

Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No:	DA141/2024/1
Development:	Change of use, alterations & additions to the approved commercial development (DA 280/2022), to accommodate a single residential apartment at Level 4 with associated works at Lower Ground and Level 5.
Site:	Lot 1 DP1286687, also known as 2 Bay Street Double Bay NSW

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

Date of determination: 07 March 2025

Date from which consent takes effect: Date of determination.

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as Lot 1 DP1286687, also known as 2 Bay Street Double Bay NSW.

The conditions of consent are as follows:

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

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.

A.3 Notice of Modification of DA280/2022

Pursuant to section 4.17(5) of the *Environmental Planning and Assessment Act 1979*, a Notice of Modification of Development Consent DA280/2022 in accordance with clause 67 of the *Environmental Planning & Assessment Regulation 2021* (**Notice of Modification**) is required to be delivered to Council prior to works commencing under this consent.

The Notice of Modification is to provide for DA280/2022 to be modified in accordance with **Condition A.4** of this consent.

A.4 Modification of DA280/2022

The consent granted to DA280/2022 is required to be modified as follows:

(1) Deletion and Replacement of Conditions:

Condition A.4, A.17 and I.3 under development consent DA280/2022 are to be deleted and replaced with new Condition A.4 and I.3 as follows:

A.4 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
DA00 B	Architectural Plans	All prepared by Lawton Hurley Architecture Interiors Planning	October 2024
DA01 B	Site Plan		November 2024
DA02 B	Basement 2 Plan		
DA03 B	Basement Plan		
DA04 B	Ground Lower Plan		
DA05 B	Ground Upper Plan		
DA06 B	Level 1 Plan		
DA07 B	Level 2 Plan		
DA08 B	Level 3 Plan		
DA09 B	Level 4 Plan		
DA10 B	Roof Plan		
DA11 B	East Elevation		
DA12 B	North Elevation		
DA13 B	West Elevation		
DA14 B	South Elevation		
DA15 C	Section Looking West		
DA15.1 B	Section Looking West		
DA16 B	Section Looking North		
DA18 B	GFA Plans		
DA19 B	Shadow Diagrams		
DA20 B	Proposed Views from the Sun 1		
DA21 B	Proposed Views from the Sun 2		
DA22 B	LEP Envelope Study		
1744989M	BASIX Certificate	Integrated Group Services	24 April 2024
20220527.6/2705A/R0/JHT	Acoustic Report	Acoustic Logic	27 May 2024
22023	Traffic & Parking Impact Assessment	TTPP	24 April 2024
Ref No- 2223	Street Tree Arboricultural Pruning Specification Report	Mark Kokot – Rain Tree Consulting Arboricultural Management	15/03/2023
DA_00 DA_01 DA_02	Landscape Plan	Wyer & CO.	19 April 2024
Ref No: 5122	Arboricultural Impact Assessment Report (AIA)	Mark Kokot – Rain Tree Consulting Arboricultural Management	10/08/2022
22023	Traffic Letter – Memorandum	TTPP	15/03/2023
20220527.1/010 6A/R1/JHT, Revision 1	Acoustic Report	Acoustic Logic	01/06/2022
20220527.2/080 3A/R1/JHT	Acoustic Addendum Letter	Acoustic Logic	06/03/2023
20220527.2/060 3A/R2/JHT, Revision 2	Acoustic Specification	Acoustic Logic	06/03/2023
86253.03.R.002.Rev 1 PSI.docx	Contaminated Land - Preliminary Site Investigation Report (Stage 1)	Douglas Partners Pty Ltd	03.06.2022
86253.03 R.008.Rev0	Contaminated Land – Conceptual Remedial Action Plan (Stage 3)	Douglas Partners Pty Ltd	08.08.2022
22-991 DAC-100-D DAC-101-D DAC-103-D	Stormwater Management Plans	AT&L	All dated 17/05/2024

DAC-105-C DAC-111-D DAC-112-B DAC-151-D DAC-152-C DAC-153-B DAC-161-C DAC-162-C DAC-171-C DAC-172-C DAC-174-C DAC-174-D			
Rev 2	Flood Risk Assessment	Catchment Simulation Solutions	27.05.2022
86253.03.R.001.Rev0.docx	Geotechnical and Hydrogeological Report	Douglas Partners	03.06.2022
86253.03.R.011.Rev0.docx	Dewatering Management Plan	Douglas Partners	19.10.2022
SYD2118 - 2-10 Bay Street, Double Bay rev: 01	ESD Statement - Project alignment with the provisions in Part E6.2 of the Woollahra DCP 2015	ADP Consulting Engineering	08.03.2023
Rev 1.0	Ecologically Sustainable Development (ESD) Report – 294-298 New South Head Road, Double Bay, NSW	IGS Integrated Group Services	23/04/2024
Rev B	Construction & Demolition Waste Management Plan (SWMMP)	Elephants Foot Consulting	25.05.2022
Rev I	Operational Waste Management Plan (OWMP)	Elephants Foot Consulting	23/04/2024
P3144	Public Art Plan	UAP	May 2022
DA70 A	Section Looking West (bulk excavation)	All prepared by Lawton Hurley Architecture Interiors Planning	All dated July 2023
DA71 A	Section Looking North (bulk excavation)		
DA72 A	Section Looking East (bulk excavation)		
DA73 A	Section Looking South (bulk excavation)		
22023	Traffic and Parking Impact Assessment	TTPP	24 April 2024
22023	Traffic Response to Council's RFI, Rev A	TTPP	13/03/2024

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.

I.3 Provision of Off-street Public and Visitor Parking

During the occupation and ongoing use, in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities, AS 2890.6: Parking facilities - Off-street parking for people with disabilities and AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking, unimpeded public access to off-street parking must be maintained as follows:

Use	Number of spaces
Car Parking (Commercial)	56 (including 2 6 small on the stamped plans and the wording MOD small car parking spaces)
Car Parking (Retail)	35 (including 2 accessible parking spaces)
Car Parking (Residential)	2

Bicycle Parking	60
Motorbike Parking	10

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.

(2) Modify and Replacement of Conditions:

Condition A.15 under development consent DA280/2022 is to be modified and replaced with new Condition A.15 as follows:

The approved works which are subject to DA 280/2022 must be undertaken and facilitated as five (5) Construction Certificate stages, more specifically being:

- **Construction Certificate 1** – Bulk Excavation;
- **Construction Certificate 2** – Slab on ground with in-ground drainage services;
- **Construction Certificate 3** – Balance of Super Structure;
- **Construction Certificate 4** – Building services, façade and external works between basement and level 4 slab;
- **Construction Certificate 5** – Construction of the single residential apartment at Level 4 with associated works at Lower Ground to Level 5.

Condition H.5 under development consent DA280/2022 is to be modified and replaced with new Condition H.5 as follows:

On completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor and submitted to the Principal Certifying Authority detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the stormwater treatment pit,
- c) 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,
- d) that the stormwater works have been constructed in accordance with the approved construction stormwater plans,
- e) that 15 x 690 PSorb Stormfilter Cartridges and 2 x OceanGuard have been installed in the stormwater filtration pit in accordance with the approved construction stormwater plans,
- f) pipe invert levels and surface levels to Australian Height Datum, and
- g) 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 stormwater filtration/treatment system and/or absorption trenches, 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.

Note: The Occupation Certificate must not be issued until this condition has been satisfied.
Standard Condition: H20 (Autotext HH20)

Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.

(3) Addition of New Conditions

The following conditions are added to development consent DA280/2022:

A.18 General Terms of Approval – Roads Act 1993 (TfNSW - Classified Roads)

The following general terms of approval have been imposed by Transport for NSW (TfNSW) in relation to classified roads.

- A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on New South Head Road during construction activities. A ROL can be obtained via <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

Condition Reason: To ensure all parties are aware of the general terms of approval.

C.1A Payment of Security and Fees

The Certifying Authority must not issue Construction Certificate 5 until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees prior to the issue of a Construction Certificate, Subdivision Certificate or Occupation Certificate, as will apply.

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 -making good any damage caused to any property of the Council	\$75,410.00	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	Nil	No	T114
DEVELOPMENT LEVY under Woollahra Section 7.12 Development Contributions Plan 2021 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$9,049.70	Yes, quarterly	T96

INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Security Deposit Administration Fee	\$235.00	No	T16
TOTAL SECURITY AND FEES	\$84,694.70		

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

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.

C.22 Modification of Details of the Development (section 4.17(1)(g) of the Act)

Before the issue of Construction Certificate 5, 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:

a) Amended Landscape Plans

The Landscape Plan shall be amended to show:

- i. All species of plants/trees associated with Level 4 are to be limited to a mature height of no more than 4.5m measured from the finished floor level (RL22.4).
- ii. All species of plants/trees associated with the roof top terrace are to be limited to a mature height of 1m measured from the finished floor level (RL26.0)

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.

C.23 BASIX Commitments

Before the issue of Construction Certificate 5, BASIX Certificate No.1744989M must be submitted to the Principal Certifier with the application for that construction certificate.

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

C.24 Stormwater Management Plan

Before the issue of construction certificate 5, 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:

- h) A general design consistent with the stormwater management plans approved under DA280/2022,
- i) Internal stormwater drainage including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans,
- j) Compliance with the objectives and performance requirements of the BCA,
- k) The dimensions of all drainage pits and access grates must comply with AS3500.3 and Council's DCP.

- l) General compliance with the 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:

- m) All pipe layouts, dimensions, grades, lengths and material specification.
- n) Location of proposed rainwater tanks.
- o) All invert levels reduced to Australian Height Datum (AHD).
- p) Location and dimensions of all drainage pits.
- q) Point and method of connection to Councils drainage infrastructure.
- r) Overland flow paths over impervious areas.

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).

Notes:

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

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

C.25 Swimming and Spa Pools – Child Resistant Barriers

Before the issue of Construction Certificate 5, 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.

C.26 Swimming and Spa Pools – Backwash

Before the issue of Construction Certificate 5, 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.

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

C.27 Acoustic Certification of Mechanical Plant and Equipment

Before the issue of Construction Certificate 5, 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.

C.28 Design Sound Levels for Building Interiors

Before the issue of Construction Certificate 5, 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 Report, 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.

C.29 Noise Control - Swimming pool/spa pool pumps and associated equipment

Before the issue of Construction Certificate 5, the siting of the swimming pool/spa pool pump(s) and associated equipment are to be located as far as possible from the neighbour's dwelling to minimise the impact on adjoining residents. The pump(s) and associated equipment are to be housed in an acoustically treated enclosure so noise from the operation of the pump(s) and associated equipment are not audible beyond the boundaries of the site.

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

C.30 Noise Control - Acoustic Protection of adjoining residential units-Operation of Air Conditioning Plant

Before the issue of Construction Certificate 5, the applicant must ensure that the operation of the proposed Air Conditioning System and associated plant does not create interior noise intrusion and vibration to occur within any adjoining residential unit.

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

C.31 Parking Facilities

Before the issue of Construction Certificate 5, 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.

The plans must satisfy the following requirement(s):

- a) Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS2890.1:2004;

- b) Delivery bay must have a minimum dimension of 2.8m x 6.5m to accommodate largest service vehicles anticipated to attend the site;
- c) Accessible parking space, including the adjacent shared area, should be designed to comply with AS 2890.6. Bollard and pavement marking should be provided for the shared area to ensure impeded access;
- d) Signage and/or pavement marking be provided for residential parking, commercial parking and small car parking.

Access levels and grades must comply with access levels and grades 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.

C.32 Housing and Productivity Contribution

- 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)	\$155,410.00
Transport project component	nil
Total housing and productivity contribution	\$160,707.13

- 2) The amount payable at the time of payment is the amount shown in part 1) of this condition 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, which is Construction Certificate 5, 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:
- the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
 - 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 based upon the Department of Planning, Housing and Infrastructure's template for HPC conditions.

E.30 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.

F.11 Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

Before the issue of occupation certificate for the residential apartment, 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.

F.12 Swimming Pool Fencing

Before the issue of occupation certificate for the residential apartment, 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.

H.6 Fulfilment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation

Before the issue of occupation certificate for the residential apartment, all BASIX commitments must be effected in accordance with the BASIX certificate No. 1744989M

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.

I.17 Maintenance of BASIX Commitments

During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1744989M

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.

I.18 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.

I.19 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.

I.20 Noise Control - Swimming pool/spa pool pumps and associated equipment

During the occupation and ongoing use, the swimming pool/spa pool pump(s) and associated equipment are not to operate during the hours stipulated in the Protection of the Environment Operations (Noise Control) Regulation 2008 as follows:

- a) Before 8am or after 8pm during Saturdays, Sundays and public holidays;
- b) Before 7am or after 8pm on any other day.

Condition Reason: To protect the amenity of the neighbourhood.

I.22 Occupation and Use of Roof Terraces

During the occupation and ongoing use, no furniture (fixed or moveable) on the roof top terrace shall exceed a maximum height of 1m measured from the finished floor level (RL26.0)

Condition Reason: To protect the amenity of neighbours and to maintain views across and over the roof terrace.