

h) whether the development will include a mix of retail, commercial and residential uses.

The proposal includes a mix of retail, commercial and residential.

However, the non-residential component only just meets the minimum requirement of 1:1 FSR and could be expanded, particularly to improve the functionality of the ground floor retail and the contribution this could make to the public domain and public benefit (refer to Point (g) for more detail).

The level of space within the proposal afforded to plant and services is significant and impacts on the design quality and public functionality of the Ground Level and adds to the bulk and scale of the proposal. In particular, the area of 346m² identified on the roof (for unspecified plant) appears excessive and adds to the proposed scale. Relocation of plant and services (including some underground) could free Ground Level space for increased retail and pedestrian areas, and help to reduce the bulk of the building.

Conclusion

The proposal is contrary to clause 6.11(7) for the reasons set out above. The proposal could be refined and enhanced to reduce negative impacts and ensure the proposal makes a more positive urban design contribution. Urban Design recommendations are included under section L below.

F. State Environmental Planning Policy (Housing) 2021 (Housing SEPP)

The SSD applications seek to apply the site-specific height and FSR provisions under clause 6.11 of the WLEP and utilise the 30% FSR and building height bonuses afforded by Chapter 2 of the State Environmental Planning Policy (Housing) 2021 (Housing SEPP), as 15% of the total floor space is affordable housing.

Clause 16(3) of the Housing SEPP provides that a building height bonus applies if the development includes residential flat buildings or shop top housing. The EISs state that the proposal includes shop top housing and benefits from the height bonus.

Council is aware of the NSW Court of Appeal ruling in *Lahoud v Willoughby City Council* [2024] NWCA 163, which considered what lawfully constitutes ‘shop top housing’ and held there is no requirement for the entire ground floor to be retail/business use, as the definition of ‘shop top housing’ in the planning controls at the time was “one or more dwellings located above ground floor retail premises or business premises”.

Council notes that the current definition of shop top housing in planning controls is “one or more dwellings located above the ground floor of a building, **where at least the ground floor** is used for commercial premises or health services facilities” [**emphasis added**]. Council asks that Department of Planning, Housing and Industry considers whether the proposal meets the current definition of shop top housing, which is a prerequisite for the development to benefit from the height bonus under clause 16(3) of the Housing SEPP.

Section 20(3) of the Housing SEPP states that development consent must not be granted for in-fill affordable housing unless the consent authority has considered whether the design of the residential development is compatible with the desirable elements of the character of the local area, or for precincts undergoing transition—the desired future character of the precinct.

The built form, including height and FSR, setbacks, façade articulation and unbuilt areas, fails to establish a scale and design that is compatible with the Desired Future Character. This is discussed further in section G below.

G. Desired future character

The site is located with the MU1 mixed use zone, which provides a corridor along New South Head Road where a range of residential and commercial land uses are permitted. The corridor is the main entry point to the Municipality, so it is essential that a high standard of design is provided in both the private and public domain.

The mixed use corridor should provide a range of residential and commercial land uses to provide employment opportunities and contribute to a vibrant ECC. Non-residential uses should be provided on the ground floor of buildings to create diverse and active street frontages and a high-quality pedestrian environment.

The mixed use corridor adjoins the local centre zone (the Edgecliff Centre) to the south, which includes the railway station, bus interchange, and the Eastpoint Food Fair and Eastpoint Shopping Centre (each contain a supermarket, speciality shops, cafes and parking). These existing uses define the role of the local centre as the focus for retail and business activity within the ECC, where a higher density of development is permitted.

Development within the mixed use corridor should respect the hierarchy within the ECC and not compete in height and scale with the local centre zone.

To the north and south of the mixed use zone are R2 low density residential and R3 medium density residential zones. Any development within the mixed use zone must

consider its impact on the adjoining residential zones, where a lower density of development is permitted. Development should provide a scale and form that protects and responds to the character and scale of the residential areas.

With regards to density, the desired future character of the ECC is formed by existing, approved, and future development:

- the height of constructed buildings within the mixed use zone range from 1-12 storeys, with the WLEP development standards permitting heights of 2 to 7 storeys, and FSRs from 0.5:1 to 2.5:1 (the exception being the subject site, which is subject to site specific controls),
- the height of constructed buildings within the local centre zone range from 3-15 storeys, with the WLEP development standards permitting heights of 2 to 9 storeys, and FSR of 2.5:1,
- the approved 7 storey mixed use development at 1 Mona Road, Darling Point, and
- the adjoining medium density residential zone permits heights of 3 to 4 storeys, and FSRs from 0.65 to 1.3:1 under the WLEP development standards.

The built form and materials of development within the mixed use corridor should consider the impact upon the significance and prominence of heritage items and the adjoining conservation areas.

Development should be designed to maximise public transport patronage and encourage walking and cycling.

A number of street trees are located along New South Head within the ECC, which frames views for pedestrians and motorists. The majority of trees are located on the southern side of New South Head Road with trees on the northern side of New South Road being more sporadically located. Development should encourage the retention of existing trees and the planting of additional trees and vegetation to enhance the public domain.

The desired future character of the precinct is informed by:

Land zoning

The site is located within the ECC within a MU1 Mixed Use zone. The mixed use zone and surrounding transition zones (R3 Medium Density Residential, and E1 Local Centre) are depicted in Figure 1 below.

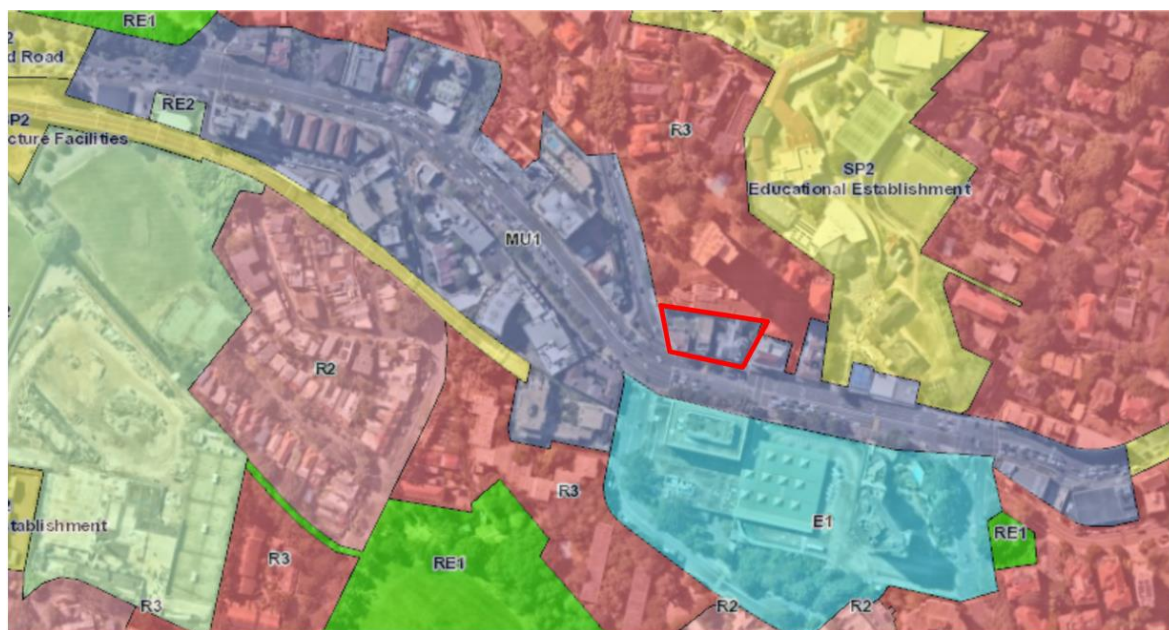


Figure 1: GIS extract depicting the WLEP maximum height of buildings with the site outlined in red.
Source: NearMap (annotation council staff).

The objectives of the mixed use zone, as set out in the land use table within the WLEP, aim:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.*
- *To ensure development is of a height and scale that achieves the desired future character of the centre.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To encourage the retention and planting of trees and other vegetation as part of development to minimise the urban heat island effect and to improve microclimates.*

The WLEP zone objectives for the local centre zone opposite the site are similar to the mixed use zone objectives above, but also include the aim:

- *To encourage development that is compatible with the local centre's position in the centres hierarchy.*

Existing built and natural elements

The 3D map extract (Figure 3) below includes:

- the mixed use corridor to New South Head Road which is characterised by buildings which range in height from 1 to 12 storeys. The predominant built

form to New South Head Road is 3 to 4 storeys punctuated by several taller buildings,

- the E1 local centre located opposite the site which comprises of 3 to 15 storeys which marks the local centre's role as a key shopping centre and the location of the bus and train interchange,
- a 30 storey residential tower (Ranelagh) is located to the north of the site. The built form of Ranelagh appears as an anomaly within the surrounding area. The WDCP identifies that some residential towers (such as Ranelagh) are intrusive development which should not be replicated,
- the topography of New South Head Road rises from west to east with a ridgeline located in the vicinity of Edgecliff station.



Figure 3: 3D map extract depicting the existing built form to New South Head Road.
Source: Geocirrus (annotations council staff)

Development Standards

The site is subject to site-specific planning controls under clause 6.11 of the WLEP, which permits an increase to the maximum building height from 14.5m (4 storeys) to 46m (12 storeys), and floor space ratio (FSR) from 1.5:1 to 5:1. The permissible height and FSR are increased further under the Housing SEPP to 59.8m (17 storeys) and an FSR of 6.5:1.

The GIS extracts below depict the maximum height (Figure 4) and FSR (Figure 5) under the WLEP for the surrounding area, and demonstrate that:

- The development standards for the remainder of the mixed use zone provide a maximum building height of 6.5m (2 storeys) to 23.5m (7 storeys) and a maximum FSR of 0.5:1 to 2.9:1.
- The development standards for the adjoining residential areas provide a maximum building height of 9.5m (3 storeys) to 13.5m (4 storeys) and a maximum FSR of 0.65:1 to 1.3:1.
- The development standards for the local centre zone opposite the site provide a maximum building height of 5m (2 storeys) to 34m (9 storeys) and a maximum FSR of 2.5:1.



Figure 4: GIS extract depicting the WLEP maximum height of buildings with the site outlined in red.
Source: NearMap (annotations council staff)



Figure 5: GIS extract depicting the WLEP maximum FSR with the site outlined in red.
Source: NearMap (annotation council staff)

Designations of Heritage Significance

The existing building located at 136 New South Head Road (within the site) is a local heritage item (item I238) within Schedule 5 of the WLEP. There are other heritage items, the Paddington Heritage Conservation Area (Paddington HCA), and the Mona Road Heritage Conservation Area within proximity of the site.

A new HCA known as Brantwood HCA is proposed, which is located to the immediate east of the site, which comprises five buildings, three of which are proposed to be listed as heritage items. Whilst these buildings are identified as having heritage significance they currently have no heritage protections.

Approved Development

The Environmental Impact Statements (EIS) submitted with the proposal identifies only one approved development within the mixed use zone, which is a 7 storey mixed use development currently under construction at 1-9 Mona Road, Darling Point.

The EIS identifies a number of Planning Proposals within the surrounding area. However, as the Planning Proposals are still under assessment there is no certainty they will proceed and therefore they do not influence the future character of the area.

WDCP

The EIS references the desired future character statement within Section 2.2 of the WDCP, which states:

This mixed use corridor is a highly urban environment and it is important that it meets high standards of visual quality and pedestrian amenity.

This part of New South Head Road is a main entry point to the Municipality and it is important that the experience and journey through the centre makes a positive impression. Everything that can be seen and experienced in the street is therefore relevant.

Development fronting New South Head Road will generally contain four to six storey mixed use buildings. Building facades, in terms of detailing and building materials, should be well designed, with particular consideration to how the buildings are interpreted from moving vehicles, so that the view driving along New South Head Road contributes to the public domain. At street level, buildings should respond to pedestrians by providing human scale design elements, interesting frontages and awnings for protection.

Development within this corridor must consider its impact on the adjoining Paddington heritage conservation area, including Glenmore Road, which is an important gateway entry to Paddington. Development should protect and respond to the character and scale of the heritage conservation area.

The New South Head Road mixed use corridor permits a range of residential and commercial land uses, including restaurants and cafes which should contribute to a more vibrant centre, particularly at night. Though certain types of convenience retailing opportunities are constrained by the restricted parking, it is expected that comparison specialist retailing, such as homewares and furniture shops, and complementary offices, such as medical suites, will capitalise on the excellent access to public transport, high visual exposure and proximity to the Sydney CBD.

Compatibility with the Desired Future Character

The proposal provides both commercial and retail space which will generate employment opportunities within the ECC. However, the eastern ground floor retail space is very narrow and is disconnected from the retail space provided within the heritage item, and the proposed substation to the New South Head Road frontage prevents full activation and negatively impacts the public domain. This hinders the

activation of the New South Head frontage in accordance with the desired future character.

The through site link fails to provide a high quality pedestrian environment. The space is narrow and cluttered, landscaping is minimal, solar access is severely impacted by the building footplate above, and the proposed wind mitigation measures are unfeasible (as the proposed landscaping blocks access to the through site link).

The proposal fails to provide a height and scale that achieves the desired future character of the centre. No buildings within the mixed use corridor are near the height of the proposal. The proposal would result in an individually tall building within the mixed use zone that dwarfs others around it and dominates the ridge/skyline in Edgecliff (noting that Ranelagh is identified as an intrusive building and not to be used as a benchmark, and the Eastpoint residential tower is within the higher density local centre).

The height and scale of the proposed tower is incompatible with the local centre opposite the site, as the proposal would reduce the dominance of the Edgecliff Centre and add confusion as to the hierarchy of buildings in the precinct. The site areas of the existing and proposed tower sites within the local centre are significantly larger than the subject site (with site areas of approximately 4,750m² to 9,000m²), which enables the provision of significantly greater setbacks to ensure appropriate amenity outcomes.

The proposed 17 storeys and 6:65:1 FSR fails to provide the required transition in scale to adjacent buildings (both existing and as envisaged in the desired future character). The large floorplate and minimal podium setbacks, make it difficult to delineate the tower from the podium when viewed from the public domain. The bulk of the proposed tower would visually overwhelm adjacent lower scale development and people occupying the adjacent footpaths.

The height and scale of the proposal will negatively impact on views from public places in particular the proposal will adversely impact upon the views from Trumper Park as the height of the tower will exceed the height of the existing tree canopy and fill the view above the trees.

Contrary to the desired future character, the combination of the large ground floorplate and excessively large tower floorplate, inhibits the capacity of the proposal to accommodate deep soil and effective landscaping.

In accordance with section 20(3) of the Housing SEPP, development consent must not be granted for in-fill affordable housing unless the consent authority has considered whether the design of the residential development is compatible with the desirable elements of the character of the local area, or for precincts undergoing transition—the desired future character of the precinct. Approving the proposal, which is incompatible with the existing built context and desired future character, is contrary to the underlying principles of the Housing SEPP, which aim to reinforce the importance of designing housing in a way that reflects and enhances its locality (Chapter 1, section 3(f)).

H. Edgecliff Commercial Centre Strategy (ECC Strategy)

In April 2024, Council adopted the Edgecliff Commercial Centre Strategy (the ECC Strategy), following a strategic review of the planning controls for the ECC, to provide

a clear and coordinated planning approach to facilitate uplift and the revitalisation of the ECC.

The EIS states that 'with specific regard to bulk and scale, the ECC Strategy represent a more recent and appropriate articulation of that envisioned for the centre'.

This approach is incorrect as the ECC Strategy is not a matter for consideration under section 4.15 of the Act as a planning proposal, that implements the recommendations of the ECC Strategy through amendments to the WLEP, has not been the subject of public consultation.

However, even if the ECC Strategy were a matter for consideration, the proposed 17 storey development height is inconsistent with the maximum 12 storey height identified for the site within the ECC Strategy. The 17 storeys would appear out of context with the uplift proposed on all other non-landmark sites within the ECC, which are identified as having a maximum height of 4 to 11 storeys.

The ECC Strategy was adopted following a strategic review of the planning controls for the ECC to provide a clear and coordinated approach to planning to facilitate uplift and the revitalisation of the ECC. The ECC Strategy was informed by a Market Analysis, Urban Design Study, Transport Analysis, Transport Assessment, and a Draft ECC Heritage Study. The proposed height and FSRs were determined by reviewing the existing planning controls on a fine grained, block by block approach, which recognises some areas and sites are more appropriate for increased density than others.

I. Height

The EIS identifies that the proposal has a maximum height of 59.8m. The identified height does not include the wind mitigation measures required, within the windy study, to ensure the wind conditions for all outdoor trafficable areas within and around the development will be suitable for their intended uses. The mitigation measures have not been incorporated into the architectural drawings, but it appears that the required 2m balustrade to the penthouse roof terrace breaches the 59.8m height plane. A Clause 4.6 has not been provided and exhibited for the non-compliance with the maximum building height standard.

The height of the proposal (17 storeys) is incompatible with the existing built context and desired future character of the area and fails to meet the specified criteria for design excellence. The proposal is contrary to the objectives of clause 6.11 of the WLEP as the height of the proposed tower would adversely impact upon the amenity of the public domain through visual intrusion and would overwhelm adjacent lower scale development.

With regards to the proposed building height, the EIS incorrectly states that:

the tower height sits within an existing and future tower context as illustrated by the ECC Strategy which proposes a 14 storey and 26 storey tower on the southern side of New South Head Road. In this sense, the proposal will sit comfortably within a tower cluster defined by the Ranelagh to the immediate north (30 storeys) and the future towers to the south

Whilst the ECC Strategy is not a matter for consideration, it is important to clarify that the ECC Strategy does not propose a tower cluster comprising of the site, Ranelagh, and the 14 and 26 storey towers. In contrast, the ECC Strategy:

- recognises the WDCP identifies some residential towers (such as Ranelagh) as intrusive development which should not be replicated,
- identifies the Edgecliff Centre site (where the 14 and 26 storey towers are proposed) as a landmark site,
- proposes 14 and 26 storey towers to provide for a landmark development, which is appropriate due to the size of the site (5867m²), the location next to Edgecliff Station, and the relative elevation of the site, and
- identifies the landmark Edgecliff Centre site as the only site within the Edgecliff where a storey height in excess of 12 storeys is proposed.

J. FSR

The proposed 6.65:1 FSR, exceeds the 6.5:1 FSR provided for under the WLEP and Housing SEPP. The proposed FSR is over double any other permitted FSR within the local area, and results in a development that is inconsistent with the existing context and the density envisioned for the ECC, to the detriment of the public domain and amenity of neighbouring properties.

The submitted clause 4.6 variation (the variation) fails to demonstrate that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances (clause 4.6(3)(a)), and
- There are sufficient environmental planning grounds to justify the contravention of the development standard (clause 4.6(3)(b)).

With regards to clause 4.6(3)(a)):

- The proposal fails to achieve the overarching objectives of the Housing SEPP. As discussed in sections F and G, the development's failure to achieve the desired future character for the local area is contrary to the underlying principles of the Housing SEPP, which aim to reinforce the importance of designing housing in a way that reflects and enhances its locality (Chapter 1, section 3(f)).
- The proposal fails to achieve the objectives of clause 6.11 of the WLEP and reflect the desired future character of the area and exhibits design excellence. As discussed in sections E and G, the development fails to exhibit design excellence and undermines the desired future character of the area.
- The variation incorrectly concludes that the proposal upholds the objectives of clause 4.4 (FSR) of the WLEP as the proposed development is compatible with the desired future character having regard to the ECC Strategy. As set out in sections C and H, the ECC Strategy is not a matter for consideration under section 4.15 of the EPA Act, and even if it were, the proposed bulk and scale undermines the clear and coordinated approach to density uplift within the ECC identified by the ECC Strategy.
- The variation incorrectly concludes that the zoning of the portion of the site for land reservation is unreasonable or inappropriate, on the basis that the land reservation is a remnant of previous strategies and no longer reflects current planning practice. A planning proposal seeking the removal of the land reservation (along with others) was explored in 2022, but TfNSW maintained the subject road reservation is still required for future active and public transport improvements.

With regards to clause 4.6(3)(b)):

- the variation incorrectly states that the proposal can provide an appropriate amount of residential floor space and housing supply without generating any unreasonable environmental impacts to the public domain and surrounding area. As discussed at sections E, G, O, and T, the proposal would adversely impact upon the amenity of the public domain and neighbouring properties.
- the variation incorrectly states that the proposal achieves design excellence and is consistent with Clause 6.11 of the WLEP and the relevant Objects of the EPA Act. As set out in sections E and G, the proposal fails to achieve design excellence and is inconsistent with the desired future character for the area undermines. The proposal is inconsistent with object 1.3(g) of the EPA Act, which promotes good design and amenity of the built environment.

The proposed FSR and resulting bulk, form and massing will undermine the objectives of the Housing SEPP, and clauses 4.4 and 6.11 of the WLEP. Resulting in a development that undermines the desired future character of the area, fails to exhibit design excellence, and adversely impacts upon the amenity of the public domain and neighbouring properties.

The consent authority cannot be satisfied that the clause 4.6 variation establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances, and there are sufficient environmental planning grounds to justify the contravention of the development standard.

K. State Design Review Panel (SDRP) recommendations

Council staff support the following recommendations of the SDRP which have either not been implemented, or not adequately addressed, in the proposal:

Point 5:

Undertake wind studies to demonstrate that pedestrian comfort can be achieved in the through-site link and ground level plaza

Point 7:

Minimise the space dedicated to vehicular circulation on the ground floor

Point 9:

Demonstrate how the quality and amenity of the public domain will be improved by the proposed development. In doing so, consider

- a) the width of the footpath*
 - b) activation of the street frontage*
 - c) the landscape design setbacks and reduce the overall bulk of the built form.*
- At the next session provide information on the proposed areas of the floor plates and apartments*

Point 10:

Optimise the activation of the New South Head Road frontage. Review the planning and, where possible, minimise and consolidate services towards the eastern end of the ground floor façade so that the retail tenancies flank the through-site link

Point 20:

Provide additional legible vertical articulation to break up the horizontality of the built form and reduce its bulk

Point 21:

Study the apartment sizes and reduce them where possible to increase the building setbacks and reduce the overall bulk of the built form

Point 22:

Shape and articulate the top of the tower to further refine the built form.

Point 25:

Provide measures to facilitate sustainable transport, such as dedicated car-share spaces

Point 29:

Continue to provide a detailed analysis comparing the scheme with and without the infill affordable housing bonus to demonstrate that the proposed development does not create an adverse impact due to increased bulk and scale.

L. Urban design recommendations

Council's Urban Design Consultant has advised that:

Aspects of the proposal need to be amended, refined and enhanced to reduce negative impacts and ensure the proposal makes a more positive urban design contribution and public benefit. Accordingly, the following matters need to be addressed.

- 1. Review of the built form, including height and FSR, setbacks, façade articulation and unbuilt areas, through design development and reference to the matters discussed in this advice, to establish a scale and design that:*
 - more consistently reflects, the applicable heights and FSRs and is more consistent with the desired future character,*
 - comprehensively addresses site constraints including site dimensions, prominence, lower scale development, busy footpaths and statutory requirements such as the ADG,*
 - is more consistent with the desired future character for the site as expressed in Clause 6.11 of the Woollahra LEP 2014 and the supporting planning proposal,*
 - reduces the size of the tower floorplate to reduce its visual impact, ensure it is more distinct from the podium and appears as a tower rather than a mere extension of the podium, and enables full compliance with statutory requirements such as the ADG,*
 - materially enhances pedestrian comfort and experience on the footpaths adjacent to the site, including less overwhelming visual impact, improved interface at Ground Level, and reduction in potential for conflict between multiple pedestrian activities competing for limited space on the footpath,*
 - has more articulated facades, particularly through the use of greater and varied setbacks in articulation zones, consistent use of curved typology, and provides further visual impact relief and architectural interest,*
 - shows more respect through appropriate setbacks, interface and height transition, to the adjacent development at 164 and 166 New South Head Road,*

- *improves its public domain relationship to the heritage item on the site, particularly in the lower level views from the north along Darling Point Road and the south and east along New South Head Road, and its refinement of the glass curtain wall,*
 - *reviews the substation location, to avoid any negative impacts on the street frontage interface and amenity of pedestrians on adjacent footpaths, and*
 - *reviews the location of plant and services to reduce the bulk and scale on the roof top, and create more space for retail, pedestrians and gathering at Ground Level.*
2. *Review of the proposed nominated public spaces to enhance their quality and functionality and:*
- *increase the amount of space provided for throughfare and gathering (for instance by reducing the size of the lobbies, removing the porte cochere and relocating services),*
 - *reduce potential amenity and safety impact from vehicles entering and leaving the site,*
 - *ensure there is no conflict or blurring of lines between throughfare and gathering space, and at the interface with New South Head and Darling Point Roads,*
 - *provide throughfare and gathering space free from clutter and impediments (such as columns, opening doors and windows, bicycle parking, and wind buffers), and*
 - *increase greenery and informal seating, and showcase any sandstone from the sandstone wall on the site that can't appropriately remain in situ.*
3. *Review the design and location of the proposed retail space (New South Head Road) so that:*
- *it is more connected with the retail space in the heritage item and the nominated pedestrian spaces within the site,*
 - *provides a more practical floor plate and flexibility for a range of retail uses, and*
 - *avoids any conflict and competition for the already limited pedestrian space on New South Head Road.*
4. *Review the landscaping plan to:*
- *provide deep soil zones at least on the eastern and western frontages and provide tree planting for shade and microclimate, and to reduce the impact of built form and hard surface,*
 - *increase the amount of landscaping at ground level, and increase its lushness and scale,*
 - *show retention of the sandstone wall in situ as far as practical, and reuse of the sandstone in the ground level public spaces where it can't practically remain in situ.*

Council staff are of the opinion that these recommendations should be incorporated in an amended design. However, if the Department of Planning, Housing and Industry is minded to grant development consent it is requested that, where possible, the recommendations are included as conditions (in addition to the conditions recommended at Annexure A).

Council requests the opportunity to review and comment on any amended proposal.

M. Heritage

Council's Senior Strategic Heritage Officer has reviewed the proposal and provided the following comments:

Proposal:

The following points outline only elements of the project that will have, or have the potential to have, an impact on heritage significance.

- *Partial demolition and modifications to heritage listed item at 136 New South Head Road, Edgecliff.*
- *Demolition of two buildings at 138-140 and 142-146 & 148 New South Head Road, Edgecliff.*
- *Removal of sandstone wall at the rear of 138-140 and 142-146 & 148 New South Head Road, Edgecliff.*
- *Construction of new mixed use building consisting of:*
 - *A 2-storey commercial podium level that matches the height of the heritage item on the site.*
 - *An additional 2-storeys above the podium for carparking.*
 - *A single tower structure containing residential dwelling units. The total height of the tower structure (including the podium) is up to 16 storeys.*
 - *Communal space on the ground plane.*

Assessment of impact on heritage significance

Partial demolition and modifications to heritage listed item at 136 New South Head Road, Edgecliff.

- *There is a local heritage item on the site, item #I238, "Building and interiors".*
- *The proposal involves the retention of the heritage item on the corner of New South Head Road and Darling Point Road. It will involve the demolition of the rear part of the heritage item at ground floor, and retention of the majority of the external façade at the second level. It will also involve the removal of some internal walls throughout the heritage item.*
- *There is a section of the heritage item, across the main entrance, which has been indicated as forming part of a road reservation area. The plans indicate that there will be no works in that area and the whole of the front façade will be retained.*
- *Research from the heritage impact statement indicate that main form of the building remains much the same as when it was first constructed. Internal walls particularly in the upper floor also appear to have had minimal alterations, however some plasterboard walls and fitouts have probably been subject to change and upgrade over time. This demonstrates that much of the fabric forming the heritage item contributes to the significance.*
- *In order to mitigate the impact of the loss of significant fabric, the following measures should be implemented:*
 - *Demolition of the external walls forming the heritage item, including the rear walls, is not a preferred outcome. It will have an impact on significant fabric that contributes to the understanding of the place.*

- *Demolition of the internal walls forming the heritage item, particularly walls in the upper floor, is not a preferred outcome. It will have an impact on significant fabric that contributes to the understanding of the place.*
- *Any removal of walls (internal and external) must be able to retain an interpretation of original internal room arrangements, through techniques such as the retention of wall nibs and bulkheads.*
- *Internal amenity fitouts, such as those in the converted apartments on the upper floor, do not contribute to the significance of the place. Their removal would have no impact on significance.*
- *The heritage impact statement recommends the following mitigation measures:*
 - *A Schedule of Conservation Works should be prepared for 136 New South Head Road by a suitably qualified and experienced heritage consultant.*
- *These recommendations are considered appropriate and adequate and should be implemented.*

Demolition of two buildings at 138 and 140-148 New South Head Road, Edgecliff.

- *The adjacent buildings at 138 and 140-148 New South Head Road are not local heritage items.*
- *The Heritage Impact Statement makes an assessment of these buildings against the Heritage NSW criteria for assessing heritage significance. It concluded that the buildings do not meet any of the seven significance criteria, and as such does not meet the threshold for local heritage listing.*
- *However, despite this, there is a substantial amount of internal fabric that relates to and representative of the original interwar construction of the buildings. This includes doors, windows (including stained-glass windows, early sideboard joinery and newell posts. Externally, there are elements such as slate roofing, and timber shingles under the bay windows.*
- *The heritage impact statement recommends the following mitigation measures:*
 - *A Photographic Archival Recording should be undertaken of the place and must be prepared in accordance with the Heritage NSW Guidelines for 'Photographic Recording of Heritage Items Using Film or Digital Capture'.*
 - *A Salvage Methodology should be prepared for the properties at 138-148 New South Head Road by a suitably qualified and experienced heritage consultant. Any salvaged building materials is to be transferred and appropriately reused/recycled offsite.*
- *These recommendations are considered appropriate and adequate and should be implemented.*

Removal of sandstone wall at the rear of 138-140 and 142-148 New South Head Road, Edgecliff.

- *The removal of the sandstone wall at the rear of the properties at 138-140 and 142-148 New South Head Road will have a negative impact on the significance of the site and is not supported.*
- *While the wall has no heritage status, research in the Statement of Heritage Impact prepared for this proposal and SSDA indicate that it is fabric that relates to period of early development of the site, and the former "Redbank" villa, c.1895 and destroyed in the 1930s. With that in mind, it is the last remaining fabric on the site that relates to that period and layer of development. The wall*

contributes to our understanding of the site's developmental history and as such, its retention should be prioritised.

- *The demolition of the wall in full is not supported. Partial demolition can be supported where the sandstone to be removed is salvaged and used in the landscape design and as part of the heritage interpretation elements on the site.*
 - *The area of the sandstone wall may be removed and salvaged and rebuilt along the northern boundary on the site to the west, within an area where it appears there is some area for landscaping.*
 - *The Heritage Interpretation Plan identifies opportunities for the use of salvaged sandstone in other landscaping as garden edges, planter walls, and low seating bleachers.*
 - *The destruction of the sandstone material for the purpose of "sandstone mulch" is inappropriate treatment of significant fabric and is not supported. Any surplus sandstone that cannot be reused on the site in the development should be recycled as whole pieces.*

Design and Construction of new mixed use building

- *The design of the new building is very contemporary and of a high quality. Coupled with the concerted attempt at a generous buffer and circulation area around the full height of the heritage item, the design intent achieves a very clear distinction between old and new.*
- *While the design of the new building has provided for substantial separation and circulation space immediately around the heritage item, views of the heritage item looking southwest from Edgecliff Station will be completely obscured due to the bulk and zero-setback of the development along its New South Head Road frontage. The design of the New South Head Road façade obscures and does not enhance the heritage item. The design must consider a greater setback along New South Head Road as well as a gradation of the podium levels to step away from the heritage item (i.e. more consistent with the reference scheme provided in the concept Planning Proposal) so that the sense of separation and circulation is present both at the horizontal plane as well as the vertical plane.*
- *The sense of open space and circulation around the heritage item in views from Darling Point Road looking south are gained through the elevated podium level. This same approach and outcome should also be achieved along the New South Head Road frontage, where the podium of the new development also contributes to the circulation space rather than as a boundary wall.*
- *The "window" of the tower that sits above the heritage item, a full tower height, highly reflective glazed element that also gives a sense of lightness through its translucence, provides a high contrast between the heritage item and the new building. Although the heritage item is far smaller in scale, the translucence of the window does make the heritage item appear more prominent, with the tower being recessive. However, the sharpness of the angles at the corners of the window seems inconsistent and out of character compared to the rest of the built form, which has generously employed rounded corners and curved elements (presumably in reference to the heritage item's curved façade). The design could consider rounding the corners/edges of the glass window element above the heritage item, to soften the visual interaction between the two distinct elements.*

Impact on heritage items in the vicinity

- “Ascham School Precinct”, item I239
 - The proposal is in the close vicinity of local heritage item, The Ascham School Precinct. Ascham School is one of the oldest independent private schools for girls in Australia. Distinguished by its innovative educational method (the Dalton method) Ascham is one of the oldest independent private schools for girls in Australia. Within the grounds of Ascham is a collection of historically significant buildings, the precinct contains a rare collection of architecturally fine houses with aesthetic significance, most of which are intact with their intact original front garden spaces, and associated with a number of prominent architects of their time. The precinct contains a rare collection of architecturally fine houses, some of which are the earliest in Darling Point. The precinct, including its buildings, trees, memorials, archives and ephemera, provides a unique resource into the history of the school. The Octagon is the only known extant example of the work of Ambrose Hallen, Colonial Architect.
 - The proposal will have no direct physical impact on the significant values of Ascham. It will be an amplification of existing modern and high-rise development that already surrounds Ascham.
- “Concrete Balustrade”, item I114
 - The proposal is in the immediate vicinity of local heritage item, “Concrete Balustrade”. The concrete balustrade and retaining wall dividing Darling Point Road into two levels is significant for its association with early road works in the Woollahra Municipality. It has aesthetic significance for its style and detail and as an example of the decorative form given to road works in the district.
 - The proposal will have no direct physical, or indirect impact, on the concrete balustrade. The element will remain intact and in situ during the works. However, passive protection measures should be in place to mitigate any accidental construction impacts.
- Trumper Park
 - The proposal is in the near vicinity of Trumper Park, which is on the south side of New South Head Road. The Park has no statutory listing, however it can be said to inherently hold social significance as a community asset, gathering place, sports and activity ground. Its continued use over time for this purpose will have historical and social significance to the communities and groups that use the place.
 - Shadow diagrams indicate there will be limited minor additional shadow over Trumper Park between 9 and 10 am. This is considered acceptable with regard to impact on any recognised but non-statutory significance of the Park. In other words, I believe that despite the minor impact of overshadowing on the park during a limited time, the place will continue to be able to function for its significant use.
- Paddington HCA
 - The proposal is in the near vicinity of the Paddington HCA, which is south side of New South Head Road. The Paddington HCA is a significant urban landscape which possesses historical, aesthetic, technical and social significance at a National and State level. An important factor in the significance of Paddington is its exceptional unity, encompassing scale, character, history, architecture and urban form. The built environment of Paddington is an excellent example of the process of 19th century inner city urbanisation of Sydney which was

largely completed by 1890. The predominant Victorian built form is an excellent representative example of the phenomena of land speculation and a 'boom' building period between 1870 and 1895.

- *The proposal will have no direct physical impacts on the HCA, although the demolition of the buildings at 138-140 and 142-146 New South Head Road arguably make a minor contribution to the values of the adjacent HCA. Irrespective of this, the significance of the Paddington HCA will be retained regardless of the proposed development as the HCA will remain intact and still continue to represent these values. The proposal will present a moderate/major amplification of an existing and increasing impact of high-density development in the area.*
- *Potential Brantwood HCA*
 - *The proposal is immediately adjacent to the proposed Brantwood Estate Heritage Conservation Area, which was identified in the Edgecliff Commercial Centre Heritage Study prepared in 2024. The recommendations of study consisted of a HCA incorporating 156-164, 166, 168, 170 and 172-180 New South Head Road, the five buildings that comprise the historic subdivision of the former Brantwood Estate. The recommendation include the HCA incorporating all five allotments, as well as individual local heritage status for the buildings at 166, 168 and 170 New South Head Road. At present, a gateway determination permitting the Planning Proposal to proceed to Public Exhibition has been received. The buildings therefore remain without any heritage protection .*
 - *There will be no direct physical impact on the potential Brantwood HCA that is adjacent to the development. There will be some negative impacts of bulk and scale of the new development as it directly abuts the HCA. However, it is acknowledged that the design of the podium aligns with the building at 156-164 New South Head Road, and then there is an interstitial void between the tower which does step back from the boundary and away from the HCA.*

Heritage Interpretation Strategy Recommendations

- *The Landscape Design Strategy shows collaboration with the research and shared knowledge from the Connecting with Country report to show how materials have been selected in the landscaping that speak to themes on Country. However, there should also be a collaboration with the Heritage Interpretation Plan to maximise and strengthen the opportunities for heritage interpretation in the landscape design. For example, the feature grate providing a connection to Clark Island can also be supplemented and strengthened by interpretation approaches like signage.*

Final Recommendations

1. *The recommendations of the Statement of Heritage Impact should be adopted. These include:*
 - a. *Schedule of Conservation Works for the heritage item at 136 New South Head Road.*
 - b. *Salvage methodology for the two RFBs to be demolished at 138-140 and 142-148 New South Head Road.*
 - c. *A Photographic Archival Recording of all buildings prior to commencement of construction. This includes recording the buildings to*

be demolished, and must include a recording of the sandstone wall at the rear of the site.

2. *The recommendations of the Aboriginal Cultural Heritage Management Plan should be adopted. These include:*
 - a. *Preparation of an Aboriginal Heritage Induction. This is a procedure document that should form part of the project's Construction and Environmental Management Plan (CEMP). The induction needs to include a proves for providing Aboriginal Cultural Heritage Inductions to all staff involved in the project, developed and delivered by a La Perouse LALC representative, in conjunction with a suitably qualified archaeologist if required.*
 - b. *A stop-work checkpoint incorporated into the construction methodology following the demolition of all buildings on site to allow for an inspection of the study area once cleared, by a RAP representative and an Archaeologist.*
3. *The recommendations of the Historical Archaeological Impact Assessment should be adopted. This includes:*
 - a. *Preparation of an Unexpected Finds Procedure. This is a procedure document that should form part of the project's Construction and Environmental Management Plan (CEMP).*
4. *The recommendations of the Heritage Interpretation Strategy should be adopted and incorporated into the future design.*
 - a. *These recommendations are laid out in Section 6 of the Heritage Interpretation Strategy.*
 - b. *The approaches set out in the Strategy are to be further detailed for implementation in a Heritage Interpretation Plan, to be prepared to the satisfaction of the Council or the Approval authority.*
 - c. *The Heritage Interpretation Strategy and Plan must also consider the Connecting With Country Report and the Landscape Design Report to ensure an integrated approach.*
5. *The full demolition of the sandstone retaining wall is not supported. Partial demolition is the preferred outcome with part of the wall being retained in situ. Any material to be removed must be salvaged and reused as suggested in the supporting Heritage Interpretation Plan, Connecting with Country Plan, and Landscape Design Plan.*
6. *Demolition of internal and external walls of the heritage item at 136 New South Head Road is not preferred. However, if necessary the impact can be mitigated through the retention of wall nibs and bulkheads that interpret the original built form and room layout.*
7. *Protection measures must be put in place to protect the Concrete Balustrade heritage item along Darling Point Road. As this element is a heritage item, it must be treated and protect as an area of Environmental Sensitivity for the duration of construction.*

In addition, it is noted that the following recommendations contained within the CPTED assessment are not appropriate from a heritage perspective.

- *Softening the blind corner on the northern façade of the heritage building to minimise concealment opportunities*
- *Retail theft can be deterred by high levels of surveillance. Consider modifying the internal layout of the heritage retail space to avoid blind spots and areas of low visibility. This may be constrained by heritage requirements*

The CPTED assessment should be amended to delete these recommendations.

N. Wind

The proposal was accompanied by a Pedestrian Wind Environment Study, prepared by Windtech.

The results of the study indicate that wind conditions for the majority of trafficable outdoor locations within and around the development will be suitable for their intended uses. However, some areas will experience strong winds which will exceed the relevant criteria for comfort and/or safety. The report suggests treatments which largely comprise of:

- retention of existing trees
- inclusion of high density foliating vegetation
- screening
- impermeable balustrades

The study advises that with the inclusion of these treatments to the final design, it is expected that wind conditions for all outdoor trafficable areas within and around the development will be suitable for their intended uses.

However, the suggested treatments have not been incorporated into the architectural drawings and therefore the impact of the proposed treatments (in terms of pedestrian access, views, solar access, visual impact, driveway visibility splays, etc.) are unable to be assessed. Of particular concern is:

1. The location of the ground floor 1.5m-2m high density foliating vegetation appears to fully block the pedestrian through link and impact driveway visibility splays to Darling Point Road, and largely block the pedestrian through link to New South Head Road (see plan extract below from the wind study).
2. The 2m balustrade to the penthouse roof terrace appears to breach the maximum building height plane and a Clause 4.6 has not been provided.



Figure 6: Ground level wind mitigation treatment.
Source: Pedestrian Wind Environment Study, prepared by Windtech.

O. Private views

The submitted View and Visual Impact Assessment (VVIA) considers the view impacts from 5 buildings in the private domain (Ranelagh, Eastpoint Tower, Oceanpoint, 164 New South Head Road and 166 New South Head Road).

The VIVA qualitatively assesses the view impacts to individual affected apartments, but also assesses the view impacts to each residential tower building as a whole. Section 13.1 of the VIVA assesses the impact upon private views as follows:

- **Ranelagh:** The impact to both affected apartments and the building as a whole is assessed as moderate.
- **Eastpoint Tower and Ocean point:** The impact to affected apartments is assessed as moderate to severe and the impact to the building as a whole is assessed as moderate.
- **164 and 166 New South Head Road:** The impact to affected apartments is assessed as severe and the impact to the buildings as a whole is assessed as moderate.

The VIVA demonstrates that the additional height and FSR permitted under the Housing SEPP directly results in additional moderate and severe view impacts to apartments within Ranelagh and Eastpoint Tower. The VIVA concludes that these impacts are reasonable on the basis that the proposal complies with the maximum height of buildings and FSR permitted under the WLEP, as adjusted by clause 6.11 of the WLEP and Division 1 of the Housing SEPP.

However, the additional height and FSR is subject to the consent authority:

- 1) being satisfied that the development exhibits design excellence in accordance with Clause 6.11 of the WLEP, and
- 2) having considered whether the development is compatible with the desired future character of the precinct.

For the reasons set out under sections E and G, the development is not considered to exhibit design excellence or be compatible with the desired future character of the precinct. Therefore, the view impacts which arise from the height and FSR permitted under the Housing SEPP are not considered to be reasonable.

P. Parking provision

Council's Traffic and Transport Team Leader has reviewed the proposal and advised:

Car Parking

The parking provision for the proposal has been assessed in accordance with State Environmental Planning Policy (Housing) 2021 and Council's DCP 2015 Chapter E1 Parking and Access and Chapter G10 136-148 New South Head Road, Edgecliff (Site Specific Controls) [which follows the approach adopted in the Traffic Impact Assessment that accompanies the EIS]:

Table 1: Car Parking Provision

Residential Component – SEPP (Housing) 2021 Minimum Requirement				Proposed Provision
Dwellings used for affordable housing				74
	Quantity	SEPP Minimum Requirement per Unit ¹	SEPP Minimum Requirement	
1 bedroom	16	0.4	6.4 (6)	
2 bedrooms	2	0.5	1	
3 or more bedrooms	2	1	2	
Total required			9	
Dwellings not used for affordable housing				
	Quantity	SEPP Minimum Requirement per Unit ¹	SEPP Minimum Requirement	
2 bedrooms	1	1	1	
3 or more bedrooms	41	1.5	61.5 (62)	
Total required			63	
SEPP total requirement			72	
Residential Component – DCP Maximum Requirement				
	Quantity	DCP Maximum Requirement per Unit	DCP Maximum Permitted Parking	
1 bedroom	16	0.3	4.8 (5)	
2 bedrooms	3	0.6	1.8 (2)	
3 or more bedrooms	43	1.5	64.5 (65)	
Visitors	62	0.12	7.44 (7)	
Total Permitted			79	
Non-Residential Component – DCP Minimum Requirement				0
Non-Residential Component	Quantity	DCP Minimum Requirement per 100m ² GFA ²	DCP Minimum Required Parking	
Commercial	1344	2.5	20.2 (20)	
Retail	403	3.3	8.0 (8)	
Total required			28	

¹ Note: Non-discretionary development standards for infill affordable housing of SEPP (Housing) 2021

² Note: Parking multiplier of 0.6 applies to developments within New South Head Road Edgecliff Commercial Corridor MU1 Zone.

It is clear from Table 1 that the proposed provision of 74 residential parking spaces comply with the minimum requirements of SEPP (Housing) 2021 as well as the maximum requirement of the site specific DCP.

The proposed zero-provision of non-residential parking would result in a shortfall of 28 car parking spaces than DCP's minimum requirement. It is however acknowledged that travel patterns can be influenced by availability of parking and alternative transport modes. The subject site is in close proximity to public transport services and is conveniently served by public car parks and car sharing services, which could provide support and convenience for future staff, patrons and customers. It is also noted that surrounding streets consist of a mix of 'No Stopping', 'Clearway', '1P' and '2P' timed parking restrictions with resident permit parking scheme. These parking restrictions are anticipated to deter long-term parking and reduce reliance and usage on private vehicles.

Green Travel Plan and Travel Access Guide have been developed which are considered acceptable. The objectives and targets set out are deemed reasonable and achievable through the actions and site-specific measures proposed. Should the development be approved, monitoring annual reports would be required to provide information on the number of people trips, travel modal split and journey purpose, etc. for a minimum of 5 years post occupation, as per Council's DCP.

In addition, it is requested that a minimum of two (2) parking spaces be allocated for designated car share parking space to reduce dependence on private vehicles.

Bicycle and Motorbike Parking

Table 2: Bicycle and Motorbike Parking Provision

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Office Employees	1344m ²	1 per 150m ² GFA	9.0 (9)
Office Visitors	1344m ²	1 per 400m ² GFA	3.4 (3)
Shop Employees	403m ²	1 per 250m ²	1.6 (2)
Shop Customers	403m ²	2 + 1 per 100m ² over 100m ² GFA	5.0 (5)
Residential Residents	62 units	1 per unit	62
Residential Visitors	62 units	1 per 10 units	6.2 (6)
Total required			87
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	74	1 per 10 car spaces	7.4 (7)
Total required			7

In response, the proposal includes 90 bicycle parking spaces and 9 motorbike parking spaces, which complies with DCP's minimum requirements and is deemed satisfactory.

In light of the zero-provision of car parking spaces for the non-residential component, it is requested that end-of-trip facilities, including a minimum of nine (9) shower and change cubicles be provided to facilitate use of alternative travel modes and encourage active transport, as per E1.6.1 of Council's DCP.

Q. Traffic generation

Council's Traffic and Transport Team Leader has reviewed the proposal and advised:

Traffic generation from the proposed development has been calculated in accordance with TfNSW Guide to Transport Impact Assessment (2024) – TS 00085.

Proposed Development

Retail – Specialty Shops

- *Weekday peak hour vehicle trips: $403\text{m}^2 \times 0.75 \times 1.6\text{-}3.2$ per 100m^2 GLFA = 4.8-9.7 trips*
- *Daily vehicle trips¹: $403\text{m}^2 \times 0.75 \times 16\text{-}43.2$ per 100m^2 GLFA = 48.36-106.4 trips*

Commercial

- *Weekday peak hour vehicle trips: $1344\text{m}^2 \times 1.2\text{-}1.69$ per 100m^2 GFA = 16.1-22.7 trips*
- *Daily vehicle trips: $1344\text{m}^2 \times 11.29$ per 100m^2 GFA = 151.7 trips*

High Density Residential – High Public Transport Accessibility

- *Weekday peak hour vehicle trips: 62 dwellings $\times 0.15\text{-}0.19$ per dwelling = 9.3-11.78 trips*
- *Daily vehicle trips: 62 dwellings $\times 1.52$ per dwelling = 94.24 trips*

Total

- *Weekday peak hour vehicle trips = 25.7-44.2 trips*
- *Daily vehicle trips = 294.3-352.4 trips*

1 Note: Daily trip rates are not provided in TS 00085 however a typical 10-11 times of peak traffic volume is assumed.

SIDRA analysis has been undertaken to simulate future traffic conditions at the intersections (from west to east) of New South Head Road and Mona Road, New South Head Road and Darling Point Road/McLean Street, as well as New South Head Road and Ocean Avenue/Ocean Street. A review of the SIDRA results identifies issues as detailed below:

- 1. The increase of traffic flow in SIDRA modelling is inconsistent with the results calculated in the traffic report. It appears the total volume increase does not match the results calculated and morning peak increase has been added to the wrong directions of flow in Darling Point Road. During morning peak hours there should be more traffic travelling citybound and which require to turn right from Darling Point Road into New South Head Road.*
- 2. SIDRA analysis assumes there is no increase of pedestrian flow as a result of this development, however it is anticipated that this development will create additional pedestrian activities in the surrounding streets.*

3. *Traffic efficiency in Darling Point Road, particularly for through traffic and right turn movements will be further reduced as the Level of Service will change from 'E' to 'F' which indicates the traffic flow exceeds the intersection capacity and will cause excessive delays.*
4. *The average queue length is 31.8m in Darling Point Road approaching the intersection, which is beyond property boundary line and is therefore anticipated to impede vehicular movements accessing/egressing the site.*

As such, Council's Traffic Engineers raise serious concerns on the adverse traffic impact of the development as it is envisaged to exacerbate the traffic conditions in Darling Point Road, near its intersection with New South Head Road, particularly with right turn movements. Should the development be approved, it is requested that all vehicles access and egress the site take Left in/Left out movements to mitigate traffic weaving near the access points and alleviate the adverse impacts near the intersection. It is also requested that the developer develop, fund and implement, to the satisfaction of Council's Engineering Services Department and subject to TfNSW's concurrence, a concrete centre median island in Darling Point Road across the property frontage to prevent vehicles from turning right into and out of the site.

R. Service vehicle and vehicular access

Council's Traffic and Transport Team Leader has reviewed the proposal and advised:

The proposed loading dock with a turntable to assist with manoeuvrability for MRVs of up to 7.66m in length, including Council's waste collection vehicles, is considered acceptable.

Council's DCP requires that two (2) car lifts must be provided for car parks accessed by car lift/s with more than 25 parking spaces. It is noted that two (2) car lifts have been proposed and will be designed to give priorities to vehicles entering the site, which is considered acceptable. Queuing analysis has been provided which identifies a total of four (4) vehicles for the 98th percentile queue during peak traffic levels. Noting two (2) car lifts have been provided which can accommodate two (2) cars, a minimum of two (2) onsite waiting bays should be provided to prevent vehicles from queuing beyond the property boundary. It is noted that such accommodation will be provided near the internal driveway leading to the car lifts, with swept path analysis demonstrating sufficient space to allow satisfactory vehicular access.

It is however noted that a porte cochere is proposed near the car lift which is considered unnecessary and should be removed. Swept path diagrams indicate that vehicles can make u-turns through the porte cochere and leave the site, which may impair the operation of future centre median island in Darling Point Road to deter vehicles from turning right on Darling Point Road.

As such, the vehicular access to the car lifts should be redesigned to remove the porte cochere and clearly depict the provision of two (2) waiting bays to ensure that waiting vehicles wouldn't reverse out onto the footpath to enable another vehicle to manoeuvre off the site.

The proposed 6.3m-wide vehicular access at property boundary is considered acceptable. Signs and line marking should be provided to delineate the ingress

and egress traffic. A 2m x 2.5m driveway sightline splay should be provided, clear of sight obstruction, along the entry side of the driveway to ensure visibility between vehicles leaving the car park and pedestrians on the frontage road footpath, as per Clause 3.2.4 and Figure 3.3 of AS2890.1:2004. This should be clearly depicted on the architectural plans.

S. Trees and landscaping

Council's Tree Management Team Leader has reviewed the proposal and advised:

The proposed development affects three Lophostemon confertus (Brush Box) trees located within the road reserve on New South head Road (NSH Road). These trees are in good health and structural condition and under Council management. They are prominent landscape features when viewed from New South Head Road entering Edgecliff from the west. They are high valued trees and the proposed development should have an acceptable degree of impact to not have long-term implications on their health, structure or landscape prominence.

Below-Ground Impacts:

The groundworks are expected to have minimal impact on the root systems of these trees. The presence of existing buildings has likely restricted root spread, reducing the likelihood of significant below-ground disturbance.

Above-Ground Impacts:

The crowns of the three trees extend beyond the boundary line and between the existing buildings. As the proposed new building is shown as constructed on the boundary line, some pruning will be required to facilitate the development. The submitted Arborist Report suggests that a detailed pruning plan may be necessary. However, this can be appropriately addressed at the Construction Certificate stage, given the potential time lapse between an approval and construction commencement.

Awnings:

At this stage, the impact of the awning on the trees remains unclear, as the level of detail in the provided plans is insufficient. The project arborist has acknowledged this uncertainty in the arboricultural report and has also stated that a pruning specification should include provisions for the awning. Based on the available information, there appears to be a direct conflict between the trees along New South Head Road and the proposed awning. If this conflict cannot be resolved through design modifications, the awning should be deleted.

Impact on Neighbouring Trees

Several neighbouring trees may experience minor impacts due to the development. However, in most cases, these impacts are minimal and generally acceptable. Some pruning is anticipated, but this is considered minor and does not pose a significant risk to tree health or structure.

Trees 7 and 8 (Ficus rubiginosa Port Jackson Fig) appear to be positioned within the neighbouring property to the north and are growing out of the retaining wall. Its highly likely these are self-sown./ The foliage extending over the boundary and within the subject site will need to be pruned which is not an issue.

Exempt or non-prescribed trees

Exempt non-prescribed trees within the site are identified as trees: 10, 11, 12, 13, 14, 15, 16, 17, 18 & 21x3. These trees can be removed at anytime without Council consent or a permit.

Landscaping and Tree Replacement

The development presents challenges for landscaping due to the lack of deep soil potential. As the entire site is to be developed, there will be no opportunity for in-ground tree planting. Any proposed landscaping will be on-structure, which limits the potential for meaningful tree replacement.

T. Privacy

The proposed level 4 communal and wellness terraces appear to overlook No. 164 and No. 166 New South Head Road. The issue of overlooking may be addressed by the provision of the screening proposed under the wind mitigation measures. However, the impacts of the mitigation measures in terms of solar access and visual impact should be considered.

The proposed tower is setback only 6m from the eastern boundary rather than the 9m required under the ADG, resulting in additional privacy impacts to the west facing windows to No. 164 and No. 166 New South Head Road and the roof terrace to No. 164.

U. Solar access

The proposal would result in additional overshadowing to the public domain by casting shadows to New South Head Road, New Mclean Street, and Trumper Park. However, the additional overshadowing, caused by the 30% height increase permitted under the Housing SEPP, is limited to one hour of overshadowing to Trumper Park at 9am and additional over shadowing to sections of New Mclean Street at 10am and 11am.

The proposal results in additional overshadowing to No. 164 New South Head Road, but the EIS identifies that the solar access is a marked improvement over the planning proposal envelope, as the detailed design includes a chamfer to the northeast corner of the development to reduces solar impact to 164 New South Head Road.

V. On-site stormwater detention (OSD)

Councils Team Leader – Development Engineering has reviewed the proposal and advised:

For on-site stormwater management, the provision of an on-site stormwater detention (OSD) system must be provided for the proposed new development to comply with Chapter E2.2.4 of the Council's DCP. The applicant has requested a dispensation from providing an OSD system which is not supported. They must demonstrate, by way of a catchment plan and supporting calculations, that the total site discharge, including all runoff from all bypassed areas of the proposed development, does not exceed the Permissible Site Discharge (PSD).

W. Flooding

Council's Stormwater and Environment Engineers has reviewed the proposal and advised:

The SSD has been identified as possibly subject to flooding and is situated in an area that is included in the Rushcutters Bay catchment area.

The Development Application has been reviewed with regards to the flood protection objectives in DCP 2015 E2.3:

- *To minimise risk to people and property.*
- *To ensure that development does not cause flood levels to rise or exacerbate flooding on the surrounding floodplain.*
- *To ensure existing overland flow paths are maintained and to ensure new structures do not obstruct the free flow of floodwaters.*
- *To increase flood hazard awareness.*
- *To maintain Council's streetscape objectives in existing commercial and heritage areas.*

The proposal is satisfactory, subject to the recommended conditions.

X. Materiality and design of awning

Whilst the provision of an awning to New South Head Road is supported from an urban design perspective, Council's Assets Team has reviewed the proposal and advised that the concrete materiality and design of the awning to New South Head Road is not supported.

The awning must be constructed as a steel/metal or glass structure that is separate from the building. Construction joints must be provided to ensure the awning can be easily dismantled if needed. The design should be amended to accommodate these requirements prior to any consent being granted.

However, in the event that the awning cannot be constructed without harm to the existing street trees (refer to section S), it is recommended that the awning is deleted.

Y. Contamination

Council's Environmental Health Officer has reviewed the Detailed Site Investigation Report and Remedial Action Plan and has determined that the proposal is satisfactory subject to the recommended conditions.

Z. Noise and vibration

Council's Environmental Health Officer has reviewed the Noise and Vibration Impact Assessment and has determined the proposal is satisfactory subject to the recommended conditions.

AA. Planning agreement

Council notes the planning agreement (executed 26 February 2024) applicable to the land at 136-148 New South Head Road, Edgecliff.

It is Council's view that the development contribution rates in the executed planning agreement apply to all GFA proposed in the SSDs. This is to be reflected in the quantum of contributions payable prior to the issue of a construction certificate for the development.

If you require clarification on any issue raised, please do not hesitate to contact Executive Planner **Eleanor Smith** on (02) 9391 7090 or via email at eleanor.smith@woollahra.nsw.gov.au.

Yours sincerely




Scott Pedder
Director – Planning and Place

Annexures

1. Recommended Conditions of Consent (without prejudice to Council advice)

Annexure 1: Recommended Conditions of Consent (without prejudice to Council advice)

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A. GENERAL CONDITIONS

A.1 Conditions

Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 ("the Act"), and the provisions of the Environmental Planning and Assessment Regulation 2021 ("the Regulations") and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 ("the Development Certification and Fire Safety Regulations"), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.

Notes:

- Failure to comply with this development consent and any condition of this consent is a criminal offence. Failure to comply with other environmental laws is also a criminal offence.
- Where there is any breach Council may without any further warning:
 - a) Issue Penalty Infringement Notices (On-the-spot fines);
 - b) Issue notices and orders;
 - c) Prosecute any person breaching this consent; and/or
 - d) Seek injunctions/orders before the courts to restrain and remedy any breach.
- Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.
- Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.
- This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.
- The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the Crimes (Sentencing Procedure) Act 1999, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious.

Condition Reason: To ensure all parties are aware of the relevant legislation that applies to the development.

(Autotext 1A)

A.2 Definitions

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

Applicant means the applicant for this consent.

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

Local native plants means species of native plant endemic to Sydney's eastern suburbs.

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

PC means the Principal Certifier under the *Act*.

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the BCA.

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

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

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

Site means the land being developed subject to this consent.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

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

Condition Reason: To ensure all parties are aware of the relevant definitions.

(Autotext 2A)

A.3 Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.

Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author	Date
1DP-2-AD00000 R03 1DP-2-AD00300 R02 1DP-2-AD00500 R03 1DP-2-AD20000 R03 1DP-2-AD20100 R03 1DP-2-AD20200 R03 1DP-2-AD20300 R03 1DP-2-AD20400 R03 1DP-2-AD20500 R03 1DP-2-AD30400 R03 1DP-2-AD30500 R05 1DP-2-AD30700 R03 1DP-2-AD30800 R03 1DP-2-AD31200 R03 1DP-2-AD31600 R03 1DP-2-AD39000 R03 1DP-2-AD41000 R03 1DP-2-AD42000 R03 1DP-2-AD43000 R03 1DP-2-AD44000 R03 1DP-2-AD45000 R03 1DP-2-AD50000 R03 1DP-2-AD51000 R03 1DP-2-AD70301 R01 1DP-2-AD70302 R01 1DP-2-AD43000 R03	Architectural Plans	Tzannes	20/12/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 20/12/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024 29/11/2024
SYDGE359558.R01.R evision 1	Remedial Action Plan	Tetra Tech Coffey	02/12/2024
6036 Rev D	Operational Waste Management Plan		04/12/2024
	Driveway Profiles		
241718 Rev C	Flood Risk Management Report	Northrop	04/12/2024
SSDA Landscape Design Report	Landscape Plan	Oculus	04/12/2024
2240502	CPTED Report	Ethos Urban	02/12/2024
2240502	Social Impact Assessment	Ethos Urban	04/12/2024
WI953-01F03(REV1)- WE REPORT	Wind Study	Windtech	24/12/2024
Construction and Demolition Management Plan Rev C	Site Waste Minimisation Management Plan	Elephants Foor Consulting	04/12/2024
0011628540	NatHERS Certificate	JHA	17/12/2024
1778135M	BASIX	DPHI	17/12/2024
240127	ESD Report	JHA	19/12/2024
Acoustics- Noise and Vibration Impact Assessment (SSD- 76855210 and SSD- 77608714)	Acoustic Report	Acoustic Logic	03/12/2024
SYDGE359558.R02	Geotechnical Report	Tetra Tech Coffey	02/12/2024
241718 C04.01-Rev05 C05.41-Rev03	Stormwater Management Plan	Northrop	03/12/2024 29/11/2024
24.345r01v06	Traffic Impact Assessment	Traffix	12/2024

24.345r03v05	Green Travel Plan	Traffix	12/2024
Historical Archaeological Impact Assessment	Historical Archaeological Impact Assessment	Urbis	03/12/2024
Heritage Interpretation Strategy and Plan	Heritage Interpretation Strategy and Plan	Urbis	19/12/2024
Heritage Impact Statement	Heritage Impact Statement	Urbis	19/12/2024
Aboriginal cultural heritage assessment report	Aboriginal cultural heritage assessment report	Palimpsest Consultancy	12/2024
Connecting with Country Report	Connecting with Country Report	Gujaga Foundation	11/2024

Notes:

- Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.
- These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

(Autotext 5A)

A.4 Ancillary Aspects of Development (section 4.17(2) of the Act)

The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

Notes:

- This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

Condition Reason: To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.

(Autotext 8A)

A.5 Development Consent is Not Granted in Relation to these Matters

This approval does not give consent to:

- any works on the land which is identified as intended to be acquired for public purposes in the Land Reservation Acquisition Map, which accompanies the Woollahra Local Environmental Plan 2014 (clause 5.1A).
- any sale of alcohol within the retail space.

Condition Reason: To ensure all parties are aware of works that have not been granted consent

(Autotext 9A)

A.6 Tree Preservation and Landscaping Works

While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees must be retained:

- Trees on Council land:

Council Ref No	Species	Location	Dimension (metres)	Tree value
1	<i>Lophostemon confertus</i> (Brush Box)	NSH Road reserve	12 height x 9 crown spread	\$15,000.00
2	<i>Lophostemon confertus</i> (Brush Box)	NSH Road reserve	9 height x 9 crown spread	\$15,000.00
3	<i>Lophostemon confertus</i> (Brush Box)	NSH Road reserve	8 height x 8 crown spread	\$15,000.00

The tree/s required to be retained must appear coloured green on the Construction Certificate plans.

b) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
10, 11, 12, 13, 14, 15, 16, 17, 18 & 21x3.*	Various and exempt	Refer Arboricultural Report	
19	<i>Syzygium paniculatum</i> Magenta Lilli Pilli	East boundary	9 height x 3 crown spread
20	<i>Cinnamomum camphora</i> Camphor Laurel	East boundary	11 height x 4 crown spread

The tree/s that may be removed must appear coloured red on the Construction Certificate plans.

The species marked (*) is exempt from the WMC DCP 2015 and can be removed without requiring consent from Council.

d) The following trees may be pruned in accordance with Australian Standard Pruning of Amenity Trees (AS 4373) and Workcover NSW Code of Practice Amenity Tree Industry, to the minimum extent necessary to provide clearance to the new development:

Council Ref No	Species	Location	Approved pruning (extent of pruning)
1	<i>Lophostemon confertus</i> (Brush Box)	NSH road reserve	Pruning specification to be provided to Council for review prior to issue of construction certificate
2	<i>Lophostemon confertus</i> (Brush Box)	NSH road reserve	Pruning specification to be provided to Council for review prior to issue of construction certificate
3	<i>Lophostemon confertus</i> (Brush Box)	NSH road reserve	Pruning specification to be provided to Council for review prior to issue of construction certificate
7	<i>Ficus rubiginosa</i> <i>Port Jackson Fig</i>	Retaining wall, northern boundary	Crown reduction to boundary line
8	<i>Ficus rubiginosa</i> <i>Port Jackson Fig</i>	Retaining wall, northern boundary	Crown reduction to boundary line

The tree/s required to be pruned must appear coloured blue on the Construction Certificate plans.

This consent does not permit the holder, or any other person or agent, to enter any property for the purpose of undertaking approved tree works, without the consent of the owner of the property.

Only a Council authorised contractor will be allowed to undertake the pruning of trees located on Council managed land under the instruction of Council's Coordinator of Trees Maintenance in accordance with Council's Tree Management Policies and AS 4373-2007 Pruning of Amenity Trees. All costs associated with the approved pruning will be the responsibility of the applicant. Contact Council's Coordinator of Trees Maintenance on 9391 7000 to arrange the approved pruning works.

To facilitate the assessment of Council's tree assets for pruning, a physical outline of the approved works (if not already constructed) must be provided at the time of inspection via the use of height poles or scaffolding. The outline of the approved works will enable Council's Arboricultural Technical Officer to correctly identify the branches that require pruning to provide clearance for the approved works.

Condition Reason: To ensure all landscape works are undertaken in accordance with the approved plans and documents.

(Autotext 22A)

A.7 State Environmental Planning Policy (Transport and Infrastructure) 2021: Road Noise

The proposed development must be designed in accordance with the approved acoustic report (Acoustics- Noise and Vibration Impact Assessment (SSD-76855210 and SSD-77608714, prepared by Acoustic Logic, dated 03 December 2024) to ensure that road traffic noise from New South Head Road is mitigated in accordance with the requirements of the State Environmental Planning Policy (Transport and Infrastructure) 2021.

Condition Reason: To protect against road traffic noise.

(Autotext 24A)

A.8 No Underpinning works

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.

Condition Reason: To ensure all works are located within the boundaries of the site and to confirm that no consent is granted for underpinning works to any structures on adjoining properties.

(Autotext 31A)

A.9 Vehicular Access and Garaging

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B99 vehicles. In all respects, the proposed vehicular access including any parking spaces must be designed and constructed to comply with the minimum requirements of AS2890.1, AS2890.2, AS2890.6 and the Council's DCP.

Condition Reason: To prevent car scraping and to ensure vehicular access ramps and parking spaces are designed in accordance with the Australian Standard.

A.10 Planning agreement

The planning agreement entered into between the Woollahra Municipal Council and Edgecliff Central Pty Ltd on 26 February 2024 that is registered on the title of the land to which this consent relates is to be carried out and complied with.

Condition Reason: To identify the existing planning agreement and ensure the planning agreement is carried out and complied with.

B. BEFORE DEMOLITION WORK COMMENCES

B.1 Construction Certificate Required Prior to Any Demolition

Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" under section 6.6 of the Act.

In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:

- Before issue of a construction certificate
- Before building work commences

This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the Act.

Note:

- See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Condition Reason: To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.

(Autotext 1B)

B.2 Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

Prior to any site works and prior to the issue of any Construction Certificate, a full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer.

The archival record must be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage, or by a suitably qualified consultant who demonstrates a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.

There must be one digital set of the photographic report. The following table summarises the lodgement details for photographic records.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	Woollahra Council – Report and images (digital)

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- c) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature,
 - internal images of each room and significant architectural detailing, and
 - views to the subject property from each street and laneway or public space.

Notes:

- Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf>

Condition Reason: To ensure existing contributory building and landscape elements are recorded.

(Autotext 2B)

B.3 Erosion and Sediment Controls – Installation

Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:

- a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and
- b) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).

Where there is any conflict The Blue Book takes precedence.

Notes:

- The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au
- A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.
- Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.
- Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

Condition Reason: To prevent potential water pollution and dust nuisance.

(Autotext 4B)

B.4 Establishment of Tree Protection Zones

Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

A Construction Site Management Plan, which clearly details the tree protection measures, must be prepared before the issue of a construction certificate. The tree protection measures must comply with the following requirements;

- a) Trunk protection must be installed around the trunks of the following trees:

Council Ref No	Species
1	<i>Lophostemon confertus</i> (Brush Box)
2	<i>Lophostemon confertus</i> (Brush Box)
3	<i>Lophostemon confertus</i> (Brush Box)

Trunk protection must consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or

similar) must be placed over the padding and around the trunk of the tree at 150mm centres. The planks must be secured with 8 gauge wire at 300mm spacing. Trunk protection must extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- b) Signs identifying the Tree Protection Zone area must be erected on each side of the protection fence indicating the existence of a TPZ area. Signage must be visible from within the development site.
- c) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.

Condition Reason: To ensure the protection of existing trees.

(Autotext 5B)

B.5 Identification of Hazardous Material

Prior to any site works, and in accordance with Australian Standard AS2601: The Demolition of Structures, all hazardous substances located on the site must be identified, including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc.

In this regard, prior to any site works, Council must be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site,
- the specific location of all hazardous materials identified,
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and
- safety measures to be put in place.

Condition Reason: To protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

(Autotext 6B)

B.6 Public Road Assets Prior to Any Work/Demolition

Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.

The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- street signage including street lights,
- kerb and gutter,
- footway including pedestrian crossings, footpath, and driveways,
- retaining walls, or other significant structures,
- Heritage Items, including street name inlays,
- utility service items including historical utility covers, and
- drainage structures/pits/pipes (CCTV footage).

The reports are to be supplied in electronic format in Word and if applicable accompanied by CCTV footage. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site works under this consent.

Condition Reason: To clarify the condition of the existing public infrastructure prior to the commencement of any site works.

(Autotext 7B)

B.7 Archaeological Features – Unexpected Findings

While site work is being carried out, if a person reasonably suspects archaeological features are discovered, work must cease immediately in the affected area(s) and the Heritage Council must be notified.

Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.

Additional assessment and approval under the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Notes:

- Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity.
- Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks.
- During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).

Condition Reason: To protect archaeological features.

(Autotext 8B)

B.8 Skeletal Remains

While site work is being carried out, if any skeletal remains suspected of being human are found, work must cease immediately and no further disturbance of the site must occur. The following must be notified:

- a) NSW Police, and
- b) The person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.

Details of the remains and their precise location are to be provided.

Site work may recommence at a time confirmed in writing by the NSW Police and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.

Condition Reason: To ensure the appropriate management of skeletal remains.

(Autotext 9B)

B.9 Aboriginal Objects – Unexpected Findings

While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:

- a) Not further disturb or move these objects or bones.
- b) Immediately cease all work at the particular location.
- c) In the case of suspected human remains, notify NSW Police.
- d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.
- f) Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Notes:

- The Definition of Aboriginal object, as per the National Parks & Wildlife Act 1974, is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Condition Reason: To protect Aboriginal objects

(Autotext 10B)

B.10 Heritage – Induction

Prior to any ground disturbance works commencing on site, all construction staff and contractors must be made aware of their statutory obligations for historical archaeology under the Heritage Act 1977. This must be implemented as a heritage induction programme provided by a suitably qualified heritage consultant.

Condition Reason: To protect potential archaeological features and relics.

(Autotext11B)

B.11 Aboriginal Heritage Due Diligence Responsibilities

While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.

Condition Reason: To protect Aboriginal heritage.

(Autotext 12B)

B.12 Aboriginal Heritage Induction

Prior to any site works:

- a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974;
- b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and
- c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.

Condition Reason: To protect Aboriginal heritage.

(Autotext 13B)

B.13 Payment of Security and Fees

Prior to any site works, the following security and fees must be paid in full:

Description	Amount	Indexed	Council Fee Code
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit (\$138)	\$3,247,740.00	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	\$45,000.00	No	T114
INSPECTION FEES under section 608 of the Local Government Act 1993			
Security Deposit Administration Fee	\$225.00	No	T16
TOTAL SECURITY AND FEES	\$3,292,965.00		

How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.
- The payment of a security may be made by a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to any site works being undertaken, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Notes:

- An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act.
- The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.
- Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.
- Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.
- Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.
- The Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au

Condition Reason: To ensure any relevant security and fees are paid.

(Autotext 14B)

B.14 Dilapidation Reports for Existing Buildings

Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.

These properties must include (but is not limited to):

- a) No. 3-17 Darling Point Road
- b) No. 164 & 166 New South Head Road

Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it

must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.

The completed dilapidation reports must be submitted to the Principal Certifier for approval, and an approved copy of the reports must be submitted to Council with the Notice of Commencement prior to the commencement of any development work.

No less than two (2) days before any site work commences, neighbouring building owner(s) must be provided with a copy of the dilapidation report for their property(ies).

Notes:

- The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly caused by the carrying out of the development.
- This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.

Condition Reason: To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.

(Autotext 16B)

B.15 Adjoining Buildings Founded on Loose Foundation Materials

The report is to be supplied in both paper copy and electronic format in PDF. Photographs are to be in colour, digital, and date stamped.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any site work. If the required report is not submitted, Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site work under this consent.

Notes:

- If a dilapidation report is not submitted as required by this condition, and damage is occasioned to public assets, which adjoin the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure.
- Nothing in this condition prevents Council making any claim against security held for this purpose.

Condition Reason: To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.

(Autotext 18B)

B.16 Piezometers for the Monitoring of Ground Water Levels

Before any site work commences, 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall must be provided. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.

The GWL monitoring wells and monitoring program must be maintained until the issue of the occupation certificate.

The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).

Condition Reason: To ensure that piezometers are provided to monitor ground water levels.

(Autotext 19B)

B.17 Construction Traffic Management Plan

Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Traffic Management Plan (CTMP) is to be submitted to Council for approval. Also, due to lack of on-street parking a Work Zone may be required during construction.

An application for the CTMP must be submitted for approval, and all associated application fees must be paid.

The CTMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:

- a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes.
- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access, or reversing manoeuvres onto a public road, and provide Traffic Guidance Schemes (TGSs) prepared by an accredited SafeWork NSW Control Work Training Card holder to manage these temporary changes.
- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.
- i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction

- (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
 - k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
 - l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Guidance Schemes (TGSs) prepared by an approved SafeWork NSW Control Work Training Card holder.
 - m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
 - n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)
 - o) Show the location of any proposed excavation and estimated volumes.
 - p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
 - q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

Notes:

- A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Traffic Management Plan is approved.
- Failure to comply with this condition may result in fines and proceedings to stop work.
- Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command.
- If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.
- Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov

Condition Reason: To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.

(Autotext 20B)

B.18 Works (Construction) Zone – Approval and Implementation

If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.

If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.

All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.

Notes:

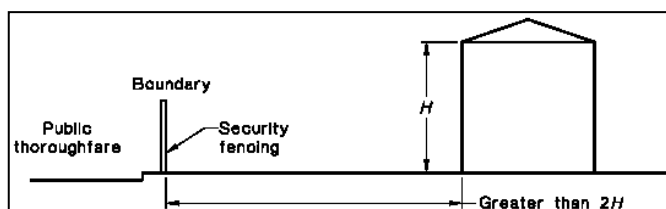
- A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988.
- The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service.

Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.

(Autotext 21B)

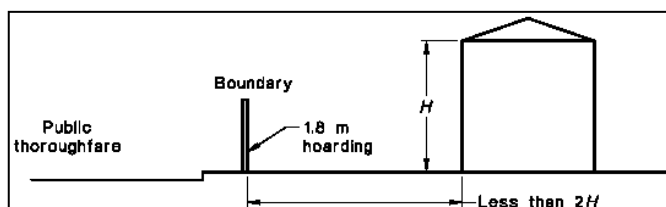
B.19 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

Before any site work commences, security fencing must be provided around the perimeter of the development site, including any additional precautionary measures taken to prevent unauthorised entry to the site at all times during the demolition, excavation and construction period. Security fencing must be the equivalent 1.8m high chain wire as specified in AS 1725.



Type A Hoarding

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless the least horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.



Type B Hoarding

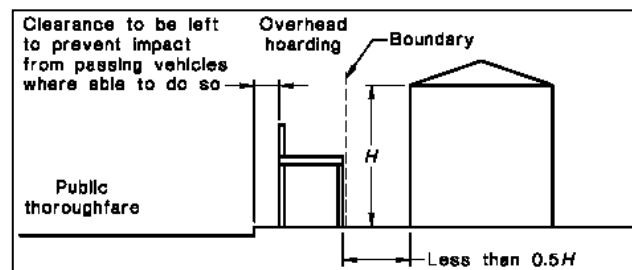
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must

be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- a) the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- b) have a clear height above the footpath of not less than 2.1m,
- c) terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The overhead protective structures must be installed and maintained in accordance with the NSW “Code of Practice - Overhead Protective Structures 1995”. This is code available at www.safework.nsw.gov.au/___data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf

All Hoardings

Security fencing, hoarding and overhead protective structure must not obstruct access to utilities services including but not limited to man holes, pits, stop valves, fire hydrants or the like.

Hoardings on Public Land including ‘Creative Hoardings’

All fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection must be paid in full.

A creative hoarding (i.e. an approved artwork or historic image affixed to the hoarding) is required if the hoarding meets the criteria in Council’s Creative Hoardings Policy (adopted March 2020). The cost of printing and affixing the creative hoarding is the responsibility of the person with the benefit of this consent. The Creative Hoardings Policy can be downloaded from Council’s website www.woollahra.nsw.gov.au

Notes:

- A minimum of two (2) weeks from the date of making a hoarding application to determination must be allowed. Any approval for a hoarding or overhead protection under the Roads Act 1993 will be subject to its own conditions and fees.
- Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy:

- a) Hoardings proposed on land zoned E1 Local Centre, or MU1 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
- b) Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
- c) Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:
 - 1. the capital investment value of the work to which the hoarding relates is less than \$1 million, or
 - 2. the land is zoned R2 Low Density Residential, or
 - 3. the land is zoned R3 Medium Density Residential and the hoarding is located in a lane or street that does not have through traffic (e.g. a cul-de-sac or no through road).
- Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council's form "Application for a permit to use a footpath for the erection of a hoarding/scaffolding". The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au

Condition Reason: To ensure public safety.

(Autotext 22B)

B.20 Site Signs

Before any site work commences, the sign/s required by clauses 70 of the Regulation and 75 of the Development Certification and Fire Safety Regulation must be erected and maintained at all times.

Clause 70 of the Regulation provides:

Erection of signs

- For the purposes of section 4.17(11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a) showing the name, address and telephone number of the principal certifier for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia.

Clause 75 of the Development Certification and Fire Safety Regulation provides:

Signs on development sites

If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Notes:

- Clause 75 of the Development Certification and Fire Safety Regulations imposes a maximum penalty of 55 penalty units if these requirements are not complied with.
- If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 70 of the Regulation and clause 75 of the Development Certification and Fire Safety Regulation.

Condition Reason: To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.

(Autotext 23B)

B.21 Toilet Facilities

Before any site work commences, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

Notes:

- In this condition 'sewage management facility' and 'public sewer' are as defined by clause 25 of the Local Government (Approvals) Regulation 1999.
- This condition does not set aside the requirement to comply with SafeWork NSW requirements.

Condition Reason: To ensure toilet facilities are provided for workers at the work site.

(Autotext 24B)

B.22 Establishment of Boundary Location, Building Location and Datum

Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:

- a) set out the boundaries of the site by permanent marks (including permanent recovery points),
- b) set out the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,
- c) establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and
- d) provide a copy of a survey report, prepared by the registered surveyor, detailing the title boundaries, pegs/profiles, recovery points and bench mark locations as established under this condition to the Principal Certifier.

Notes:

- Where there is any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the site works must not proceed until the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.
- On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks must be considered by the registered surveyor.

Condition Reason: To ensure that the boundary locations, building location, and a datum point is established by a surveyor.

(Autotext 25B)

B.23 Compliance with Australian Standard for Demolition

While site work is being carried out, the demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.

Condition Reason To control the risks of demolition work.

(Autotext 27B)

B.24 Construction Management Plan Arborist Review

Prior to any site works, the Construction Management Plan must be reviewed and certified by the Project Arborist confirming that appropriate tree protection measures are implemented. The Construction Management Plan must be prepared in accordance with all tree protection measures specified within this consent.

The plan must address:

- a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.;
- c) Site construction access, temporary crossings and movement corridors on the site defined;
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;

- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.

Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees.

(Autotext 28B)

B.25 Arborists Documentation and Compliance Checklist

Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent are implemented. Documentation for each site visit must include:

- A record of the condition of trees to be retained prior to and throughout development.
- Recommended actions to improve site conditions and rectification of non-compliance.
- Recommendations for future works which may impact the trees.

All compliance certification documents must be kept on site.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
Prior to any site works	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.

Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.

Additional site visits must be made when required by the site arborist and/or site foreman for ongoing monitoring/supervisory work.

Condition Reason To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.

(Autotext 29B)

C. ON COMPLETION OF REMEDIATION WORK

C.1 Notice of Completion of Category 1 Remediation Work

On the completion of the remediation work, and before any building work commences, and as required under clause 4.14 of State Environmental Planning Policy (Resilience and Hazards) 2021, notice of completion of a category 1 remediation work must be given to the Council within 30 days after the completion of the work. This notice must be in accordance with clause 4.15 of State Environmental Planning Policy (Resilience and Hazards) 2021.

Notes:

- **Category 1 remediation work** is defined in clause 4.8 of State Environmental Planning Policy (Resilience and Hazards) 2021.

Condition Reason: To ensure a notice of completion of a category 1 remediation work is provided.

(Autotext 1C)

D. BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

D.1 Modification of Details of the Development (section 4.17(1)(g) of the Act

Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:

Materiality and design of the awning to New South Head Road

- a) The awning to New South Head Road must be constructed as a steel/metal or glass structure that is separate from the building. Construction joints must be provided to ensure the awning can be easily dismantled if needed.

Street trees to New South Head Road

- b) Provide a detailed pruning specification for Trees 1, 2 & 3. The pruning specification must have been reviewed and approved by Council.
- c) Project Arborist to make a detailed review of the awning position and type on New South head Road adjacent to Trees 1, 2 & 3. The awning shall be deleted if it has a conflict with the Trees.

Vehicle waiting bays and removal of porte cochere

- d) The vehicular access to the car lifts should be redesigned to remove the porte cochere and clearly depict the provision of two (2) waiting bays to ensure that waiting vehicles wouldn't reverse out onto the footpath to enable another vehicle to manoeuvre off the site.

End of trip facilities

- e) End-of-trip facilities, including a minimum of nine (9) shower and change cubicles be provided to facilitate use of alternative travel modes and encourage active transport, as per E1.6.1 of Council's DCP.

Market rate and affordable residential units

- f) The market rate residential units and affordable housing units shall clearly be denoted.

Tree Planting Schedule

- g) A tree planting schedule which indicates the number, size, and location of replacement trees proposed. The tree planting schedule must be prepared in accordance with the approved landscape plans and the approved wind study.

Notes:

- Clause 20 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate subject to this condition unless the Principal Certifier is satisfied that the condition has been complied with.
- Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent.

Condition Reason: To require design changes and/or further information to be provided to address specific issues identified during the assessment under section 4.15 of the Act.

(Autotext 4D)

D.2 Payment of Long Service Levy

Before the issue of any construction certificate, the original receipt(s) for the payment of the following levy must be provided to the Principal Certifier:

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	

Building and Construction Industry Long Service Payment

The long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986, must be paid and proof of payment provided to the Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.

How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

Condition Reason: To ensure any relevant levy is paid.

(Autotext 5D)

D.3 BASIX Commitments

Before the issue of any construction certificate, BASIX Certificate No. 1778135M must be submitted to the Principal Certifier with any application for a construction certificate.

All commitments in the BASIX Certificate must be shown on the construction certificate plans and specifications prior to the issue of any construction certificate.

Notes:

- Where there is any proposed change in the BASIX commitments the Applicant must submit a new BASIX Certificate to the Principal Certifier and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 19 and 20 of the Development Certification and Fire Safety Regulation) the Applicant will be required to submit an amended development application to Council under section 4.55 of the Act.
- Clause 19(1)(a) of the Development Certification and Fire Safety Regulation 2021 provides: a certifier must not issue a construction certificate for building work unless: the relevant building work plans and specifications include the matters required by a relevant BASIX certificate, if any.

Condition Reason: To ensure all commitments in the BASIX Certificate are incorporated into the development.

(Autotext 7D)

D.4 Building Upgrade (clause 64 of the Regulation)

Before the issue of any construction certificate, the construction certificate plans and specification required to be submitted to the Principal Certifier, under clause 7 of the Development Certification and Fire Safety Regulation, must ensure the existing building is brought into total or partial conformity with the BCA, by detailing all building upgrade works required by this condition.

The Principal Certifier must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the following provisions of the BCA as in force at the date of the construction certificate application:

- a) Volume 1, F6 D6 - Ventilation of Rooms
- b) Housing Provisions, HP3 - Requirements for smoke alarms,
- c) Housing Provisions, Clause 3.9.1 - Stair construction,

Notes:

- The measures contained in the building are inadequate:
 - a) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, and/or
 - b) to restrict the spread of fire from the building to other buildings nearby.
- The Principal Certifier issuing the construction certificate has no power to remove the requirement to upgrade the existing building as required by this condition. Where this condition specifies compliance with performance requirements of the BCA the Principal Certifier, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (Deemed-to-Satisfy) provisions of the BCA these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed Part 8 Division 8.2 or amended under section 4.55 of the Act.
- This condition does not set aside the Principal Certifier's responsibility to ensure compliance with clause 14 of the Development Certification and Fire Safety Regulation in relation to Fire Protection and Structural Adequacy.

Condition Reason: To ensure that, in accordance with clause 64 of the Regulation, that the existing building be upgraded to total or partial conformity with the BCA.

(Autotext 10D)

D.5 Hydraulic Fire Services

Before the issue of any construction certificate, the construction certificate plans and specifications required by clause 7 of the Development Certification and Fire Safety Regulation, must detail all hydraulic fire safety services required by this condition.

Fire hydrants, booster valve assembly installations, sprinkler valves and associated hydraulic equipment, must be:

- a) enclosed with doors, if located in the building façade; or
- b) housed in a cabinet or enclosure, if located external to the building.

The location, design, colour and material of the doors, cabinet or enclosure must be visually unobtrusive and suitably integrated with the development, including any fencing and landscaping.

Notes:

- These conditions apply in addition to requirements in AS 2419.1 Fire hydrant installations.

Condition Reason: To ensure that, in accordance with clause 7 of the Development Certification and Fire Safety Regulation, that hydraulic fire safety services are provided, but not visually intrusive when viewed from the street.

(Autotext 11D)

D.6 Design Principles for Residential Apartment Development – Design Verification Statement

Before the issue of any construction certificate, as required under clause 15 of the Development Certification and Fire Safety Regulation, a statement by a qualified designer verifying that the relevant building work plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principle in State Environmental Planning (Housing) 2021 —Design Principles for Residential Apartment Development must be provided to the Principal Certifier.

Notes:

- Although a Principal Certifier may under clause 73(2)(b) of the Development Certification and Fire Safety Regulation be satisfied to any matter that relates to the external finish of a building the specific provisions of clause 15 of the Development Certification and Fire Safety Regulation overrides the Principal Certifier's powers under clause 73(2)(b). No Principal Certifier can set aside this requirement.
- **Qualified designer** means a person registered as an architect in accordance with the Architects Act 2003.
- There are several methods of verifying the status of an individual or corporation or firm offering architectural services. Ask the individual for their four digit NSW Architects Registration Number, ask a corporation or firm for the name and registration number of their "nominated architect", check to see whether an individual is listed on the NSW Register of Architects or the corporation or firm is listed on the list of architect

corporations and firms on the Board's website www.architects.nsw.gov.au or call the NSW Architects Registration Board on 9241 4033 to check the status of an individual or corporation or firm.

Condition Reason: To ensure a design verification statement from a qualified designer is provided for the development.

(Autotext 12D)

D.7 Road and Public Domain Works

Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense:

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 6.3 metres wide vehicular crossing in accordance with Council's Crossing Specification, standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at a right angle to the street kerb in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the parking slab must be submitted for assessment.
- b) The reconstruction of the existing full width concrete footpath including pram ramps for the full frontage of the site in Darling Point Road in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. A maximum crossfall of 3% must be provided for the footpath from the property boundary towards the top of kerb. A design longitudinal surface profile (scale 1:100) and cross sections (scale 1:50) at every 5 metres intervals must be submitted for assessment,
- c) The reconstruction of full width footpath with Edgecliff pavers for the full frontage of the site in New South Head Road in accordance with Council's Specification. A maximum crossfall of max. 3% shall be provided for the full width footpath from the property boundary to the top of kerb. A design longitudinal surface profile (scale 1:100) and cross sections (scale 1:50) at every 5 metres interval must be submitted,
- d) The construction of a new kerb inlet pit (KIP) with 1.8m precast lintel over the existing Council's underground pipeline in Darling Point Road in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Council's Standard Drawing DR1 and to the satisfaction of Council's Assets Engineers. The proposed KIP must be provided within the frontage of the site and be located at a minimum distance of 0.5m from the layback of the proposed crossing to comply with Council's Specification. The grates shall be Class D, "bicycle friendly" type,
- e) The proposed concrete awning over Council's property is not supported. The submission of detailed structural drawings and design certification from a chartered professional structural engineer for the proposed steel/metal or glass awning on Council's property. Construction joints must be provided for the awning to the building to ensure the awning can be easily dismantled,
- f) Observe condition for the creation of positive covenant requirements,
- g) The reinstatement of all damaged kerb and gutter and road pavement to Council's Specification and to the satisfaction of Council's Assets Engineers,

- h) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf,
- i) The developer shall be responsible for carrying out all service investigations to allow a gravity connection,
- j) An infrastructure bond will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.
- k) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
- l) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements.

Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:

Description	Amount	Indexed	Council Fee Code
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Infrastructure Works Bond - completing any public work required in connection with the consent.	\$263,400.00	No	T113
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road and Footpath Infrastructure Inspection Fee	\$1,348.00 + Index Amount	Yes, yearly	T45
TOTAL SECURITY AND FEES	\$264,748.00		

How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,

- the bank guarantee is lodged with the Council prior to any site works being undertaken, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Notes:

- **Road** has the same meaning as in the Roads Act 1993.
- Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.
- Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the Roads Act 1993 and specifically:
 - a) Construction of driveways and/or new or alterations to footpath paving
 - b) Alteration and/or extension to Council drainage infrastructure
 - c) Alteration and/or addition of retaining walls
 - d) Pumping of water to Council's below ground stormwater system
 - e) Installation of soil/rock anchors under the roadway
 - f) Installation of Stormwater outlet pipes across the nature strip
- An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the Roads Act 1993, before the issue of any construction certificate.
- Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:
 - a) Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). The connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
 - b) Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.
- All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.
- The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.
- Any adjustments required from the garage slab and the street levels are to be carried out internally on private property.
- Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
- Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".
- Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant must be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.
- All public domain works must comply with the latest version of Council's "Specification for Roadworks, Drainage and Miscellaneous Works" unless expressly provided otherwise by

these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.

- When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment.
- An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act.
- The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.
- Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.
- When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s.
- Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.

(Autotext 13D)

D.8 Waste Storage – Mixed Developments (both commercial and residential)

Before the issue of any construction certificate, the construction certificate plans and specifications required by clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans and specifications must make provision for:

- a) The storage of waste and recycling bins behind the building line or within non-habitable areas of the building.
- b) Two separate centralised waste and recycling rooms or areas, one for commercial waste and one for residential waste. These must be self-contained and have separate keys and locking systems.
- c) The path for wheeling bins between the waste and recycling storage area and the collection point must be free of steps and kerbs and having a maximum grade of 1:8. The waste storage area must be as close as possible to the service road collection point.
- d) Bins to be stored with lids down to prevent vermin from entering the waste containers.
- e) Smooth impervious floor graded to a floor waste and provided with a tap and hose to facilitate regular cleaning of the bins. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
- f) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- g) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- h) Odour problems must be minimised by exhaust ventilation.

- i) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
- j) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.

Condition Reason: To ensure a waste and recycling storage area is provided.

(Autotext 18D)

D.9 Waste Storage – Compliance with Approved Site Waste Minimisation and Management Plan (SWMMP)

Before the issue of any construction certificate, the construction certificate plans and specifications required by clause 7 of the Development Certification and Fire Safety Regulation, must detail provisions for waste management in accordance with the approved SWMMP.

Waste storage areas must meet the following requirements:

- a) Bins must be stored with lids down to prevent vermin from entering the waste containers.
- b) The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
- c) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- d) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- e) Odour problems must be minimised by good exhaust ventilation.
- f) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
- g) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.

Condition Reason: To ensure a waste and recycling storage area is provided.

(Autotext 19D)

D.10 Utility Services Generally

Before the issue of any construction certificate, the construction certificate plans and specifications required by clause 7 of the Development Certification and Fire Safety Regulation, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

A customer's electrical supply connection and point of connection must comply with the NSW Service and Installation Rules: https://www.energy.nsw.gov.au/sites/default/files/2022-08/2018_07_NSW_ServiceAndInstallationRulesOfNSW_underlined.pdf and comply with Ausgrid's relevant Networks Standards relating to customer connections and the type of connection.

Where adequate provision has not been made for an electrical substation within the building, this may necessitate the lodgement of an application to amend this consent under section 4.55 of the Act to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The applicant shall provide to the Principal Certifier a true copy of the plans developed by the applicant's Accredited Service Provider outlining the design and requirements for network modification and customer connection for the proposed development. The plans must have been reviewed and certified by Ausgrid to be deemed compliant of meeting this requirement.

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the construction certificate plans and/or detailed within the construction certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the construction certificate plans.

The construction certificate plans and specifications, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulation, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be UPVC or copper with continuously welded joints.

Notes:

- This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta pipes be replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main.
- Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

Condition Reason: To ensure the adequate provision of utility services, and to ensure that any proposed cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like does not compromise the design quality of the development.

(Autotext 20D)

D.11 Provision for Energy Supplies

Before the issue of any construction certificate:

- a) A survey is to be carried out of all utility services within and adjacent to the site. If necessary, this shall include relevant information from utility authorities and excavation, to determine the position and level of services.

- b) The applicant is to obtain written approval from Ausgrid for the relocation, adjustment or installation of new services, or existing services affected by, or required for the development.
- c) The applicant shall provide to the Principal Certifier a true copy of the plans developed by the applicant's Accredited Service Provider outlining the design and requirements for network modification and customer connection for the proposed development. The plans must have been reviewed and certified by Ausgrid to be deemed compliant of meeting this requirement.

Any required substation must be located within the boundaries of the site. Where an electricity substation is required, but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans an application under section 4.55 of the Act is required to be submitted to Council.

The design and location of any substation should have regard to the electrical substation provisions within the Woollahra Development Control Plan 2015, which require substations to be located and/or concealed so they are not visible from the street. The design and placement of electrical substations shall comply with Ausgrid's relevant Network Standards and will prioritise the placement of the substation at the front of the property.

Where an electrical pillar is required, the electrical designer must consider the impact of all existing and proposed work when preparing their connection or relocation design. Site specific conditions such as existing/proposed property boundaries, building setbacks, other street furniture, street trees and pedestrian pathways will all be taken into account when specifying the final location of the pillar. The design should be compliant with Ausgrid's Network Standards and satisfy Council's objective to maintain a safe and accessible public domain for pedestrians:

- a) The design and location of underground and aboveground utility infrastructure shall consider the finished streetscape and not adversely impact existing pedestrian footpath, or, where the only permissible location for aboveground infrastructure will impact the footpath, the applicant shall widen the footpath to meet minimum accessibility requirements.

The construction certificate plans and specifications, required to be submitted under clause 7 of the Development Certification and Fire Safety Regulation, must detail provisions to meet the requirements of Ausgrid.

Where an electricity pillar and/or substation is required, the construction certificate plans and specifications must provide:

- a) The substation shall be located or concealed so not visible from the street.
- b) A setback not less than 3m from any side or rear site boundary (or fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility under clause 3.2.4 of AS2890.1 (See: Figures 3.2 and 3.3).
- c) That vegetation does not overhang or encroach within the substation site.
- d) That the substation is installed outside of the mature growth root zone of any trees to be retained, or proposed to be planted, to prevent root damage to underground cables. A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2

- m each side of and 3 m above the upper hose connections in the booster assembly under clause 5.6.3(c)(ii) of AS 2419.1, and
- e) The Owner must dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable a substation to be established, if required. The size and location of the substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.

Notes:

- If the substation is not located within the building its location, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any construction certificate for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Principal Certifier prior to issue of the construction certificate. The Principal Certifier must be satisfied that the requirements of the energy authority have been met prior to issue of the construction certificate.
- Where it is proposed to shield any booster connection or any building from any electricity pillar and/or substation under clause 5.6.3(c)(ii) of AS 2419.1 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent under clause 19 of the Development Certification and Fire Safety Regulation. The Applicant must lodge with Council details for any such construction under section 4.55 of the Act to allow assessment under section 4.15 of the Act.
- Electricity pillar and/or Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set) Parking Facilities Set whether such driveways service the site or any adjoining land.

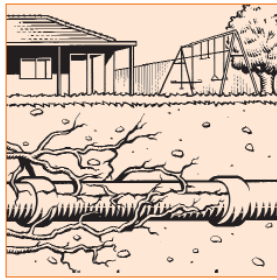
Condition Reason: To ensure the adequate provision of energy supply, and to ensure that any proposed electricity substation or the like does not compromise the design quality of the development.

(Autotext 21D)

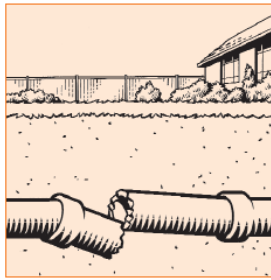
D.12 Water and Waste Water - section 73 Developers Certificate and Upgrading of Existing System

Prior to the issue of any construction certificate, a Compliance Certificate must be obtained from Sydney Water under section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains.

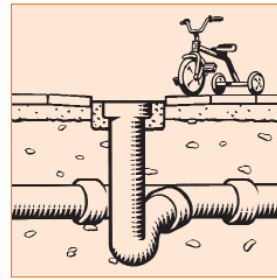
The construction certificate plans and specifications, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulation, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be sewer grade UPVC or copper with continuously welded joints.



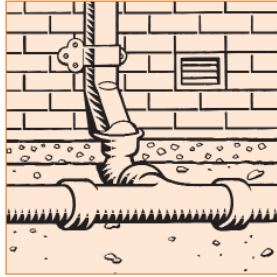
Cracked pipes



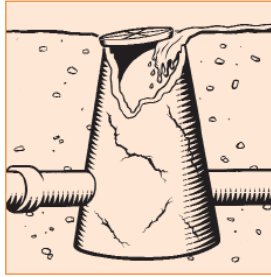
Broken pipes



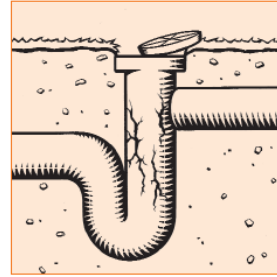
Damaged or low-lying gullies



Direct stormwater connections



Hidden or damaged maintenance holes



Hidden or damaged inspection points

Notes:

- Sydney Water will assess the development and if required will issue a 'Notice of Requirements' letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC). Please make early contact with Sydney Water or a WSC, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
- For more information go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.
- Where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta systems are replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main as part of the development. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

Condition Reason: To ensure that private sewer pipes are upgraded where required to prevent water pollution, and unsafe and unhealthy conditions.

(Autotext 22D)

D.13 Checking Construction Certificate Plans – Protecting Assets Owned by Sydney Water

Before the issue of any construction certificate, the approved plans must be submitted to Sydney Water Tap In TM online service to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and any requirements need to be met.

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

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals

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

Notes:

- For more information go to Sydney Water www.sydneywater.com.au/tapin/index.htm and www.sydneywater.com.au/SW/plumbing-building-developing/building/building-over-or-next-to-assets/index.htm or call 1300 082 746.

Condition Reason: To ensure the development meets the requirements of Sydney Water, and protects existing assets owned by Sydney Water.

(Autotext 24D)

D.14 Erosion and Sediment Control Plan – Submission and Approval

Before the issue of any construction certificate, an erosion and sediment control plan, prepared by a suitably qualified person in accordance with the following documents, must be submitted to the Principal Certifier. The erosion and sediment control plan must comply with:

- a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils; and
- b) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).

Where there is any conflict The Blue Book takes precedence.

The Principal Certifier must be satisfied that the erosion and sediment control plan complies with the publications above prior to issuing any construction certificate.

Notes:

- The International Erosion Control Association – Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.
- The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au, and The Blue Book is available at www.environment.nsw.gov.au
- Under clause 73(2)(a)(v) of the Development Certification and Fire Safety Regulation an Accredited Certifier may be satisfied as to this matter.

Condition Reason: To prevent potential water pollution and dust nuisance.

(Autotext 25D)

D.15 Housing and Productivity Contribution Order 2023

- 1) The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with part 2) of this condition, is required to be made:

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	TBC by DPHI

Transport project component	TBC by DPHI
Total housing and productivity contribution	TBC by DPHI

- 2) The amount payable at the time of payment is the amount shown in part 1) of this condition as the total housing and productivity contribution adjusted by multiplying it by:

highest PPI number
consent PPI number

where:

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made,

and

consent PPI number is the PPI number last used to adjust HPC rates when consent was granted, and

June quarter 2023 and *PPI* have the meanings given in clause 22 (4) of the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*.

If the amount adjusted in accordance with this part of the condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

- 3) The HPC must be paid before the issue of the first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	Time by which HPC must be paid
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Before the installation of the first manufactured home

In the Table, HPC Order means the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*.

- 4) The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).

- 5) If the Minister administering the *Environmental Planning and Assessment Act 1979* agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
- a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
 - b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with part 2) of this condition at the time of payment.

- 6) Despite part 1) of this condition, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023* exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Notes:

- This condition is to be used for development consents (other than complying development certificates, concept DAs or staged residential subdivision).
- PPI means the Producer Price Index (Road and Bridge Construction (NSW)) published by the Australian Bureau of Statistics unless defined otherwise in the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*.
- This condition is based upon the Department of Planning and Environment's standard HPC condition.

Condition Reason: To require contributions towards the provision of regional infrastructure.

(Autotext 26D)

D.16 Payment of S7.12 Contributions Levy

A payment of a levy authorised by section 7.12 of the *Environmental Planning and Assessment Act 1979* must be paid prior to the issue of any Construction Certificate or Subdivision Works Certificate. The Principal Certifier is to be provided with the original receipt for payment under the Woollahra Section 7.12 Development Contributions Plan 2022.

A cost estimate report, no more than 3 months old, demonstrating the proposed cost of carrying out the development must be completed and submitted to Council for determination of the costs of work. This report must incorporate all approved modification applications. The costs and expenses of the proposed cost of development must be established in accordance with clause 208 of the *Environmental Planning and Assessment Regulation 2021*.

The cost estimate report must be in the form of:

- A cost summary report, prepared by the applicant or a person acting on the behalf of the applicant for a development up to \$150,000;

- A cost summary report, prepared by a suitably qualified person, at the applicant's cost, where the cost of development is between \$150,000 and \$749,999; or
- A quantity surveyor's report, at the applicant's cost, for development over \$750,000.

Note: A 'suitably qualified person' is defined in the Woollahra Section 7.12 Development Contributions Plan 2022.

The applicable levy rate is to be calculated using the summary schedule below.

Summary Schedule	
Development Cost	Levy Rate
• Up to and including \$100,000	Nil
• More than \$100,000 and up to and including \$200,000	0.5% of the cost
• More than \$200,000	1% of the cost

How must the payments be made?

Payments must be made by:

- Cash deposit with Council,
- Credit card payment with Council, or
- Bank cheque made payable to Woollahra Municipal Council.

Deferred or periodic payment of section 7.12 levy

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 2.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally and irrevocably agrees to pay the guaranteed sum to the Council on written request by Council prior to the issue of an occupation certificate,
- a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable,
- the bank agrees to pay the guaranteed sum without recourse to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 2.12 of the Plan. The Applicant will be required to pay any

charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on 02 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the Act and could void any such certificate (e.g. construction certificate, subdivision certificate, or occupation certificate).

Condition Reason: To ensure any relevant contributions are paid.

(Autotext 27D)

D.17 Tree Protection Plan and Specification

Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:

- a) Trees to be numbered and coloured in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned
- b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:
 - Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected.
 - The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices.
 - Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods.
 - To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist.
- c) References to applicable tree management plan, arborists report or transplant method statement.

This plan must be kept on site until the issue of the occupation certificate for the whole building.

Condition Reason: To ensure the construction certificate includes the approved tree management details, and all measures are implemented.

(Autotext 30D)

D.18 Structural Adequacy of Existing Supporting Structures

Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.

Condition Reason: To ensure that the existing structure is able to support the additional loads proposed.

(Autotext 35D)

D.19 Professional Engineering Details

Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.

Notes:

- This does not affect the right of the developer to seek staged construction certificates.

Condition Reason: To ensure professional engineering details and technical specifications are provided.

(Autotext 36D)

D.20 Engineer Certification

Before the issue of any construction certificate, engineer certification must be submitted to the Principal Certifier confirming that the structural design does not incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc. which encroach outside the boundaries of the subject property.

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties and Council's property.

Condition Reason: To ensure certification is provided that demonstrates all structural works are located within the boundaries of the site and do not include underpinning works to any structures on adjoining properties.

(Autotext 37D)

D.21 Geotechnical and Hydrogeological Design, Certification and Monitoring

Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering

details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure,
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater),
- c) Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time,
- d) Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP,
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
 - will detect vibration in accordance with AS 2187.2 Appendix J including acceptable velocity of vibration (peak particle velocity),
 - will detect groundwater changes calibrated against natural groundwater variations,
 - details the location and type of monitoring systems to be utilised,
 - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
 - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and details a contingency plan.

Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.

(Autotext 40D)

D.22 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths.

Before the issue of any construction certificate, if ground anchors are proposed:

- a) Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any ground anchors extending beyond the boundaries of the subject property.
- b) The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council's land may be permitted, in

accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

- c) If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the Roads Act 1993. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. A minimum of four weeks should be allowed for assessment.

Notes:

- To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.
- Road has the same meaning as in the Roads Act 1993.
- Clause 17 of the Roads (General) Regulation 2018 prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Condition Reason: To ensure the relevant approval is gained for any temporary ground anchors.

(Autotext 41D)

D.23 Parking Facilities

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities, AS 2890.6 Parking facilities - Off-street parking for people with disabilities, AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking and AS 2890.2: Off-Street Parking: Commercial Vehicle Facilities respectively. In particular, certification from a Chartered Traffic Engineer must be provided with construction drawings certifying the following:

- a) That a 2m x 2.5m pedestrian sight splay, clear of any obstructions to visibility, is provided on both sides of the driveway exit to comply with Clause 3.3 of AS2890.1. These sight splays, clear of any obstructions to visibility, must be clearly depicted on the construction drawings,
- b) Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS2890.1-2004.
- c) That a maximum gradient of 5% is provided for the first 6 metres from the front boundary into the property. All driveway and parking grades must comply AS2890.1, AS2890.2 and AS2890.6,
- d) That the proposed vehicular path and parking arrangements comply in full with AS2890.1, AS2890.2 and AS2890.6 in terms of minimum dimensions provided,
- e) That the headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Clause 5.3.1 of AS2890.1 and Clause 2.4 of AS2890.6,

- f) That the headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Clause 2.4 of AS2890.6,
- g) Minimum dimensions of 2.4m x 5.4m shared area is provided adjacent to all disabled parking spaces to comply with AS2890.6. Bollards must be provided at the location on each shared area specified in AS2890.6 which must be clearly labelled and shown on the construction drawings.
- h) A minimum of two (2) waiting bays be provided near the access point near the car lifts at the Ground Floor to have a minimum length of 6m for each bay.
- i) A minimum of two (2) parking spaces be allocated for designated car share parking space to reduce dependence on private vehicles, as per Council's Edgecliff Commercial Centre Planning and Urban Design Strategy.
- j) End-of-trip facilities, including a minimum of nine (9) shower and change cubicles be provided to facilitate use of alternative travel modes and encourage active transport, as per E1.6.1 of Council's DCP.
- k) Signage be provided at access point to ensure all vehicles enter and leave the site in Left-in/Left-out movements.

Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*.

The Principal Certifier has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.

Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.

(Autotext 45D)

D.24 Stormwater Management Plan

Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared and certified by a chartered professional civil engineer, which detail the following:

- a) General design in accordance with the concept stormwater management plans, referenced 240961-Rev C, prepared by Northrop, dated 02/12/24, other than amended by this and other conditions,
- b) The discharge of stormwater from the site, by direct connection, to a new kerb inlet pit (KIP) over the existing Council's underground drainage pipeline in Darling Point Road,
- c) The provision of a minimum 0.9m x 0.9m boundary junction pit shall be provided prior to discharging stormwater from the site to the street drainage system. The stormwater outlet pipe must be made using 150mmx75mm galvanised RHS pipes which must be located within the frontage of the subject site with a minimum grade of 1% to comply with Council's DCP and AS3500.3,
- d) The provision of an on-site stormwater detention (OSD) system shall be provided for the total site area to comply with Chapter E2.2.4 of the Council's DCP. In this regard, the OSD system must have a minimum storage volume of 35.4m³. An additional OSD storage volume must be determined using a computer modelling such as DRAINS to compensate for any stormwater runoff from the bypassing (pervious and impervious) area so that the total site discharge is limited to Permissible Site Discharge (PSD) of 59.5 l/s for the 1% AEP storm event. The use of high early discharge chamber in the Drains Model is not supported. The time of concentration used for both pervious and impervious areas must be in 5 minute duration. Results of the Drains model must be included in the drawings,

- e) The Permissible Site Discharge (PSD) for the proposed development shall not exceed 59.5 l/s to comply with Chapter E2.2.4 of the Council's DCP. In this regard, a copy of a catchment plan quantifying the areas that are draining to and bypassing the OSD system and the result of the Drains model must be included in the stormwater management plans demonstrating compliance with this requirement,
- f) In order to prevent any backwater effects, invert level of the proposed OSD system and/or filtration pit must be designed so that it is set above the HGL of the downstream drainage system where the top of kerb level is to be used as the tailwater level when connecting into the road drainage system. The tailwater level must be higher than the top of kerb where the point of connection is affected by mainstream or overland flooding. Site specific elevation of the OSD system and stormwater filtration pit with all required design levels must be provided in the stormwater management plans demonstrating compliance with this requirement,
- g) The installation of stormwater filtration /treatment system to achieve the minimum the water quality targets stipulated in Chapter E2.2.3 of the Council's DCP. Details of the treatment products and the results of the MUSIC model must be included in the drawings,
- h) All below ground structures are to be fully tanked such that subsoil drainage/ seepage water is not collected and discharged to the kerb and gutter in accordance with Chapter E2.2.5 and 2.2.10 of the Council's DCP. Notation to this requirement shall be clearly depicted on the drawings,
- i) The dimensions of all drainage pits and access grates must comply with AS3500.3,
- j) Compliance the objectives and performance requirements of the BCA, and
- k) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

The *Stormwater Management Plan* must also include the following specific requirements:

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Australian Government publication, *Australian Rainfall and Run-off*, 2019 edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of proposed rainwater tanks,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Councils drainage infrastructure, and
- f) Overland flow paths over impervious areas.

On-site Stormwater Detention (OSD) details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed detention storage,
- c) Diameter of the outlet to the proposed detention storage basin,
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,
- e) Details of access and maintenance facilities,
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system,

- h) Non-removable fixing details for orifice plates where used,

Rainwater Reuse System details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed rainwater storage,
- c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,
- e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary first flush products,
- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

For the proposed stormwater connection to the Council's drainage infrastructure, separate approval under Section 138 of the *Roads Act 1993* must be obtained from Council for those works prior to the issue of any Construction Certificate.

All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.

Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.

(Autotext 51D)

D.25 Non-Gravity Drainage Systems

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Stormwater Management Plan for the site.

The Stormwater Management Plan must detail the non-gravity drainage systems (charged, siphon, pump/sump systems) being designed in accordance with Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Notes:

- The Woollahra DCP is available from Council's website www.woollahra.nsw.gov.au

(Autotext 52D)

D.26 Flood Protection

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL).

The flood planning level must be based on a 1 in 100 year AEP flood level which Varies across the site.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Notes:

Any revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1, Part 1: Off-street car parking. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.

Condition Reason: To ensure the development incorporates flood inundation protection measures.

(Autotext 54D)

D.27 Swimming and Spa Pools – Child Resistant Barriers

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the Swimming Pools Act 1992 and the Building Code of Australia.

Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as ‘exempt development’ under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Notes:

- A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the construction certificate plans.

Condition Reason: To ensure child-resistant swimming and spa pool barriers are provided.

(Autotext 55D)

D.28 Swimming and Spa Pools – Backwash

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2.

Notes:

- The plans must show the location of Sydney Water’s sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2.
- The discharge of backwash water to any stormwater system is water pollution and an offence under the Protection of the Environment Operations Act 1997. The connection of any backwash pipe to any stormwater system is an offence under the Protection of the Environment Operations Act 1997.

Condition Reason: To ensure swimming and spa pool backwash is connected to Sydney Waters sewer.

(Autotext 56D)

D.29 Electric vehicle circuitry and electric vehicle charging point requirements

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include an accurate electrical plan and specifications for all off-street car parking with EV charging points.

Condition Reason: To ensure the provision of electric vehicle circuitry.

(Autotext 57D)

D.30 Light and Ventilation

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must detail all lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of AS 1668.1, AS 1668.2 and AS/NZS 3666.1.

If an alternate solution is proposed then the construction certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert evidence of suitability.

This condition does not set aside the mandatory requirements for 'Legionella Control' under the Public Health Act 2010 and Public Health Regulation 2022 in relation to regulated systems. This condition does not set aside the effect of the Protection of the Environment Operations Act 1997 in relation to offensive noise or odour.

Notes:

- Clause 69 of the Regulation requires compliance with the BCA. Clause 19 of the Development Certification and Fire Safety Regulation prevents the issue of a construction certificate unless the Principal Certifier is satisfied that compliance has been achieved.
- Part 3, Division 1 of the Development Certification and Fire Safety Regulation details what information must be submitted with any construction certificate. It is the Applicant's responsibility to demonstrate compliance through the construction certificate application process.
- Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the Protection of the Environment Operations Act 1997 have overriding effect if offensive noise or odour arises from the use.
- Applicants must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of AS 1668.2

Condition Reason: To ensure the development is provided with adequate light and ventilation.

(Autotext 59D)

D.31 Acoustic Certification of Mechanical Plant and Equipment

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must be accompanied by a certificate from a professional acoustic engineer certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level, at any time.

The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.

Where sound attenuation is required this must be detailed.

Notes:

- Further information including lists of Acoustic Engineers can be obtained from:
 - Australian Acoustical Society - professional society of noise-related professional www.acoustics.asn.au
 - Association of Australian Acoustical Consultant - professional society of noise related professionals www.aaac.org.au

Condition Reason: To ensure the development does not result in any unreasonable acoustic impacts.

(Autotext 62D)

D.32 Design Sound Levels for Building Interiors

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must provide details showing how the recommendations of the Acoustic – Noise and Vibration Impact Assessment, prepared by Acoustic Logic will be implemented.

Design sound levels for building interiors must not exceed the recommended maximum design sound levels, LAeq, dB(A) specified by AS 2107, Acoustics - Recommended design sound levels and reverberation times for building interiors.

Notes:

- The design sound levels given in AS 2107 are not necessarily appropriate in all circumstances. In particular, lower noise levels may be appropriate in quiet environments or where expectations of quality are high. For example, lower design sound levels than those given as satisfactory in AS 2107 may be preferred for luxury hotels and apartments. However, additional costs will be incurred in achieving sufficient sound attenuation between spaces for acoustic privacy requirements. For each 5 dB reduction in the ambient sound level, 5 dB must be added to the overall sound isolation performance of the dividing elements to maintain the same level of acoustic privacy. There could also be additional costs associated with the provision of quieter building services. As a minimum compliance with the BCA is mandatory.

Condition Reason: To ensure the development achieves interior design sound levels.

(Autotext 63D)

D.33 Woollahra Local Traffic Committee Approval

Before the issue of a construction certificate, the applicant is to liaise with Council's Traffic and Transport Department, to the satisfaction of Council's Engineering Services Department and subject to TfNSW's concurrence, for the installation of concrete centre median island in Darling Point Road across property frontage to prevent vehicles from turning right into and out of the site. The design and implementation of the centre median island should be at all costs to the applicant.

This matter must be referred to the Woollahra Local Traffic Committee for review and approval.

Notes:

- This process can take up to 8 weeks.
- All works associated with the signage changes shall be carried out at the full cost to the applicant.

Condition Reason: To ensure the approval of the Woollahra Local Traffic Committee is obtained.

(Autotext 70D)

D.34 Schedule of Conservation Works

Prior to the issue of the Construction Certificate, the Certifying Authority must be provided with a Schedule of Conservation Works with detailed documentation of the conservation works to the heritage item building at 136 New South Head Road is to be prepared by a qualified Heritage Architect in accordance with the Australia ICOMOS Burra Charter 2013.

The schedule is to detail the conservation of all significant fabric, including but not limited to the following: [list elements such as fireplaces, stonework, brickwork, door and window joinery, glazing, hardware, pavements, tiling, roof plumbing, roofing and painting]. The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building.

Condition Reason: To ensure the protection of extant significant historic material.

D.35 Schedule of Material to be salvaged

Prior to the issue of the Construction Certificate, the Certifying Authority must be provided with a Schedule of Salvage Material with detailed documentation of the materials to be salvaged from the two contributory buildings at 138-140 and 142-148 New South Head Road, to be demolished. The Schedule is to detail the careful removal, pack and labelling, and storage, of building elements including windows, doors, joinery, decorative plaster and architectural elements, fireplaces, hardware, timber flooring, tiling, roofing, staircases. The Schedule of Salvage Material is to be prepared by a qualified Heritage Architect in accordance with the Australia ICOMOS Burra Charter 2013. Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.

Condition Reason: To promote the use of ecologically sustainable building materials in accordance with O2 of Clause E6.1.4 Woollahra DCP 2015 and to enable the conservation of other heritage buildings in accordance with the Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b).

D.36 Archaeological Monitoring

A suitably qualified archaeologist and a representative of the La Perouse Local Aboriginal Land Council should be present at the completion of the demolition work of all ground structures, and prior to excavation, to monitor the initial bulk earthworks to determine whether previously undisturbed sand deposits are present within the proposed maximum depth of excavation. Based on this inspection, a determination will be made as to whether further archaeological monitoring is required, or whether bulk excavation can continue under the recommended 'unexpected finds' protocol.

Condition Reason: To protect Aboriginal objects

D.37 Nominated Heritage Architect

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with the details of an experienced suitably qualified & Heritage Architect who will be commissioned to assist and to provide advice to the consultant team throughout the design development, contract documentation and construction stages of the project.

Condition Reason: To ensure the protection of extant significant historic material.

D.38 Protection of Significant Fabric

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Heritage protection plan certified by an experienced suitably qualified & Heritage Architect detailing how Significant original fabric of the existing building is to be protected during site preparation and construction works from potential damage. This includes the following heritage items, potential heritage items, and contributory historic elements:

- The heritage item at 136 New South Head Road (external façade)
- The heritage item (concrete balustrade) on Darling Point Road.
- All buildings that about the boundaries of the construction site at the potential Brantwood Estate Heritage Conservation Area.
- Sandstone retaining wall at the northern boundary of the site.

All works are to be undertaken in accordance with the Australia ICOMOS Burra Charter 2013. The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building. Equipment laydown areas and contractor vehicles must be located away from the heritage structures and areas of heritage significance to minimise any potential impact to the external or internal fabric. Contractor's vehicles must not be parked near heritage structures or landscaped areas which could inadvertently be damaged. Protection measures recommended in the Heritage protection plan are to be specified in the construction management plan.

Condition Reason: To ensure the protection of extant significant historic material.

D.39 Structural Integrity of Retained Building Elements

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a certificate from a professional engineer (Structural Engineer) is to be prepared and reviewed by an experienced suitably qualified & Heritage Architect. The report must explain how the retained building elements, such as building facades/chimneys are to be retained and supported. Documentation shall include certification that adequate internally sited supporting structures shall be incorporated into conserving the external chimney/building façade

Condition Reason: To ensure the protection of extant significant historic material.

D.40 Wall Nibs and Bulkheads to Remain

Prior to the issue of the Construction Certificate, the Certifying Authority must be provided with amended architectural drawings incorporating wall nibs, portal frames and bulkheads within the heritage item building at 136 New South Head Road so that the original layout of the dwelling remains legible within the building internals and externals (northeast corner of building) where there is proposed demolition of internal and external walls.

Condition Reason: To retain an interpretation of original room arrangements and functions.

D.41 Compliance with Schedule of Conservation Works

All development activities must be carried out in accordance with the approved Schedule of Conservation Works (SCW). All controls in the SCW must be maintained at all times. A copy of the SCW must be kept on-site at all times and made available to the Principal Certifier or Council on request.

Condition Reason: To ensure the protection of extant significant historic material.

D.42 Ventilation - Internal Sanitary Rooms

Before the issue of any construction certificate, all internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Table B1 Minimum Exhaust Ventilation Flow Rates of AS 1668.2-1991*. Details of any proposed mechanical ventilation system(s) must be submitted with the Construction Certificate plans and specifications to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

Condition Reason: To ensure the development is adequately ventilated.

D.43 Landscape maintenance

Prior to issue of any construction certificate, a maintenance plan for all landscaping within the development is to be provided to, and approved by, the principal certifier. The maintenance plan is to contain details of any irrigation and/or drainage system to be used and how it will be maintained.

The maintenance plan and any approved irrigation/drainage system is to implemented and remain in operation for the life of the development.

Condition Reason: To ensure the landscaping is maintained.

E. BEFORE BUILDING WORK COMMENCES

E.1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

Before any building work commences, and under section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the Home Building Regulation 2014, or
- b) to the erection of a temporary building.

In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Notes:

- This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the Home Building Act 1989. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.
- All new guttering is to comply with the provisions of AS3500.

Condition Reason: To ensure that works are carried out in accordance with the Building Code of Australia and any required contract of insurance is in force.

(Autotext 1E)

E.2 Erosion and Sediment Controls – Installation

Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:

- a) The Soil and Water Management Plan if required under this consent;
- b) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and
- c) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).

Where there is any conflict The Blue Book takes precedence.

Notes:

- The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition.
- Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

- The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au
- A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.
- Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.
- Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being.

Condition Reason: To prevent potential water pollution and dust nuisance.

(Autotext 14E)

E.3 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

Building work must not commence, until:

- a) A construction certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
 - appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days’ notice to the Council of the person’s intention to commence the erection of the building.

Notes:

- **Building** has the same meaning as in section 1.4 of the Act and includes part of a building and any structure or part of a structure.
- **New building** has the same meaning as in section 6.1 of the Act and includes an altered portion of, or an extension to, an existing building.

- The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the Act (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.
- Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au
- It is an offence for any person to carry out the erection of a building in breach of this condition and in breach of section 6.6(2) of the Act.
- Under the Home Building Act 1989 any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.

Condition Reason: To ensure a construction certificate has been issued, a Principal Certifier is appointed, a Principal Contractor (if applicable) is appointed, and a notice of commencement has been submitted.

(Autotext 15E)

F. DURING BUILDING WORK

F.1 Compliance with BCA and Insurance Requirements under the Home Building Act 1989

While site work is being carried out:

- a) work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),
- b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

For the purposes of section 4.17(11) of the Act, the above condition is prescribed in relation to a development consent for development that involves any building work.

Notes:

- All new guttering is to comply with the provisions of AS 3500.

Condition Reason: To ensure compliance with the BCA and Home building Act 1989.

(Autotext 1F)

F.2 Compliance with Construction Traffic Management Plan

While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction Traffic Management

Plan (CTMP). All controls in the CTMP must be maintained at all times. A copy of the CTMP must be kept on-site at all times and made available to the Principal Certifier on request.

Notes:

- Irrespective of the provisions of the Construction Traffic Management Plan the provisions of traffic and parking legislation prevails.

Condition Reason: To ensure compliance with the Construction Traffic Management Plan.

(Autotext 3F)

F.3 Requirement to Notify about New Evidence

While site work is being carried out, any new information that comes to light, which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.

Condition Reason: To ensure Council and the Principal Certifier are made aware of new information.

(Autotext 4F)

F.4 Critical Stage Inspections

While site work is being carried out, critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the Act, the Development Certification and Fire Safety Regulation, and the Regulation.

Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the construction certificate(s) and the Act.

Critical stage inspections means the inspections prescribed by the Development Certification and Fire Safety Regulations, and Regulations for the purposes of section 6.5 of the Act or as required by the Principal Certifier and any PC Service Agreement.

Notes:

- The Principal Certifier may require inspections beyond mandatory critical stage inspections in order that the Principal Certifier be satisfied that work is proceeding in accordance with this consent.
- The Principal Certifier may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2G2 of the BCA in relation to any matter relevant to the development.

Condition Reason: To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.

(Autotext 5F)

F.5 Hours of Work –Amenity of the Neighbourhood

While site work is being carried out:

- a) No work must take place on any Sunday or public holiday.
- b) No work must take place before 7am or after 5pm any weekday.
- c) No work must take place before 7am or after 1pm any Saturday.
- d) The following work must not take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:
 - piling,
 - piling,
 - rock or concrete cutting, boring or drilling,
 - rock breaking,
 - rock sawing,
 - jack hammering, or
 - machine excavation.
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute interval break within every hour.

Notes:

- The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.
- Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.
- The delivery and removal of plant, equipment and machinery associated with wide loads subject to Transport for NSW and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.
- Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the Protection of the Environment Operations Act 1997, the Protection of the Environment Operations (Noise Control) Regulation 2017.
- NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nglg.htm

Condition Reason: To mitigate the impact of work upon the amenity of the neighbourhood.

(Autotext 6F)

F.6 Public Footpaths – Safety, Access and Maintenance

While site work is being carried out, any person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway.

- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any work.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council.
- f) Not stand any plant and equipment upon the road or footway.
- g) If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand.
- h) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- i) Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards.
- b) Australian Road Rules.

Notes:

- Section 148B of the Road Transport Act 2013 allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.
- Section 138 of the Roads Act 1993 provides that a person must not:
 - erect a structure or carry out a work in, on or over a public road, or
 - dig up or disturb the surface of a public road, or
 - remove or interfere with a structure, work or tree on a public road, or
 - pump water into a public road from any land adjoining the road, or
 - connect a road (whether public or private) to a classified road,
 - otherwise than with the consent of the appropriate roads authority.
- Section 68 of the Local Government Act 1993 provides that a person may carry out certain activities only with the prior approval of the Council including:
 - Part C Management of waste:
 - a) For fee or reward, transport waste over or under a public place
 - b) Place waste in a public place
 - c) Place a waste storage container in a public place.
 - Part E Public roads:
 - a) Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
 - b) Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.

Condition Reason: To ensure safe access is maintained to footpaths and roads during building works.

(Autotext 7F)

F.7 Tree Preservation

While site work is being carried out, all persons must comply with Chapter E.3 – *Tree Management* of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements:

- a) The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The principal contractor must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the principal contractor must procure an inspection of the tree by a qualified arborist immediately. The principal contractor must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

Trees must be pruned in accordance with Australian Standard AS 4373 "Pruning of Amenity Trees" and WorkCover NSW Code of Practice Amenity Tree Industry.

Condition Reason: To protect trees during the carrying out of sitework.

(Autotext 8F)

F.8 Maintenance of Environmental Controls

While site work is being carried out, the following monitoring, measures and controls must be maintained:

- a) erosion and sediment controls,
- b) dust controls,
- c) dewatering discharges,
- d) noise controls,
- e) vibration monitoring and controls, and
- f) ablutions.

(Autotext 11F)

F.9 Compliance with Geotechnical / Hydrogeological Monitoring Program

While site work is being carried out, excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and
- c) hydrogeological measures by the professional engineer, and
- d) the contingency plan.

Notes:

- The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

Condition Reason: To ensure the geotechnical and/or hydrogeological impacts of the development are appropriately managed.

(Autotext 12F)

F.10 Support of Adjoining Land and Buildings

While site work is being carried out, a person must not do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

Notes:

- This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:
 - the consent of the owners of such adjoining or supported land to trespass or encroach, or
 - an access order under the Access to Neighbouring Land Act 2000, or
 - an easement under section 88K of the Conveyancing Act 1919, or
 - an easement under section 40 of the Land and Environment Court Act 1979 as appropriate.
- Section 177 of the Conveyancing Act 1919 creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).
- Clause 17 of the Roads Regulation 2018 prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.
- The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the Local Government Act 1993.

Condition Reason: To ensure that the support of adjoining land is not removed.

(Autotext 13F)

F.11 Vibration Monitoring

While site work is being carried out, vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and

experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

Notes:

- **Professional engineer** has the same mean as in Schedule 1 of the BCA.
- **Building** has the same meaning as in section 1.4 of the Act i.e. "building includes part of a building and any structure or part of a structure...."
- **Supported land** has the same meaning as in the Conveyancing Act 1919.

Condition Reason: To monitor and manage vibration impacts from development.

(Autotext 14F)

F.12 Erosion and Sediment Controls – Maintenance

While site work is being carried out, water pollution, erosion, and sedimentation controls must be maintained in accordance with:

- a) the Soil and Water Management Plan required under this consent,
- b) "Do it Right On Site, Soil and Water Management for the Construction Industry" and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and

- c) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).

Where there is any conflict The Blue Book takes precedence.

Notes:

- A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.
- Section 257 of the Protection of the Environment Operations Act 1997 provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.
- Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

Condition Reason: To prevent potential water pollution and dust nuisance.

(Autotext 15F)

F.13 Disposal of Site Water During Construction

While site work is being carried out:

- a) Prior to pumping any water into the road or public stormwater system, approval must be obtained from Council under section 138(1)(d) of the Roads Act 1993.
- b) Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water.
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Condition Reason: To ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not cause erosion and water pollution.

(Autotext 17F)

F.14 Site Cranes

While site work is being carried out, site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the relevant approvals have been obtained under the Local Government Act 1993, Crown Lands Act 1989 or Roads Act 1993.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the Civil Aviation Act 1988 (Cth).

No illuminated sign(s) must be erected upon or displayed upon any site crane.

Notes:

- Where it is proposed to swing a crane over a public place a separate application to Council must be made under section 68 of the Local Government Act 1993 and obtain activity approval from Council prior to swinging or hoisting over the public place.
- Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, an access order under the Access to Neighbouring Land Act 2000 or easement under section 88K of the Conveyancing Act 1919 or section 40 of the Land and Environment Court Act 1979 as appropriate must be obtained. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

Condition Reason: To ensure site cranes are used safely with the relevant approvals.

(Autotext 19F)

F.15 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

While site work is being carried out, a registered surveyor must carry out check surveys and provide survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

Work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level.
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey.
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof.
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.
- f) Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Condition Reason: To ensure that development occurs in the location and at the height approved under this consent, which is critical to ensure that buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

(Autotext 20F)

F.16 Placement and Use of Skip Bins

While site work is being carried out, all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the Local Government Act 1993 to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

Notes:

- Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

Condition Reason: To ensure waste storage containers are appropriately located.

(Autotext 21F)

F.17 Prohibition of Burning

While site work is being carried out, there must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.

Notes:

- Under the Protection of the Environment Operations (Clean Air) Regulation 2021 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

Condition Reason: To ensure no burning of waste occurs.

(Autotext 22F)

F.18 Dust Mitigation

While site work is being carried out, dust mitigation must be implemented in accordance with “Dust Control - Do it right on site” and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Notes:

- “Dust Control - Do it right on site” and the accompanying factsheets can be downloaded from Council’s website www.woollahra.nsw.gov.au
- Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

- Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

Condition Reason: To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.

(Autotext 23F)

F.19 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

While site work is being carried out, all work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the development to which this consent relates must comply with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).

The person with the benefit of this consent must meet all costs associated with such works.

This condition does not set aside the need to obtain relevant approvals under the Roads Act 1993 or Local Government Act 1993 for works within roads and other public places.

Notes:

- A copy of Council's Specification for Roadworks, Drainage and Miscellaneous Works can be downloaded from Council's website www.woollahra.nsw.gov.au

Condition Reason: To ensure that any road, drainage, or miscellaneous works comply with Council's specifications.

(Autotext 24F)

F.20 Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters

While site work is being carried out, temporary child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and Building Code of Australia where any swimming pool or spa pool, as defined by the Swimming Pools Act 1992, contains more than 300mm in depth of water at any time.

Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia as soon as practical.

Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the Swimming Pools Act 1992 must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.

Notes:

- This condition does not prevent Council from issuing an order under section 23 of the Swimming Pool Act 1992 or taking such further action as necessary for a breach of this condition or the Swimming Pools Act 1992.

Condition Reason: To ensure access to swimming pools is effectively restricted to maintain child safety.

(Autotext 26F)

F.21 Site Waste Minimisation and Management – Demolition

While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements),
- c) separate collection bins and/or areas for the storage of residual waste are to be provided,
- d) the purpose and content of the bins and/or storage areas are to be clearly 'signposted',
- e) measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and
- f) site disturbance must be minimised, and unnecessary excavation limited.

When implementing the SWMMP the Applicant must ensure:

- a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,
- b) any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997,
- c) waste is only transported to a place that can lawfully be used as a waste facility,
- d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and
- e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

Notes:

- Materials that have an existing reuse or recycling market must not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

Condition Reason: To maximise resource recovery and minimise residual waste from demolition activities.

(Autotext 31F)

F.22 Site Waste Minimisation and Management – Construction

While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) deliveries of materials must be arranged so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,

- c) consideration must be given to returning excess materials to the supplier or manufacturer,
- d) an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- e) the purpose and content of the storage areas must be clearly 'signposted',
- f) contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste,
- g) separate collection bins or areas for the storage of residual waste must be promoted,
- h) measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented,
- i) site disturbance must be minimised and unnecessary excavation limited,
- j) all waste must be transported to a place that can lawfully be used as a waste facility, and
- k) records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.

(Autotext 32F)

F.23 Shoring and Adequacy of Adjoining Property

While site work is being carried out, the person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation.

For the purposes of section 4.17(11) of the Act, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.

Notes:

- This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Condition Reason: To protect and support the adjoining premises from possible damage from the excavation.

(Autotext 33F)

F.24 Asbestos Removal

While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.

Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- a) Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal.
- b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.
- c) No asbestos products may be reused on the site.
- d) No asbestos laden skip or bins must be left in any public place.

Notes:

- Before starting work, a work site-specific permit approving each asbestos project must be obtained from SafeWork NSW. A permit will not be granted without a current SafeWork licence.
- All removal, repair or disturbance of or to asbestos material must comply with:
 - Work Health and Safety Act 2011,
 - Work Health and Safety Regulation 2017,
 - SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and
 - SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016).
- For more information go to the SafeWork NSW website on asbestos www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice or call 131 050

Condition Reason: To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public

(Autotext 39F)

F.25 Classification of Hazardous Waste

While site work is being carried out, and prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part1: Classifying Waste, 2014.

Condition Reason: To ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.

(Autotext 40F)

F.26 Disposal of Asbestos and Hazardous Waste

While site work is being carried out, asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Condition Reason: To ensure that asbestos and other hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant NSW EPA requirements.

(Autotext 41F)

F.27 Asbestos Removal Signage

While site work is being carried out and when asbestos is being removed, standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site.

Condition Reason: To ensure awareness of any hazard to the health and safety of persons working on the site and public.

(Autotext 42F)

F.28 Notification of Asbestos Removal

While site work is being carried out, in addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW, all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Condition Reason: To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.

(Autotext 43F)

F.29 Replacement/Supplementary trees which must be planted

While site work is being carried out, any replacement or supplementary tree identified in the tree planting schedule must be grown in accordance with Tree stock for landscape use (AS 2303). The replacement trees must be maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the criteria outlined below.

The project arborist must document compliance with the above condition.

Condition Reason: To ensure the provision of appropriate replacement planting.

(Autotext 46F)

F.30 Paving in the vicinity of trees

While site work is being carried out, paving works within the specified radius from the trunks of the following trees must be constructed in such a way as to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. When preparing an area for paving within the specified radius the soil surface must not be skimmed/excavated. The new surface must be established above the former ground level.

Council Ref No	Species	Location	Radius from centre of trunk (metres)
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1	<i>Lophostemon confertus</i> (Brush Box)	NSH road reserve	5m
2	<i>Lophostemon confertus</i> (Brush Box)	NSH road reserve	5m
3	<i>Lophostemon confertus</i> (Brush Box)	NSH road reserve	5m

Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) and are to utilise such measures as semi porous material.

The project arborist must document compliance with the above condition.

Condition Reason: To ensure that paving works would not adversely impact upon the health of existing trees.

(Autotext 48F)

F.31 Installation of stormwater pipes and pits in the vicinity of trees

While site work is being carried out, excavation for the installation of stormwater pipes and pits within the specified radius from the trunks of the following trees must be carried out by hand.

Council Ref No	Species	Location	Radius from centre of trunk (metres)
1	<i>Lophostemon confertus</i> (Brush Box)	NSH road reserve	5m
2	<i>Lophostemon confertus</i> (Brush Box)	NSH road reserve	5m
3	<i>Lophostemon confertus</i> (Brush Box)	NSH road reserve	5m

Any roots equal to or greater than 50mm diameter uncovered for the installation of stormwater pipes and pits must not be severed and remain in situ bridging across the excavated trench. Pipes must be guided under any roots equal to or greater than 50mm bridging across excavated trenches. Stormwater pits must be positioned so that no roots equal to or greater than 50mm diameter are severed.

The project arborist must document compliance with the above condition.

Condition Reason: To ensure the installation of the stormwater works would not adversely impact upon the health of existing trees.

(Autotext 52F)

F.32 Heritage Architect Supervision

During construction, the nominated heritage architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage architect is to ensure compliance with the Schedule of Conservation

Work, and Schedule of Salvage Material. The heritage architect is to be provided with full access to the site on a regular basis and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

Condition Reason: To ensure the ongoing protection of extant significant historic material during construction.

G. BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

G.1 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an occupation certificate has been issued in relation to the building or part.

Notes:

- New building includes an altered portion of, or an extension to, an existing building.

Condition Reason: To ensure the building is suitable to occupy.

(Autotext 1G)

G.2 Provision of in-fill affordable housing

Before the issue of any occupation certificate for the development:

- a) a restriction must be registered, in accordance with the Conveyancing Act 1919, section 88E, against the title of the property relating to the development, which will ensure that
 - i. the affordable housing component (20 dwellings) must be used for affordable housing, and
 - ii. the affordable housing component must be managed by a registered community housing provider, and
- b) evidence of an agreement with a registered community housing provider for the management of the affordable housing component must be given to the Registrar of Community Housing, including the name of the registered community housing provider must be provided, and
- c) evidence that the requirements of paragraphs (a) and (b) have been met must be given to the consent authority and Woollahra Municipal Council.

Notes:

- *affordable housing component of development*, means the percentage of the gross floor area used for affordable housing.
- *affordable housing* means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.
- *relevant period* means a period of 15 years commencing on the day on which an occupation certificate is issued for all parts of the building or buildings to which the development consent relates.
- a household is taken to be a *very low income household*, *low income household* or *moderate income household* if—
 - (a) the household—

- (i) has a gross income within the following ranges of percentages of the median household income for Greater Sydney or the Rest of NSW—
 - (A) very low income household—less than 50%,
 - (B) low income household—50–less than 80%,
 - (C) moderate income household—80–120%, and
 - (ii) pays no more than 30% of the gross income in rent, or
- (b) the household—
 - (i) is eligible to occupy rental accommodation under the National Rental Affordability Scheme, and
 - (ii) pays no more rent than the rent that would be charged if the household were to occupy rental accommodation under the Scheme.
- *Greater Sydney* means the area that the Australian Bureau of Statistics determines from time to time to be the Greater Sydney—Greater Capital City Statistical Area.
- *National Rental Affordability Scheme* has the same meaning as in the National Rental Affordability Scheme Act 2008 of the Commonwealth.
- *Rest of NSW* means the area that the Australian Bureau of Statistics determines from time to time to be the Rest of NSW—Greater Capital City Statistical Area.

Condition Reason: To ensure the provision of in-fill affordable housing

G.3 Provision of Category 1 Fire Safety Provisions (clause 62 of the Regulation)

Before the issue of any occupation certificate, the Category 1 fire safety provisions, as are applicable to the building's proposed new use, must be provided.

Condition Reason: To ensure that fire safety measures are provided prior to occupation.

(Autotext 3G)

G.4 Fire Safety Certificates

Before the issue of any occupation certificate to authorise a person:

- a) to commence occupation or use of a new building, or
- b) to commence a change of building use for an existing building, the Principal Certifier must be satisfied that a final fire safety certificate has been issued for the building.

Notes:

- In this condition:
 - interim fire safety certificate*** has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation.
 - final fire safety certificate*** has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation.
 - new building*** has the same meaning as it has in section 6.1 of the Act.

Condition Reason: To ensure that a final fire safety certificate is issued prior to occupation.

(Autotext 4G)

G.5 Compliance Certificate from Sydney Water

Before the issue of any occupation certificate, all work must be completed in accordance with the section 73 Compliance Certificate issued under the Sydney Water Act 1994 and any "Notice of Requirements".

Notes:

- For more information go to www.sydneywater.com.au/section73 or call 1300 082 746.

Condition Reason: To ensure required changes to public utility services are completed in accordance with the requirements of Sydney Water.

(Autotext 5G)

G.6 Amenity Landscaping

Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.

Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.

(Autotext 6G)

G.7 Commissioning and Certification of Systems and Works

Before the issue of any occupation certificate, works-as-executed (WAE) plans prepared by a registered surveyor, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards must be submitted to the satisfaction of the Principal Certifier.

Works-as-executed plans, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA must include, but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: Off-Street car parking.
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.

Notes:

- The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the Act, Regulation, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).
- The PC must submit to Council, with any occupation certificate, copies of WAE plans, compliance certificates and evidence of suitability in accordance with Part A5G1 of the BCA upon which the PC has relied in issuing any occupation certificate.

Condition Reason: To ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, and this consent, and to ensure a public record of works as executed is maintained.

(Autotext 7G)

G.8 Commissioning and Certification of Public Infrastructure Works

Before the issue of any occupation certificate, certification from a professional engineer that all public infrastructure works have been executed in compliance with this consent and with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) must be submitted to the satisfaction of Council, and the Principal Certifier must be provided with correspondence from Council to this effect.

The certification must be supported by closed circuit television / video inspection provided on DVD of all stormwater drainage together with works-as-executed engineering plans and a survey report detailing all finished reduced levels.

Condition Reason: To ensure that any road, drainage, or miscellaneous works have been completed in accordance with Council's specifications to the satisfaction of Council.

(Autotext 9G)

G.9 Design Principles for Residential Apartment Development – Design Verification Statement

Before the issue of any occupation certificate, as required under clause 43 of the Development Certification and Fire Safety Regulation, the Principal Certifier must have received a design statement from a qualified designer.

A design statement means a statement by a qualified designer verifying that the development achieves the design quality shown in the plans and specifications for which the construction certificate was issued, having regard to the design quality principles in State Environmental Planning Policy (Housing) 2021 —Design Principles for Residential Apartment Development.

Notes:

- Although a Principal Certifier may under clause 73 of the Development Certification and Fire Safety Regulation be satisfied to any matter that relates to the external finish of a building, clause 43 of the Development Certification and Fire Safety Regulation overrides the Principal Certifier's powers under clause 73.
- **Qualified designer** means a person registered as an architect in accordance with the Architects Act 2003.

Condition Reason: To ensure residential flat building development achieves the required quality of design.

(Autotext 10G)

G.10 Street Numbering

Before the issue of any occupation certificate, the development must be provided with street and sole occupancy unit numbers determined by Council.

Notes:

- Applications for the allocation of street and sole occupancy unit numbers must be made together with any application for a strata certificate or Torrens or community title subdivision certificate. Council will determine at its discretion in accordance with its policy street numbers and street addresses that best suit the public interest.

Condition Reason: To ensure that emergency services, utility services, and the general public are able to clearly and readily locate any property and to protect the integrity of street numbering and land information.

(Autotext 11G)

G.11 Letter Box(es)

Before the issue of any occupation certificate, all letter boxes must be constructed and located in accordance with AS/NZS 4253: Mailboxes and to Australia Post's satisfaction.

Notes:

- Council has been alerted to an increase in mailbox theft, and as such, all new development, being new dwelling houses and residential flat buildings, are encouraged to have lockable mail boxes.

Condition Reason: To ensure that mail can be delivered to occupiers of the site.

(Autotext 12G)

G.12 Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

Before the issue of any occupation certificate, and prior to filling any swimming pool, as defined by the Swimming Pools Act 1992:

- a) Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with section 30B of the Swimming Pools Act 1992 on the NSW Government Swimming Pool Register.
- c) The Principal Contractor or Owner must either obtain a certificate of compliance issued under section 22D of the Swimming Pools Act 1992 or an appropriate occupation certificate authorising use of the swimming pool.
- d) Public pools must comply with the NSW Health Public Swimming Pool and Spa Pool Guidelines in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3: Swimming pool safety - Water recirculation systems.

Backwash must be discharged to the sewer in compliance with AS/NZS 3500.

Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate before 8 am or after 8 pm on any Sunday or public holiday, or before 7 am or after 8 pm on any other day.

Notes:

- NSW Health guidelines and fact sheets are available at www.health.nsw.gov.au

Condition Reason: To ensure that the swimming pool maintains public safety and to manage the amenity impacts of swimming pools.

(Autotext 13G)

G.13 New Waste Services

Before the issue of any occupation certificate, the required wastes services must be provided. This includes the purchase of all waste and recycling storage containers (bins and crates) from Council or otherwise in accordance with the approved Waste Management Plan.

Condition Reason: To ensure waste services are provided prior to occupation.

(Autotext 19G)

G.14 Swimming Pool Fencing

Before the issue of any occupation certificate, swimming pool fencing is to be constructed in accordance with AS1926: Australian Standard Swimming Pool Safety Part 1 – Safety Barriers for Swimming Pools.

Notes:

- Pools commenced or completed after May 2013 must meet the BCA and AS1926.

Condition Reason: To ensure swimming pool safety.

(Autotext 20G)

G.15 3D Digital Model

Before the issue of any occupation certificate, an accurate “as built” 3D digital model of the building must be submitted to Council for use in the Woollahra 3D digital model.

A 3D digital model of the building must be generated at a scale of 1:1 with units of measurement in metres and include the following:

- a) a building envelope which includes all elements affecting shadow analysis,
- b) accurate placement of glazing, balconies, roof pitches, terraces, roof services and any other prominent external features, and
- c) a ground level terrain showing accurate RLs extending to site boundaries.

All models must be generated in accordance with Council's guidelines for submitting 3D digital models outlined in “Attachment 9 - 3D Digital Model Requirements” of the DA guide.

Notes:

- This model will update previous version(s) submitted at Development Application stage.
- Any future modifications under section 4.55 of the Act that affect the external configuration of the building (from the ground level and up), will require the submitted model to be amended.

Condition Reason: To ensure an accurate 3D digital model of the development is recorded by Council.

(Autotext 21G)

G.16 Certification of Electric Vehicle Charging System

Before the issue of any occupation certificate, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications must be submitted to the satisfaction of the Principal Certifier.

Condition Reason: To ensure the certification of the electric vehicle charging system.

(Autotext 22G)

G.17 Completion of Public Utility Services

Before the issue of any occupation certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting, and telecommunications, required as a result of the development have been completed and this confirmation must be provided to the Principal Certifier.

Condition Reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.

(Autotext 24G)

G.18 Fulfilment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation

Before the issue of any occupation certificate, all BASIX commitments must be effected in accordance with the BASIX certificate No. 1778135M.

Notes:

- Clause 44 of the Development Certification and Fire Safety Regulation applies to an occupation certificate if a relevant BASIX certificate requires a certifier to monitor fulfilment of a commitment listed in the certificate in relation to a building. The certifier must not issue an occupation certificate for the building unless the commitment has been fulfilled.

Condition Reason: To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.

(Autotext 25G)

G.19 Landscaping

Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.

Condition Reason: To ensure that all landscaping work is completed prior to occupation.

(Autotext 26G)

G.20 Removal of Ancillary Works and Structures

Before the issue of any occupation certificate for the whole of the building, the following articles must be removed from the land and any adjoining public place:

- a) the site sign,
- b) ablutions,
- c) hoarding,
- d) scaffolding, and
- e) waste materials, matter, article or thing.

Condition Reason: To ensure that all ancillary matter is removed prior to occupation.

(Autotext 28G)

G.21 Works within Public Land (including Council, State or Federal owned land or property)

Before the issue of any occupation certificate, the following works within public land, whether new/existing/renewed must be completed to the satisfaction of Council, in compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) unless expressly provided otherwise by these conditions at the person with the benefit of this consents expense:

- a) stormwater pipes, pits, structures and connections to public stormwater systems within the road,
- b) driveways and vehicular crossings,
- c) renew/new retaining structures,
- d) overhang structures,
- e) encroachments or occupation or alienation of public land or property,
- f) removal of redundant driveways and any other structure,
- g) new footpaths, pathways, walkways, or dunny lanes,
- h) relocation of existing power/light pole, if applicable,
- i) relocation/provision of street signs, if applicable,
- j) new or replacement street trees, if applicable,
- k) verge landscape items, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,
- l) new or reinstated kerb and guttering within the road, and
- m) new or reinstated road surface pavement within the road.

Notes:

- When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s.
- Security held by Council under section 4.17(6) of the Act will not be released until compliance has been achieved with this condition. An application for the refund of security must be submitted with the occupation certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.

Condition Reason: To ensure road, drainage and miscellaneous works are completed to the satisfaction of Council prior to occupation.

(Autotext 29G)

G.22 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a chartered professional civil engineer with works-as-executed drawings prepared by a registered surveyor supplied to the Principal Certifier detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site stormwater detention (OSD) and any rainwater retention systems,
- c) that an OSD system has been constructed in accordance with the approved stormwater plans,
- d) that only one stormwater outlet pipe has been constructed in accordance with the approved stormwater plans,
- e) that a stormwater treatment system has been constructed in accordance with the approved plans and meets the water quality targets stipulated in the Council's DCP,
- f) that all below ground structures are fully tanked such that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings,
- g) pipe invert levels and surface levels to Australian Height Datum, and
- h) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the on-site detention system, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services.

Note:

- The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Occupation Certificate.
- Occupation Certificate must not be issued until this condition has been satisfied.

Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.

(Autotext 32G)

G.23 Arborists Documentation and Compliance Checklist – Prior to any occupation certificate

Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:

- a) A record of the condition of trees to be retained prior to and throughout development.
- b) Recommended actions to improve site conditions and rectification of non-compliance.
- c) Recommendations for future works which may impact the trees.

All compliance certification documents must be kept on site by the site Supervisor.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.

Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.

Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.

Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.

(Autotext 34G)

G.24 Vehicle Access and Manoeuvring – Construction & Certification

Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, certification from a Chartered Traffic Engineer relating to the construction of vehicular access and manoeuvring for the development. This certification must be based on a site inspection of the constructed vehicle access, manoeuvring and vehicle accommodation areas, with dimensions and measurements as necessary, and must make specific reference to the following:

- a) That the as-constructed carpark complies with the approved Construction Certificate drawings,
- b) That a maximum gradient of 5% has been provided for the first 6 metres from the front boundary into the property,
- c) That finished driveway gradients and transitions will not result in scraping to the underside of B99 vehicles,
- d) All parking spaces are open type with no partitions,
- e) That the as-constructed vehicular path and parking arrangements comply in full with AS2890.1, AS2890.2 and AS2890.6 in terms of minimum dimensions provided,
- f) That the headroom clearance of minimum 2.2 metres has been provided between the basement floor and any overhead obstruction to comply with Clause 5.3.1 of AS2890.1 and Clause 2.4 of AS2890.6,
- g) That the headroom clearance of minimum 2.5 metres has been provided to all parking spaces for people with disabilities to comply with Clause 2.4 of AS2890.6,
- h) That Aisle widths throughout basements comply with AS2890.1,
- i) That minimum dimensions of 2.4m x 5.4m shared area, has been provided adjacent to all disabled parking spaces to comply with AS2890.6. Bollards are provided at the location on each shared area specified in AS2890.6,
- j) Access and manoeuvrability of the largest vehicle accessing the site and simultaneous manoeuvrability of the largest vehicle using the site and a passenger vehicle including clearances in accordance with AS2890.1 and AS2890.2 is achieved.

Condition Reason: To ensure a compliant vehicular access and parking arrangement prior to the occupation of the whole building.

G.25 Flood Protection

Before the issue of any occupation certificate for the whole of the building, the Principal Certifier must be satisfied:

- a) A permanent flood risk management plan shall be installed in a prominent area of the basement carpark,
- b) The proposed below ground car park shall be protected by a physical threshold set at or above the flood planning level of 31.9 m AHD,
- c) The pedestrian entry off New south Head Road shall be protected by a physical threshold set at or above the flood planning level of 31.55m AHD,
- d) Flood compatible materials shall be used for all flood exposed construction.
- e) All flood exposed electrical wiring and equipment shall be waterproofed,
- f) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation,

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Condition Reason: To ensure the development incorporates flood inundation protection measures.

G.26 Implementation of the Heritage Interpretation Plan

Prior to the issue of the Occupation Certificate, a letter demonstrating the implementation of all approved heritage interpretation measures must be provided to Council for review and approval.

Condition Reason: To ensure the heritage impact of the works has been mitigated through heritage interpretation measures.

G.27 Consolidation of allotments

Prior to the issue of the Occupation Certificate, the following allotments are to be consolidated to form one allotment:

- 136 New South Head Road, Edgecliff Lot 1 / DP1311043
- 138 – 140 New South Head Road, Edgecliff Lot 2 / DP1311043
- 138 – 140 New South Head Road, Edgecliff Lot 5 / DP1311043
- 142-144 New South Head Road, Edgecliff Lot 3 / DP1311043
- 146 – 148 New South Head Road, Edgecliff Lot 4 / DP1311043

The plan of consolidated allotments it to be prepared by a registered surveyor and registered with Land and Property Information (NSW). Evidence of registration is to be submitted to Council's satisfaction prior to the issue of an Occupation Certificate.

Condition Reason: To ensure the consolidation of allotments.

G.28 Wind mitigation treatments

Before the issue of any occupation certificate for the whole of the building, the Principal Certifier must be satisfied that the wind mitigation treatments set out in the approved wind study report, referenced WI953-01F03(REV1), prepared by Windtech have been fully implemented.

Condition Reason: To ensure winds to external areas will not exceed the relevant criteria for comfort and/or safety.

G.29 Reflectivity of glazing

Before the issue of any occupation certificate for the whole of the building, the Principal Certifier must be satisfied that the reflectivity of the external glazing will be below 20%.

Condition Reason: To ensure reflectivity would not adversely impact motorists/pedestrians on New South Head Road, and nearby building occupants.

G.30 Green Star Buildings 5-star rating

Before the issue of any occupation certificate for the whole of the building, the Principal Certifier must be satisfied that the building achieves a Green Star building 5-star rating.

Condition Reason: To ensure the proposal incorporates the approved sustainable design rating.

G.31 Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems

Before the issue of any occupation certificate for the whole of the building, mechanical parking installations are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:

- a) Compliance with conditions of development consent relating to mechanical parking installation including turntable, car lift, car stacker and traffic light system;
- b) That the works have been constructed in accordance with the approved design;
- c) A positive covenant pursuant to Section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the turntable, car lift, car stacker and traffic signal system incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land and Property Information NSW.

Notes:

- The PCA must supply a copy of the WAE Plans to Council together with the occupation certificate for the whole of the building.
- The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.

(Autotext 36G)

H. OCCUPATION AND ONGOING USE

H.1 Retention of in-fill affordable housing

During the relevant period—

- a) the affordable housing component must be used for affordable housing, and
- b) the affordable housing component must be managed by a registered community housing provider, and
- c) notice of a change in the registered community housing provider who manages the affordable housing component must be given to the Registrar of Community Housing, the consent authority, and Woollahra Municipal Council no later than 3 months after the change, and
- d) the registered community housing provider who manages the affordable housing component must apply the Affordable Housing Guidelines.

Notes:

- *affordable housing component of development*, means the percentage of the gross floor area used for affordable housing.
- *affordable housing* means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.
- *relevant period* means a period of 15 years commencing on the day on which an occupation certificate is issued for all parts of the building or buildings to which the development consent relates.
- a household is taken to be a *very low income household*, *low income household* or *moderate income household* if—
 - (a) the household—
 - (i) has a gross income within the following ranges of percentages of the median household income for Greater Sydney or the Rest of NSW—
 - (A) very low income household—less than 50%,
 - (B) low income household—50–less than 80%,
 - (C) moderate income household—80–120%, and
 - (ii) pays no more than 30% of the gross income in rent, or
 - (b) the household—
 - (i) is eligible to occupy rental accommodation under the National Rental Affordability Scheme, and
 - (ii) pays no more rent than the rent that would be charged if the household were to occupy rental accommodation under the Scheme.
- *Greater Sydney* means the area that the Australian Bureau of Statistics determines from time to time to be the Greater Sydney—Greater Capital City Statistical Area.
- *National Rental Affordability Scheme* has the same meaning as in the National Rental Affordability Scheme Act 2008 of the Commonwealth.
- *Rest of NSW* means the area that the Australian Bureau of Statistics determines from time to time to be the Rest of NSW—Greater Capital City Statistical Area.

Condition Reason: To ensure the retention of in-fill affordable housing

H.2 Hours of Use Retail

During the occupation and ongoing use, the hours of use of the retail space are limited to the following:

- a) 7am to 7pm seven days a week.

Notes:

- Deliveries to or dispatches from the site must not be made outside these hours. Trading hours may be more onerous than these general hours of use.

- This condition does not apply to activities such as cleaning which takes place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling than such internal activities must not occur outside these hours of use.
- This condition does not restrict the operation of noise pollution laws.

Condition Reason: This is to mitigate amenity impacts upon the neighbourhood

(Autotext 1H)

H.3 Provision of Off-street Public and Visitor Parking

During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking, AS 2890.6: Parking facilities - Off-street parking for people with disabilities, and AS 2890.3: Parking Facilities - Bicycle Parking Facilities, unimpeded public access to off-street parking must be maintained as follows:

Use	Number of spaces
Car parking (residential)	61
Market rate housing	11 (including one visitor space)
Affordable housing	
Car share parking	2

Notes:

- Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993.
- Further information can be obtained from Council's Compliance Team by calling 9391 7000 or from the Office of Local Government at www.olg.nsw.gov.au or call 4428 4100.

Condition Reason: To ensure adequate on-site parking is maintained.

(Autotext 21H)

H.4 Provision of Off-street Commercial Vehicle Facilities

During the occupation and ongoing use, in compliance with AS 2890.2: Parking facilities - Off-street commercial vehicle facilities, unimpeded access to off-street parking must be maintained as follows:

Use	Number of spaces
Loading Dock (with a turntable consisting of a minimum radius of 4.1m)	1

All deliveries to and dispatch from the site, excluding retail sales, must occur within the curtilage of the development and within the commercial vehicle parking facilities required to be maintained by this condition.

Notes:

- Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993.
- Further information can be obtained from Council's Compliance Team by calling 9391 7000 or from the Office of Local Government at www.olg.nsw.gov.au or call 4428 4100.

Condition Reason: To ensure that commercial vehicles use loading facilities within the site to reduce impacts on the neighbourhood including noise and parking impacts.

(Autotext 23H)

H.5 Maintenance of BASIX Commitments

During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No.1778135M.

This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

Condition Reason: To ensure the approved environmental sustainability measures are maintained for the life of development.

(Autotext 24H)

H.6 Maintenance of Landscaping

During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

Notes:

- This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality.
- Owners must have regard to the amenity impact of trees upon the site and neighbouring land.

Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

(Autotext 25H)

H.7 Clothes Drying

During the occupation and ongoing use, no clothes, linen or the like must be hung from any balcony, terrace or verandah such that they are visible from any public place.

Condition Reason: To ensure that the visual amenity of the neighbourhood is not detrimentally affected by a proliferation of such practices.

(Autotext 26H)

H.8 Ongoing Maintenance of the On-Site Stormwater Detention System

The owner(s) must in accordance with this condition and any positive covenant:

- a) permit stormwater to be detained and treated by the Systems;
- b) keep the systems clean and free of silt rubbish and debris;

- c) maintain renew and repair as reasonably required from time to time the whole or part of the treatment system so that it functions in a safe and efficient manner;
- d) carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- e) not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- f) Not take any act, matter or thing which would prevent the overland flow path and flood protection measures (e.g. mechanical flood barriers) from operating in a safe and efficient manner;
- g) Not allow any structure to encroach upon the overland flow path;
- h) Not make any alterations to the flood protection measures and overland flow path or elements thereof without prior consent in writing of the Council and not interfere with the flood protection measures and overland flow path or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- i) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- j) comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice; and
- k) where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The Owner

- a) indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (**Claims**) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and
- b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default.

Note:

- This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.

Condition Reason: To ensure that owners are aware of maintenance requirements for their stormwater systems.

(Autotext 29H)

H.9 Swimming and Spa Pools – Maintenance

During the occupation and ongoing use, swimming and spa pools must be maintained:

- a) in compliance with the Swimming Pools Act 1992 and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs,

- b) in compliance with the NSW Health “Public Swimming Pools and Spa Pools Advisory Document” in force at that time. Private pools are encouraged to comply with the same standards as applicable,
- c) in compliance with AS 1926 Swimming pool safety - Water recirculation and filtration systems,
- d) with backwash being discharged to the sewer in compliance with AS/NZS 3500, and
- e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - before 8 am or after 8 pm on any Sunday or public holiday, or
 - before 7 am or after 8 pm on any other day.

Notes:

- Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.
- The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au

Condition Reason: To ensure public health and safety.

(Autotext 30H)

H.10 Waste Collection – Commercial

During the occupation and ongoing use, general waste collection is to be undertaken ONLY between the hours of:

- 7.00am to 9.00pm Monday to Friday, and
- 8.00am to 8.00pm Saturday, Sunday and Public Holidays

Condition Reason: To protect the amenity of neighbouring residents.

(Autotext 31H)

H.11 Waste Management – Commercial

During the occupation and ongoing use, compliance must be maintained with the site waste minimisation and management plan (SWMMP) and with Woollahra DCP 2015, Chapter E5–Waste Management.

All waste must be presented for collection in a receptacle. Waste receptacles must be presented no earlier than the close of business on the day before collection. Waste and recycling bins/crates must be removed from the road or footpath within 1 hour of collection or otherwise in accordance with the approved SWMMP.

Receptacles are not to be stored in any public place at any time. Waste and recycling receptacles must be stored at all times within the boundaries of the site.

This condition does not apply to the extent that Activity Approval exists under the Local Government Act 1993 or the Roads Act 1993 and subject that all conditions of such approval(s) are complied with.

Notes:

- No waste will be collected by Council that is not presented properly. The waste must be presented with lid closed to reduce littering.

Condition Reason: To ensure that the provisions of the approved SWMMP and Woollahra DCP are complied with during the ongoing operations of the development.

(Autotext 32H)

H.12 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

During the occupation and ongoing use, each year, an annual fire safety statement must be provided to Council and the Commissioner of Fire and Rescue NSW. The annual fire safety statement must be prominently displayed in the building.

Notes:

- **essential fire safety measure** has the same meaning as in Schedule 2 of the Development Certification and Fire Safety Regulation.
- **annual fire safety statement** has the same meaning as in clause 88 of the Development Certification and Fire Safety Regulation.
- Visit Council's website for additional information in relation to fire safety www.woollahra.nsw.gov.au.

Condition Reason: To ensure public safety.

(Autotext 35H)

H.13 Outdoor Lighting – Residential

During the occupation and ongoing use, outdoor lighting must comply with AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282.

Condition Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.

(Autotext 49H)

H.14 Outdoor Lighting – Commercial

During the occupation and ongoing use, outdoor lighting must comply with AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282.

Notes:

- Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.

Condition Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

(Autotext 50H)

H.15 Outdoor Lighting – Roof Terraces

During the occupation and ongoing use, outdoor lighting must comply with AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282.

All lighting to be installed on the roof terrace will be recessed lights or will be surface wall/balustrade mounted lights at a maximum height of 600mm above the finished floor level of the roof terrace.

Notes:

- Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.

Condition Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.

(Autotext 51H)

H.16 Waste Management – Residential

During the occupation and ongoing use, waste management must comply with the approved site waste minimisation and management plan (SWMMP) and with Woollahra DCP 2015, Chapter E5–Waste Management.

The waste and recycling bins/crates must be placed on the footpath for collection, but not earlier than 12 hours prior to the designated collection time.

The occupier of the site must remove waste and recycling bins/crates from the footpath within 12 hours of being emptied by Council's waste service and they must be stored within the site in the approved waste storage area.

No commercial waste must be placed within residential waste and recycling bins/crates.

Notes:

- For further residential wastes management policy information go to www.woollahra.nsw.gov.au

Condition Reason: To ensure that the provisions of the approved SWMMP and Woollahra DCP are complied with during the ongoing operations of the development.

(Autotext 52H)

H.17 Noise Control

During the occupation and ongoing use, the use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997.

Notes:

- Council will generally enforce this condition in accordance with the Noise Guide for Local Government (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-

local-government) and the NSW Industrial Noise Policy (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the Protection of the Environment Operations Act 1997.

- Useful links:
 - Community Justice Centres—free mediation service provided by the NSW Government www.cjc.nsw.gov.au.
 - NSW Environment Protection Authority— see “noise” section www.environment.nsw.gov.au/noise.
 - NSW Government legislation- access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2017 is available at www.legislation.nsw.gov.au.
 - Australian Acoustical Society—professional society of noise related professionals www.acoustics.asn.au.
 - Association of Australian Acoustical Consultants—professional society of noise related professionals www.aaac.org.au.
 - Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.

Condition Reason: To protect the amenity of the neighbourhood.

(Autotext 56H)

H.18 Maintenance of Sound Attenuation

During the occupation and ongoing use, sound attenuation must be maintained in accordance with the acoustic report.

Condition Reason: To protect the amenity of the neighbourhood.

(Autotext 57H)

H.19 Noise from Mechanical Plant and Equipment

During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.

The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.

Notes:

- Words in this condition have the same meaning as in the Noise Policy for Industry (2017) www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-2017) and Noise Guide for Local Government (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government

Condition Reason: To protect the amenity of the neighbourhood.

(Autotext 59H)

H.20 Parking Permits

During the occupation and ongoing use, future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

Condition Reason: To minimise the impact of the development upon on street car parking.

(Autotext 61H)

H.21 On-going Maintenance of the Mechanical Parking Installations

During the occupation and ongoing use, the Owner must ensure the ongoing maintenance of the mechanical parking installations in accordance with this condition and any positive covenant. The Owner must:

- a) keep the system clean and free of silt rubbish and debris;
- b) maintain renew and repair as reasonably required from time to time the whole of the system so that it functions in a safe and efficient manner;
- c) carry out the matters referred to in paragraphs (a) and (b) at the Owners expense;
- d) not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- e) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- f) comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice; and
- g) where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The Owner

- a) indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant; and
- b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant.

Notes:

- This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.

Condition Reason: To ensure the ongoing maintenance of the mechanical parking installations.

(Autotext 62H)

H.22 Operation in Accordance with Green Travel Plan (GTP)/Traffic Management Plan (TMP)/Operational Traffic Management Plan (OTMP)

During the occupation and ongoing use:

- a) The operation and management of the premises shall be in accordance with the GTP/TAG prepared by Traffix and referenced 24.345r03v05.
- b) The GTP/TAG cannot be altered without the written consent of Council.
- c) Monitoring annual reports must be submitted for a minimum of 5 years post occupation.

Condition Reason: To maximise road safety and performance.

(Autotext 63H)

H.23 Wind mitigation treatments

During the occupation and ongoing use, the wind mitigation treatments set out in the approved wind study report, referenced WI953-01F03(REV1), prepared by Windtech must be maintained.

Condition Reason: To ensure winds to external areas will not exceed the relevant criteria for comfort and/or safety.

H.24 Reflectivity of glazing

During the occupation and ongoing use, the reflectivity of the external glazing must be maintained below 20%.

Condition Reason: To ensure reflectivity would not adversely impact motorists/pedestrians on New South Head Road, and nearby building occupants.

I. BEFORE THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

I.1 Electricity Substations – Dedication as Road and/or Easements for Access

Before the issue of any subdivision certificate, if an electricity pillar and/or substation is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity pillar and/or substation to be established. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road (footway or road pavement).

Documentary evidence of compliance, including correspondence from the network authority is to be provided to the Principal Certifier prior to issue of the construction certificate detailing energy authority requirements.

The Accredited Certifier must be satisfied that the requirements of the energy authority have been met prior to issue of the construction certificate.

Where an electricity substation is provided on the site adjoining the road boundary, the area within which the substation is located must be dedicated as public road. Where access is required across the site to access an electricity pillar and/or substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any statutory corporation requiring access to the electricity pillar and/or substation.

Condition Reason: To ensure that the energy authority is provided with access to electricity pillars and/or substations.

(Autotext 1.I)

J. BEFORE THE ISSUE OF A STRATA CERTIFICATE

J.1 Strata Title Subdivision Certificate (Part 4 Strata Schemes Development Act 2015)

Before the issue of any subdivision certificate, in addition to the statutory requirements of the Strata Schemes Development Act 2015, a strata certificate must not be issued which would have the effect of:

- a) transferring to any strata unit entitlement, any areas of common property shown upon the approved development application plans,
- b) transferring to any strata unit entitlement, any visitor parking spaces, or
- c) creating any unit entitlement to any car parking spaces not associated with an occupiable unit entitlement within the strata plan.

Condition Reason: To ensure that:

- a) common property is not alienated from the strata scheme and assigned to any one or more strata lots,
- b) visitor parking is not alienated from the strata scheme and assigned to any one or more strata lots such that visitors would be restricted from lawful access and use of required visitor parking,
- c) parking spaces are not strata subdivided as separate strata lots which may be sold with full strata title rights as a parking space lot, reducing available parking to strata lots and visitors required to reduce demand for on-street public parking.

(Autotext 1M)