

SYDNEY EASTERN CITY PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	0.0
FILE No.	DA598/2022/1
ADDRESS	17 Dover Road ROSE BAY (along with the road reserve)
SITE AREA	2,398m ²
ZONING	E1 Local Centre
PROPOSAL	Demolition of existing at-grade car park and encroaching structures and construction of: A mixed use building with frontage to Wilberforce Avenue incorporating a new multi-storey car park, ground floor retail premises and community centre and public amenities across multiple levels; Single storey ground floor retail building with frontage to Dover Road; and public domain and landscaping works.
TYPE OF CONSENT	Integrated development requiring approval under s90(2) of the <i>Water Management Act 2000</i>
COST OF WORKS	\$28,826,432.00
DATE LODGED	22/12/2022
APPLICANT	Mr J Koopman
OWNER	Woollahra Municipal Council
AUTHOR	Mr V Aleidzans
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	Seventy Seven (77) (Inclusive of repeat submissions)
RECOMMENDATION	Deferred Commencement and Conditional Approval

1. REASON FOR REPORT TO SYDNEY EASTERN CITY PLANNING PANEL (SECPP)

Pursuant to Schedule 6 of the *State Environmental Planning Policy (Planning and Systems) 2021*, the application is considered to be regionally significant development as it is Council related development with a capital investment value of greater than \$5million. In this case it is estimated at \$28,826,432.

The consent authority for this development is the Sydney District Planning Panel, being the *Sydney Eastern City Planning Panel (SECPP)* for Woollahra (see s4.5(b) of the *Environmental Planning and Assessment Act 1979*; clause 9(a) in Schedule 2 to the *Environmental Planning and Assessment Act 1979*).

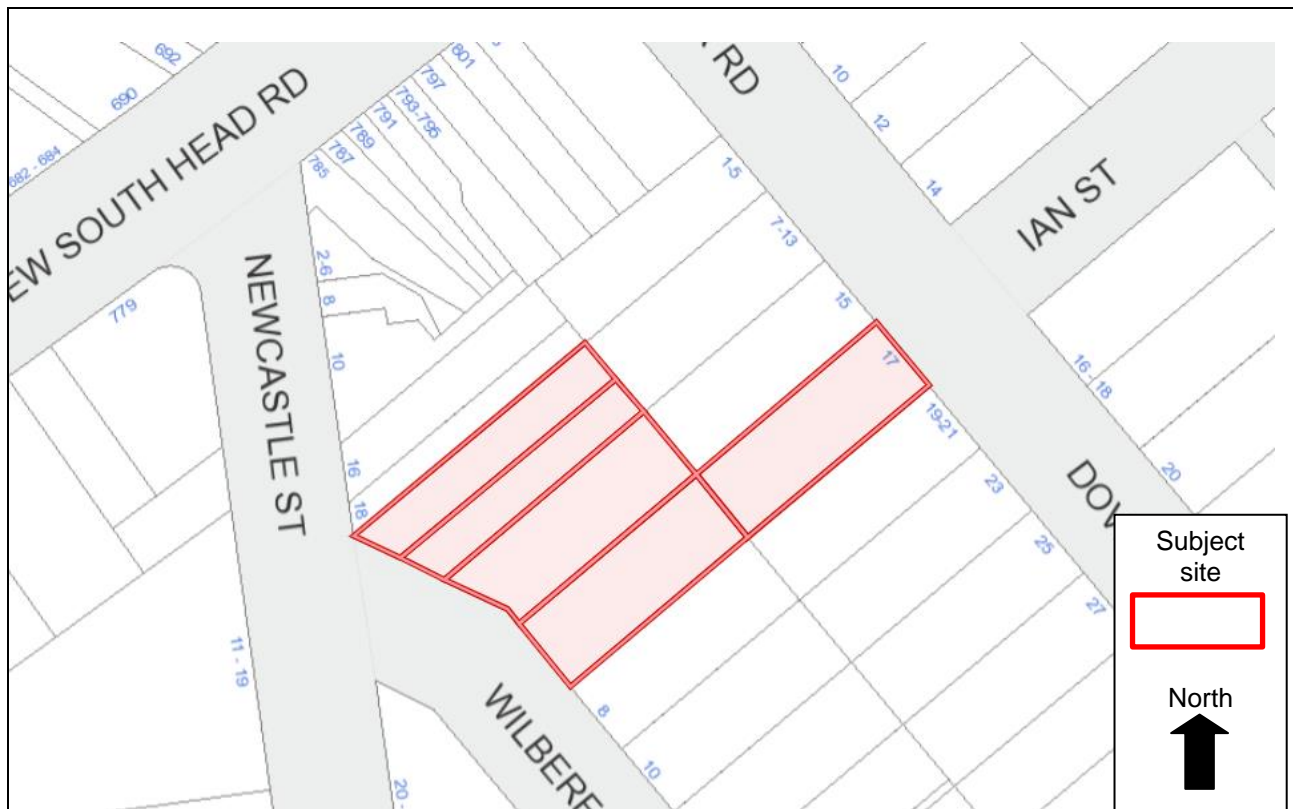
2. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15 of the *Environmental Planning and Assessment Act 1979* and is recommended for approval because:

- It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015.

- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality.
- All likely impacts to adjoining properties including any submissions made have been addressed in the report, or are considered to be satisfactory subject to conditions of consent.
- The site is suitable for the proposed development.
- The proposal is in the public interest.
- The Clause 4.6 is well-founded and as such, the exceedance of the statutory height of buildings development standard is justified.

3. LOCALITY PLAN



4. PROPOSAL

The proposal includes the demolition of the existing at-grade car park and encroaching structures and construction of a mixed use building with frontage to Wilberforce Avenue incorporating a new multi-storey car park, ground floor retail premises and community centre and public amenities across multiple levels; Single storey ground floor retail building with frontage to Dover Road; and public domain and landscaping works.

Specifically, the proposal will comprise:

- Site works including demolition of the existing at-grade car park and encroaching structures along with excavation works including excavation so that part of the basement extends within the road reserve;
- New single storey ground floor retail building addressing Dover Road;
- New mixed use building addressing Wilberforce Avenue comprising of a multi-storey car park with 229 car parking spaces along with 22 motorcycle spaces and 14 bicycle spaces;
- Ground floor retail;
- Terrace at level 2 which extends over the Wilberforce Avenue footpath;
- Community centre along with public amenities across the ground first and second floors;
- Awnings;
- New green walls to car park;
- New public domain works and pedestrian crossing via Wilberforce Avenue;
- Realignment of Wilberforce Avenue in order to accommodate a wider verge and pedestrian zone adjacent to the proposed building; and
- Landscaping and public footpaths in the proposed laneway between Wilberforce Avenue and Dover Road.

The proposed hours of operation are as follows:

- Car Park:
 - Public: 6am to 11pm – Monday to Sunday (inclusive)
 - Rooftop: 7am to 10pm – Monday to Saturday and 8am to 10pm – Sunday and Public Holidays
- Community Centre: 7am to 11pm – Monday to Sunday (inclusive)
- Retail Premises: Subject to separate approval

The use and fit-outs of the retail and community spaces will form separate applications.

No detailed signage is proposed.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings	Maximum 2.1m or 12.2% departure from the 17.2m control.	Satisfactory

5.2 Primary Issues

Issue	Discussion	Section
Urban Design.	<p>By way of summary, the key urban design issues raised with the proposal pertained to:</p> <ul style="list-style-type: none"> - Definition of street edges and transitions to adjoining properties; - Complex geometries; - Legibility and approach to the built form; - Unarticulated blank walls; - Activation of site link with adjoining property at 19-21 Dover Road; - Design of green wall system; and - Design of retail and community spaces. <p>This assessment has had regard to the urban design issues raised with the proposal. Based on the submitted documentation which accompanied this application, the proposal is found to be contextually appropriate in its context of meeting the need for additional car parking, community facilities and retail land uses within the Rose Bay Centre whilst satisfying the long term strategic vision for the subject site.</p>	16 and 17
Amenity impacts on the streetscape and surrounds.	<p>Concern was raised with regard to amenity impacts upon the streetscape and surrounds, in summary these concerns pertained to:</p> <ul style="list-style-type: none"> - Visual intrusion; - Light spillage; - Pedestrian amenity; - Overshadowing; - Noise; - Pollution; and - Access. <p>This assessment has had regard to the potential amenity impacts of the proposed development upon the streetscape and surrounds inclusive of surrounding private properties. Having considered the information submitted with this application and subject to certain recommended conditions of consent, the proposed amenity impacts upon the streetscape and surrounds are found to be satisfactory in the circumstances of the case and are supported.</p>	16 and 17

Issue	Discussion	Section
Traffic and parking related matters.	<p>Primarily concern was raised in the submissions with regard to the impacts of additional traffic flow to the surrounding street network, queuing, loading and the sufficient provision of car parking to meet the long term demand of the area.</p> <p>The assessment has had regard to the submitted information which accompanied this development application and is satisfied that the proposal will have acceptable traffic and parking related implications. It has been demonstrated that the provision of car parking is compliant with the rates stipulated by the Woollahra DCP 2015, that there would be no unreasonably adverse conflicts associated with loading and that the proposed queuing and traffic flow impacts would not adversely impact the surrounding road network.</p> <p>These aspects of the proposal are thereby supported.</p>	17.3 and Annexure 4

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
<p>The subject site is an irregular shaped allotment located within the Rose Bay Commercial Centre and is bound by Wilberforce Avenue and Dover Road. The Rose Bay Commercial Centre runs along New South Head Road and also extends into the surrounding street network within the proximity of the site, capturing parts of Wilberforce Avenue, Newcastle Street, Dover Road and Ian Street.</p> <p>The site is legally described as:</p> <ul style="list-style-type: none"> - Lot 1 Sec B DP4244 - Lots A & B DP104986 - Lots 8, 70 & 71 Sec A DP4244 <p>To Wilberforce Avenue, the site's frontage equals a total length of 45.45m with the site's frontage to Dover Road measuring a total length of 13.715m. Overall, the subject site has an area of 2,398m².</p>
Topography
The subject site is relatively flat and does not experience any steep or dramatic changes in its topography.
Existing buildings and structures
At present the subject site accommodates an at-grade car park with a capacity for 95 car parking spaces.
Surrounding Environment
<p>The surrounding locality is typically characterised by a diverse array of commercial land uses along with some residential dwellings and shop top housing developments. The character of built form is varied with buildings displaying a diverse array of architectural styles.</p> <p>Immediately adjoining the subject site along Dover Road at No.15 is the Chemist Warehouse with a shop top housing development situated further toward New South Head Road at 7-13 Dover Road, Rose Bay.</p> <p>An IGA supermarket is situated at No.1-5 Dover Road with a liquor store immediately adjoining the subject site at No. 18 Newcastle Street. Parisi's Food Hall also adjoins the subject site at Nos. 8 Wilberforce Avenue and 19-21 Dover Road.</p> <p>Pannerong Reserve is situated to the south of the subject site on the opposite side of Wilberforce Avenue.</p> <p>The opposite side of Newcastle Street to the west accommodates commercial and shop top housing developments within proximity of the subject site namely Nos. 9-11 and 11-19 Newcastle Street and 779 New South Head Road, respectively.</p> <p>Residential development of a medium and lower density is positioned further to the south of the subject site along Wilberforce Avenue.</p>

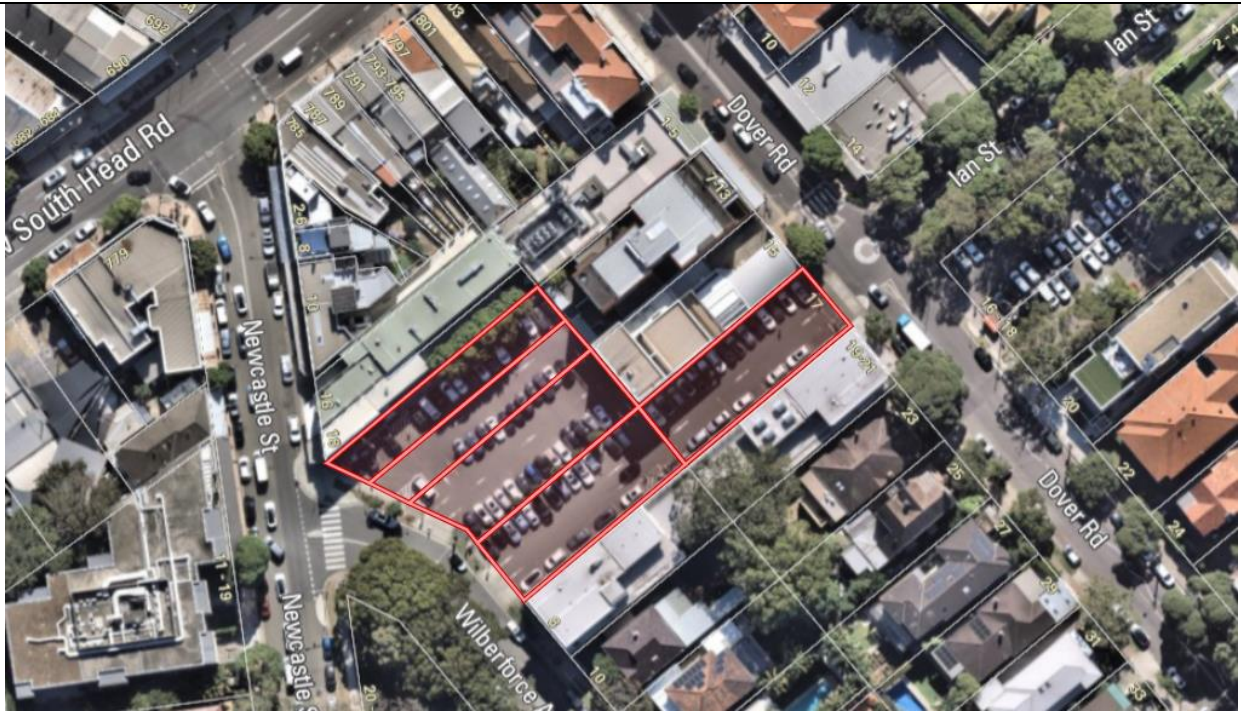


Image 1: Aerial view of the subject site



Image 2: Subject site as viewed from Wilberforce Avenue/Newcastle Street



Image 3: Pannerong Reserve as viewed from Newcastle Street



Image 4: Nos. 16 and 18 Newcastle Street, Rose Bay



Image 5: No. 18 Newcastle Street, Rose Bay as viewed from within the subject site



Image 6: No. 11-19 Newcastle Street, Rose Bay



Image 7: No. 7-13 Dover Road, Rose Bay as viewed from within the subject site



Image 8: No. 15 Dover Road, Rose Bay as viewed from within the subject site



Image 9: No. 8 Wilberforce Avenue, Rose Bay



Image 10: Nos. 8 Wilberforce Avenue and 19-21 Dover Road, Rose Bay spanning south-east to south-west adjoining the subject site



Image 11: No. 19-21 Dover Road, Rose Bay



Image 12: Subject site as viewed from Dover Road



Image 13: No. 15 Dover Road, Rose Bay



Image 14: No. 7-13 Dover Road, Rose Bay



Image 15: Ian Street Car Park (opposite the site's Dover Road frontage)



Image 16: Opposite side of Dover Road as viewed from the subject site's Dover Road frontage

7. RELEVANT PROPERTY HISTORY

Current use

Car park

Relevant Application History

The historical context for this development application is outlined below:

In 1999, a Rose Bay Centre Urban Design study identified that there was insufficient short term parking and Council's Section 94 Contributions Plan which was introduced in 2002 sought to fund an additional 100 public parking spaces.

At its meeting on 28 November 2011, Council considered and noted the Woollahra Community Facilities Study 2011 where it was resolved that the Assets Working Part was to consider funding options as a priority for the provision of a new community facility in Rose Bay. This study found that there was a demand for a multipurpose community facility in Rose Bay for a size of between 500m² and 750m².

As above, the need for additional car parking and community facilities were previously identified.

A planning proposal was prepared in 2017, titled "Ian Street and Wilberforce Avenue Car Parks, Rose Bay" (Ref: PP-2020-467) and was published on 5/06/2018. For the Wilberforce car park site, to which this application relates, this involved establishing a maximum building height of 17.2m, however, did not alter the DCP provisions.

The planning proposal envisaged that the subject site would accommodate community spaces, retail floor space and an increase to public parking. The planning proposal was considered suitable in providing opportunities to redevelop the existing car park and provide additional parking for commercial and community land uses and public parking spaces to support the business centre. These outcomes were found to be consistent with the themes of the Woollahra 2025 Community Strategic Plan.

The minutes from the Council meeting held on 21 May 2018 resolved as follows: (Council resolution added)

- A. *THAT Council proceed with the planning proposal for the Ian Street and Wilberforce Avenue car parks in the Rose Bay Centre to amend Woollahra Local Environmental Plan 2014 as exhibited, and proceed with the preparation of the draft LEP.*
- B. *THAT Council exercise its delegation authorised by the Director, Metropolitan (CBD) Planning Services, Department of Planning and Environment, on 15 September 2015, to carry out the functions of the Greater Sydney Commission under section 3.36 of the Environmental Planning and Assessment Act 1979.*
- C. *THAT the following matters raised in the submissions in relation to the indicative concept which formed part of the planning proposal be addressed in the architectural design and the statement of environmental effects which must accompany a future development application(s) for the development of the car park sites:*

- i. Acoustic Design*
- ii. Carparking and Servicing*
- iii. Tree retention and replacement*

The design and statement of environmental effects must be informed by technical reports where relevant to the above listed matters

- D. *THAT any future development proposal go before a public meeting where the presentation can be made directly to the public meeting and to allow the public have the right to respond prior to lodgement of a DA.*
- E. *THAT any further Development Proposal considers the delivery of 30 percent of residential accommodation be affordable housing and staff prepare a further report on the delivery of affordable housing.*

A briefing session was held with Council's Assessment Officer, Team Leader of Development Assessment and members of the Sydney Eastern City Planning Panel on Thursday 30 March 2023 where the application along with key issues associated with the proposal were discussed.

The Panel provided comments regarding the need for:

- Additional Electric Vehicle charging points;
- Additional amenities to the community facility use i.e. kitchenette and changing areas; and
- Consideration for end of trip facilities.

The Panel's comments are addressed throughout this assessment report.

Relevant Compliance History

N/A

Pre-DA

A Pre-DA meeting was held prior to the lodgement of this Development Application (Reference PDA2022/25/1) with subsequent meeting minutes issued dated 04 October 2022.

Requests for Additional Information and Replacement Applications

A Stop the Clock Letter dated 18 January 2023 was issued which requested additional information pertaining to:

- The site survey;
- Flood study – protection of property;
- Site drainage; and
- Geotechnical and hydrogeological investigation report.

The requested information was submitted on 23 February 2023, 16 March 2023 and 22 March 2023.

An unsatisfactory Environmental Health referral response dated 30 January 2023 requested additional information pertaining to:

- Acoustics; and
- Site contamination.

The requested information was submitted on 23 February 2023, 22 March 2023, 17 April 2023 and 02 June 2023.

An unsatisfactory Urban Design referral response dated 06 March 2023 was issued for the Applicant's consideration. The Applicant provided an initial response to this referral dated 11 May 2023. Further to this, an updated response from the Applicant was submitted on 02 June 2023. Amended architectural drawings submitted on 06 June 2023, an updated planting schedule dated 09 May 2023 and a surface finishes plan dated 10 May 2023 also accompanied this response.

On 07 July 2023 additional information was requested pertaining to the following:

- Shadow diagrams for the hours of 10am to 2pm on 21 March and 24 September;
- Amended Clause 4.6 variation request; and
- Updated architectural drawings identifying amendments.

This request was satisfied on 28 August and 27 September 2023.

An unsatisfactory Environmental Health referral response dated 10 July 2023 was received and requested additional information pertaining to:

- Unsatisfactory Acoustic Assessment Report.

An unsatisfactory Traffic Engineering referral response dated 11 July 2023 was received and requested additional information pertaining to:

- Parking provision; and
- Access, loading bay and sight splay.

An unsatisfactory Technical Services referral response dated 13 July 2023 was received and requested additional information pertaining to:

- Site drainage;
- Impacts on Council infrastructure;
- Vehicle access and accommodation; and
- Geotechnical Hydrogeological and structural issues.

The requested information was submitted on 17 and 28 August 2023.

An unsatisfactory Technical Services referral response dated 06 September 2023 was received and requested additional information pertaining to:

- Site drainage;
- Encroachments; and
- Geotechnical Hydrogeological and structural issues.

The requested information was submitted on 25 and 26 September 2023.

A revised and consolidated set of architectural plans accounting for all changes made throughout the assessment of this application was submitted on 27 September 2023.

The architectural plans were amended throughout the assessment process to accommodate the following design changes and additional information:

- Addition of water quality tank at the ground floor;
- Tree and tree well locations coordinated with landscaping;
- Relocation of EV charging points to the roof level and level 3 upper along with the provision of a future accessible EV charging space,
- Amendments to paving widths, details and finishes;
- Amendments to bollard and loading zone locations;
- Amendments to driveways;
- Relocation of motorbike spaces;
- Amendments to sewer diversion and Sydney Water access;
- Acoustic wall added;
- Increase to aisle widths at the roof level;
- Amended panel divisions of north-eastern elevation; and
- Augmentation of green wall panels with the introduction of a proprietary stainless steel vertical cable trellis system to augment vertical plant growth.

The above amendments were uploaded to the NSW Planning Portal via amended documentation and accepted by Council.

8. REFERRALS

Referral	Summary of Referral Response	Annexure
Development Engineering	Satisfactory, subject to recommended conditions.	3
Traffic Engineering	Satisfactory, subject to recommended conditions.	4
Trees and Landscaping	Satisfactory, subject to recommended conditions.	5
Heritage	Satisfactory, subject to recommended conditions.	6
Urban Design	Unsatisfactory.	7
Drainage Engineering	Satisfactory, subject to recommended conditions.	8
Fire Safety Officer	Satisfactory, subject to recommended conditions.	9
Environmental Health	Satisfactory, subject to recommended conditions.	10
Environment and Sustainability	No conditions recommended. The referral comments are discussed within Section 17.7 of this assessment report.	11
Community Services (Public Art)	Can be suitably addressed via the recommended conditions.	12
Transport for NSW	Satisfactory, subject to recommended conditions.	13
Department of Planning and Environment (Water Licensing)	The proposal is an Integrated Development as it requires approval under s90(2) of the <i>Water Management Act 2000</i> . DPIE Water Licensing deem it satisfactory, subject to the recommended General Terms of Agreement.	14
Water NSW	Advised that this was not applicable and that a referral was not required.	N/A
La Perouse Aboriginal Land Council	No response was received.	N/A

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 include the following:

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is/has been the subject of public consultation
3. The provisions of any development control plan
4. Any planning agreement that has been entered into
5. Any draft planning agreement that a developer has offered to enter into
6. The regulations
7. Any coastal zone management plan
8. The likely impacts of that development:
 - i) Environmental impacts on the natural and built environments
 - ii) Social and economic impacts
9. The suitability of the site
10. Any submissions
11. The public interest

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 25/01/2023 to 24/02/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.

The application was re-notified from 26/04/2023 to 26/05/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. The reason for re-notification was to clarify the location of the development making reference to the common name of the subject site as the Wilberforce Avenue Car Park.

Submissions were received from:

1. Murray Foltyn
2. Tim Lindley
3. Mourice Wermut
4. Ariane Rummery
5. Annika and Michael Droga
6. Peter Moppett
7. Linda Casey – States that it is not an official objection a follow up email was also sent, however, did not raise any different issues. This has still been included and registered as an objection for completeness.
8. Francesca Liotta
9. Ian Baker
10. Malcolm Kofsky
11. Vivian Meca – MecaCuts (2 x objections)
12. Linda Connolly (2 x objections from 2 separate email addresses)
13. Scott Bernard
14. George Connolly
15. Cindy Diamond
16. Deanna M
17. Lynette Zines
18. Jenny Vild
19. Erenie Crones (2 x submissions)
20. Sam Goldman

21. Amy Fowler
22. Barry & Carol Pryer
23. Lincoln Lawler
24. Theo and Svetlana Theodosi
25. Lisa Everingham – The objection could not be accessed. An email was sent on 22/03/2023 requesting a different format, however, no response was received.
26. Henry Wong
27. Maralyn Hurwitz
28. Nicole Chang
29. Kelly Foster
30. Laura Madeisky
31. Susan & Gary Inberg
32. Philippa Hutton
33. Philippa Lewis
34. Ben Coombes
35. Professor John Pollard and Professor Patricia Armati
36. Catherine De Giorgio (2 x submissions)
37. Tim Hallam
38. Urbis
39. E. Goldman
40. Matthew Fortunato (2 x submissions)
41. TEF Consulting
42. Renee Sharp
43. Daintry Associates Pty Ltd (plus a follow up email to confirm receipt)
44. Renzo Tonin & Associates
45. Georgina Clark
46. Kate Christian
47. Chris Parisi
48. Michael Rogerson
49. Bruce and Beverly Anderson (2 x submissions)
50. Andy Rouse
51. Susan & Gary Inberg
52. Wendy Cameron
53. Paul Hower
54. Peta Purdy
55. Pamela Massie Greene (2 x submissions)
56. Louise Falk
57. Eleanor M de Mestre
58. Jane Foley
59. Anita & Jason Billings
60. Breda – The submitted objection was ineligible. An email was sent to the objector on 14/06/2023 requesting for a legible version of the objection, however, no response was received.
61. Lisa Anderson
62. Georgia Clark
63. Rene Sharp
64. Christina Hazzi
65. Robert Terley
66. Mr A.C.M Johnson
67. Nancy Georges (2 x submissions)
68. Jason Purcell

In support:

1. Grant Oshy

In addition to the above an online petition was submitted by Nancy Georges and the Rose Bay Alliance which had 343 signatures at the time of finalising this assessment report. When the objection was received it contained a spreadsheet of the petition with a date 24 February 2023 in the title with 252 names) – plus update emails on the status of the petition, however, no new issues were raised in these subsequent emails.

The submissions raised the following issues:

Traffic, Parking and Access

Issue	Response	Section
There should be greater ease of access from the development to the other side of Newcastle Street.	The proposed pedestrian crossing location is considered to be the most appropriate as it will provide a direct connection between the primary stair location along Wilberforce Avenue and Pannerong Reserve. Notwithstanding the new pedestrian crossing, the existing crossing configurations would be utilised to provide access to and from the site.	17
Additional traffic capacity and congestion issues.	Based on the submitted traffic documents and advice of the traffic referral response, this assessment is satisfied that the proposal will have acceptable impacts upon the capacity of the surrounding road network and would not result in an unacceptable level of traffic congestion.	Annexure 4
Issue of shopping trolley movements between shops and car park and within the car park.	Trolley return bays are proposed at the basement and ground levels which is considered suitable for the proposal. It should be acknowledged that whilst the proposal would service the Rose Bay Centre it does not specifically service a type of supermarket that would otherwise have a greater trolley demand. Nevertheless, there appears sufficient scope to provide additional trolley bays throughout the upper levels at a later stage if considered necessary. These shopping trolleys would manoeuvre via ramps and lifts.	N/A
Loss of car parking during construction and lack of alternative parking options. Management of parking impacts during construction.	A Public Meeting was held on Tuesday 04 July 2023 where such issues were discussed. The presentation for this meeting noted the following: <ul style="list-style-type: none"> That 73 new car parking spaces would be provided in Newcastle Street through the conversion of existing parallel spaces to angled parking. Of these spaces, 53 would be within a 500m walking distance to the centre. All spaces within 200m would be changed to 1 hour (1P) restricted parking limits inclusive of the Ian Street Car Park All spaces within 200-400m would be changed to two hour (2P) restricted parking limits. 	N/A
Increased pressure on current parking availability.	Based on the submitted traffic documents and advice of the traffic referral response, this assessment is satisfied that the proposal will relieve long term parking pressures in the Rose Bay Local Centre.	Annexure 4
Comparison between existing and proposed number of parking spaces.	The proposal will provide for an increased number of car parking spaces within the Rose Bay Centre from 95 to 229 for a beneficial amenity.	17.3
Proposed car parking does not account for long term demand.	The proposal will increase the number of car parking spaces at the subject site which is deemed to provide for an improved amenity within the Rose Bay Centre.	17.3
Impacts associated with delivery vehicles for retail land uses.	The proposed delivery vehicles are not considered to have any adverse impact upon traffic flows or movements within the site or broader locality. This has been confirmed by Council's Traffic Engineer.	Annexure 4
Entry and exit points are unsuitable and would have adverse, queuing, traffic flow	Having regard to the submitted traffic documents and advice of the traffic referral response, this assessment is satisfied that the proposed entry and exit points are the most suitable for the site and	Annexure 4

Issue	Response	Section
and congestion impacts.	proposed scheme. The queuing, traffic flow and congestion impacts are deemed acceptable.	
Slow dispersal of traffic to surrounding road network would restrict usability.	As stated directly above, the queuing impacts associated with the proposed development are deemed acceptable.	Annexure 4
Electric vehicle charging points should be provided.	Electric vehicle charging points have been provided within the proposed development and are considered acceptable.	N/A
Temporary parking could be provided in Pannerong Reserve.	The provision of temporary parking within Pannerong Reserve is an inappropriate solution to a temporary loss of parking spaces, as this would prevent its use as public open space for the local community, would be contrary to the zoning of the park as RE1 Public Recreation and would have potential adverse impacts on established vegetation within that park.	N/A
Requirement to install new traffic lights.	Whilst new traffic lights are not proposed, this is consistent with the conclusions of the traffic assessment, which finds that traffic flow and queuing are acceptable on the basis of the proposed design.	N/A
Need for dedicated pedestrian walkway. Pedestrian safety concerns from the shared thoroughfare. Litigation risk from future pedestrian accidents.	The proposed shared zone has been suitably designed to prioritise pedestrians through the introduction of kerb free zones, materiality of pavement types, carriageway guidance for vehicles, and walkway widths. Litigation risks are deemed to be outside the scope of this assessment.	17
Commentary regarding loading dock impacts of surrounding development.	It is uncertain how the proposed loading dock configuration would impact those of surrounding properties, noting this would occur wholly within the subject site.	Annexure 4
Private driveways being used for vehicle turning.	Driver behaviour outside of the subject site is a matter that can be dealt with under the <i>Road Rules 2014</i> if appropriate.	N/A
Cars parking across private driveways blocking entry and exit	Driver behaviour outside of the subject site is a matter that can be dealt with under the <i>Road Rules 2014</i> if appropriate.	N/A
Issue of emergency vehicles caught in congested traffic with an increased volume being legally negligible.	Having regard to the submitted traffic documents and advice of the traffic referral response, this assessment is satisfied that the future congestion impacts are acceptable.	Annexure 4
Lack of disabled access to upper levels of the car park. In case of lift failure there is no means of disabled access from upper levels.	A Statement of Compliance Access for People with a Disability accompanied the development application. It was concluded that the proposal has the capacity to comply with all relevant requirements under the Building Code of Australia which would need to be detailed and verified at the Construction Certificate Stage.	N/A
Need for 'right hand turn lanes' on New South Head Road for cars to access Newcastle Street and Dover Road.	The provision of additional 'right hand turn lanes' was not recommended by the submitted traffic documentation nor was this advised to be necessary by Council's Traffic Engineer. This assessment is thereby satisfied that no such provision is necessary.	N/A
Narrowness of road which serves as entry and exit to the car park.	Having regard to the submitted traffic documents and advice of the traffic referral response, this assessment is satisfied that the proposed widths for vehicle manoeuvring are satisfactory and are compliant with the relevant Australian Standards.	Annexure 4

Height, Bulk and Scale

Issue	Response	Section
Excessive building height, bulk, scale and overdevelopment.	The proposal is permissible within the E1 Local Centre zone and reflects the anticipated bulk, scale and form for the site. The proposal is notably compliant with the permitted floor space ratio development standard. Although, non-compliant with the height of buildings development standard, the Clause 4.6 is well-founded and as such, the exceedance of the statutory height of buildings development standard is justified. Where necessary, the proposal has been suitably articulated to assist in creating a visual interest from several vantage points.	16.2, 16.3, 16.4 and 17
Incompatibility with the Rose Bay village character.	The proposal is considered to uphold the underlying objectives of the Rose Bay Centre, noting the subject site is located within its core and is in keeping with the long term strategic direction anticipated for the site.	17
Adverse and overwhelming streetscape impacts.	The proposal is considered to have an acceptable streetscape response as it presents to Dover Road which is keeping with the retail characteristics of this frontage along with providing an acceptable transition from the two storey forms along Newcastle Street to the permitted 17.2m building height anticipated along Wilberforce Avenue. The contemporary design response along with materiality is found to create a visual interest to the street whilst mitigating an overbearing visual impression.	17

Design Commentary

Issue	Response	Section
Additional basement level should be explored and proposed.	It is understood that an additional basement level was initially explored by the Applicant, however, due to certain site constraints namely flooding and the presence of the water table this was not feasible. This assessment is carried out on the basis of the proposal that has been submitted.	N/A
Commentary regarding the potential for a pedestrian piazza along Wilberforce Avenue and insufficient size of piazza along Dover Road.	The proposal in its current form is considered to provide a suitable pedestrian thoroughfare without the need for a further or amended pedestrian piazza.	N/A
The proposed lift locations and sizes are unfavourable, inefficient and require unsafe paths of travel. Adequate lifts should be provided.	No objection is raised to the proposed lift locations, noting that pedestrians are prioritised through the shared zone. The size of lifts are considered acceptable in this case.	17
Proposed awning should cover the pedestrian car park entrance to provide shelter.	The proposed awning defines the Wilberforce Avenue Streetscape and compliments the overall architecture and design of the proposal. A wrap around awning would adversely impact the overall design of the built form and contribute to an unnecessary bulk. This assessment is satisfied that no such provision is necessary.	17 and Annexure 7
Lack of information as to why the entry and exist locations have been chosen.	This is considered to be outside the scope of this assessment. Notably, the entry and exit locations are supported by both Council's Traffic Engineer.	Annexure 4
Facades should be covered in planting and	Where appropriate, the proposed car park facades have been treated with planters/landscaping.	17

Issue	Response	Section
fed via the rainwater tanks.		
Commentary regarding redesign options.	This assessment is satisfied that any necessary design amendments have been made during the assessment process and subject to the recommended conditions, that the proposal is in a supportable form. It is noted that the application must be assessed in the form in which it has been submitted.	N/A
The proposal should be of a mixed use nature.	The proposal incorporates a variety of permissible uses.	16.2
Need for a 'smarter' and more cohesive design.	For the reasons detailed throughout this assessment report, the proposal is considered to be of a satisfactory design.	16 and 17
Suggestion of an open air multilevel car park.	This report and assessment has had regard to the submitted application. Any potential amended design options unless submitted for assessment are outside the scope of consideration.	N/A
Need for holding bays for shopping trolleys.	Trolley return bays are proposed at the basement and ground levels which is considered suitable for the proposal. It should be acknowledged that whilst the proposal would service the Rose Bay Centre it does not specifically service a type of supermarket that would otherwise have a greater trolley demand. Nevertheless, there appears sufficient scope to provide additional trolley bays throughout the upper levels at a later stage if considered necessary.	N/A
Community facility should be deleted.	The proposed community land use is permissible in the E1 Local Centre zone.	16.2
Rainwater collection tanks should be incorporated.	The proposal has been assessed by Council's Development Engineer who considers the proposed stormwater management configuration acceptable subject to the recommended conditions of consent. As a non-residential development, it is noted that the proposal is not subject to rainwater tank provision under BASIX.	Annexure 3
Community space should be adaptable and multipurpose. There is a lack of information as to its specific use, its demand and capacity to serve the community. This would be inaccessible and is not suitable in the proposed location.	Although no specific fit out forms part of this application, the proposed community space is considered to be flexible and dynamic in accommodating a range of community uses. Some test fit outs accompanied the Applicant's submission which demonstrate a variety of ways the community centre spaces could be adapted. The proposal is acceptable in this regard. Furthermore, the proposal is a permissible land use in the E1 Local Centre zone and its demand is informed by past studies detailed earlier within this report.	7, 16.2 and 17.2
The proposed retail spaces are inefficient in their design and size.	The proposed retail spaces have been designed as 'cold shells' with no detailed fit outs forming part of this application. These spaces will encourage suitable access, legibility and provide options for adaptability due to their overall dimensions and visual presentations to the laneway.	17.2
Use of floor area is not sufficient. i.e. inefficient use of proposed floor space	Overall, the proposal is considered to have suitably utilised the proposed floor areas to ensure flexibility, adaptability and appropriate amenity throughout the proposed built form.	17
Need for a full façade along Wilberforce Avenue to reduce aesthetic impacts on the village.	It is not considered that a full facade along Wilberforce Avenue would be suitable as this would restrict entry to the site via Wilberforce Avenue and would negate the provision of a visual and physical thoroughfare between Wilberforce Avenue and Dover Road.	N/A

Issue	Response	Section
Open space, light, air and personal safety are not encouraged.	The proposal is considered to have acceptable safety and amenity impacts to the public and private domain.	17
The proposed pedestrian ramp within the car park should be extended to provide disabled access to each level of the car park.	A Statement of Compliance Access for People with a Disability accompanied the development application. It was concluded that the proposal has the capacity to comply with all relevant requirements under the Building Code of Australia which would need to be detailed and verified at the Construction Certificate Stage.	N/A
Concern that the car park will be 'open air'.	The proposed car parking element would be open to the sky to accommodate roof top parking. With the exception of the roof level, all remain parking is undercover. There are no unreasonably adverse amenity impacts deemed to arise from such a configuration.	17
Café seating and retail along Wilberforce Avenue acts as a barrier to planting large trees.	Council's Tree and Landscaping Officer has raised no concerns regarding the viability of the proposed landscaping or species selection and is therefore considered appropriate.	Annexure 5

Amenity Impacts

Issue	Response	Section
Sense of enclosure created through exacerbated height, lack of articulation and reduced setbacks	The proposed car parking elements would be masked from Wilberforce Avenue/Newcastle Street by the community centre component. The proposed facades would be suitably articulated with the use of green panelling, variations in materiality and physical breaks in the built form. The height of building exceedances are not considered to be discerned by the casual observer and would therefore have no material impacts upon the building's presentation. The setbacks are in part keeping with what is envisaged for the site by the Woollahra DCP 2015 and in part with the long term vision of the site as already anticipated when the planning proposal to increase the permitted height limit across the site was considered.	17.2
Overshadowing impacts upon public areas.	The proposed overshadowing impacts are in keeping with the requirements of the Woollahra DCP 2015 and are not deemed unreasonable in the circumstances of this case.	17
Acoustic impacts associated with mechanical equipment along with general noise impacts from the proposal.	Based on the submitted acoustic documentation along with the advice of Council's Environmental Health Officer, this assessment is satisfied that the overall acoustic impacts are acceptable and consistent with the proposed land use, subject to the recommended conditions of consent.	Annexure 10
Impacts of illumination on adjoining residential development.	The Applicant's documentation details that the north-eastern wall to the car park will comprise concrete block work in stretcher panels with a honed finish. There is considered to be minimal opportunity for light spillage through this finish.	17
Managing pollution and ventilation for vehicles.	Noting that a car park is a permissible land use within the prescribed zoning, the extent of potential pollution from vehicles is not considered to be out of character with what would be reasonably anticipated by such a permitted land use. Any associated impacts are not considered to be unreasonably adverse.	N/A
Visual privacy.	The proposal is not considered to generate any unreasonably adverse visual privacy impacts upon surrounding areas and developments.	17

Issue	Response	Section
Liveability impacts associated with increased traffic congestions.	Having regard to the submitted traffic documents and advice of the traffic referral, the increased traffic volume upon the surrounding road network is deemed acceptable. Furthermore, the proposal is permissible with consent and is of a suitable density for the subject site noting that this outcome has been envisaged in the long term strategic planning direction for the site. Increased long-term traffic congestion is a phenomenon associated with multiple causal factors which are not directly attributable to this particular development.	7, 16.2 and 17
The proposal does not reflect a skilful design in terms of pedestrian amenity.	The proposal is considered to provide for a suitable level of pedestrian amenity as detailed throughout this assessment report.	17

Construction and Operational Impacts

Issue	Response	Section
Public toilets should be well serviced.	The servicing requirements of future public amenities would be managed by the operator of the development once complete.	N/A
Query the type of retail proposed along with commentary as to suggested uses.	At this stage it is understood that no retail tenants have been confirmed. The fit out of these spaces would be subject to future applications.	N/A
Querying the cleaning and maintenance schedule.	The maintenance and servicing requirements of future public amenities would be managed by the operator of the development once complete.	N/A
Dilapidation reports are required.	Council's Development Engineer has recommended conditions of consent requiring dilapidation reports.	Annexure 3
Closing time of the car park at 11pm will have adverse amenity impacts.	The closing time of 11pm is not considered unreasonable noting the location of the site within the core of the Rose Bay Centre. Importantly, the current car park has no time of use restrictions.	N/A
Query as to how long construction would take.	The anticipated length of construction is unknown at this stage. However, it is not considered necessary to have this information readily available for the purposes of this assessment.	N/A
Request that highest impact construction works be undertaken outside of school hours and that Rose Bay Public School be suitably notified in advance to make appropriate arrangements where necessary.	The requirements of a Construction Management Plan has been conditioned which is deemed to suitably manage construction impacts in consideration of the site's context and the surrounds.	Condition D.2
Construction work zones should not compromise pedestrian and vehicle access to Rose Bay Public School and pick-up/drop-off areas. Request that associated construction and delivery vehicles not enter and exit the site	As above, the requirement of a Construction Management Plan has been conditioned which is deemed to suitably manage construction impacts in consideration of the sites' context and the surrounds.	Condition D.2

Issue	Response	Section
during school drop off and pick up periods.		
Potential security and loitering impacts from the proposal including Panterong Reserve.	Any future security/criminal impacts would be managed during the operation of the premises and the NSW Police.	N/A
Noise and pollution impacts during construction.	Associated construction impacts would be managed by the recommended conditions of consent.	26
Need to immediately implement additional parallel parking.	As already detailed within this section of the assessment report. Alternative options to increase parking availability for the duration of works have been considered.	N/A
Issues of access to plant and equipment at No. 7-13 Dover Road is unresolved.	It is considered that plant equipment pertaining to an adjoining building or property would be accessed from within that property.	N/A
Excavation and construction impacts upon proximate dwellings, land destabilisation and loss of structural support.	The application has been accompanied by detailed geotechnical documentation which supports the proposal. Associated impacts would be managed by the recommended conditions of consent.	26
Commentary regarding the operation of businesses within the locality and associated traffic and parking impacts.	The proposal is considered to have a long term benefit for the Rose Bay Centre through the provision of additional parking and amenities. Based on the submitted traffic documents and the advice of the traffic referral, this assessment is satisfied that the anticipated traffic and parking impacts are acceptable. It is acknowledged that there may be a limited and finite level of disruption to local businesses over the duration of construction.	Annexure 4
Need for a traffic plan.	The requirement to develop and implement a Construction Management Plan is considered acceptable in this instance. This assessment is satisfied that a Traffic Plan is not required having considered the submitted traffic documents and advice of the traffic referral.	Annexure 4
Additional parallel parking along Wilberforce Avenue during construction should not be permitted.	Alternative options to increase parking availability for the duration of works have been considered and will be implemented if deemed appropriate and necessary.	N/A
Increased run-off and environmental pollution.	This assessment is satisfied that any potential impacts would be suitably managed by the recommended conditions of consent.	Annexure 3
Heritage risks associated with excavation along with Aboriginal Land Rights and Heritage impacts.	Based on the submitted heritage documents, and advice of Council's Heritage Officer, further investigation and assessment of tangible and intangible Aboriginal cultural heritage resources within the study area is required. This is due to the high potential for Aboriginal objects being present in the soil profiles below existing land.	16.7 and Annexure 6
Commentary regarding secondary flooding impacts in the locality as a consequence of multiple developments.	The submitted Flood Planning Assessment report considers that the proposed development will not have adverse impacts upon the flooding behaviour in the locality. This assessment is satisfied that any impacts would be satisfactory and that the proposal has been suitably designed to respond to flooding risks.	16.7
Need for a detailed construction timeline.	It is not considered necessary to provide a detailed construction timeline for assessment under this application.	N/A
Cost of running the car park and funding for its construction.	The costs of operation or funding details are not required in order to make an informed assessment of the application.	N/A

Issue	Response	Section
Financial impacts on business through removal of current car parking spaces during construction. Accessibility to these business would be removed.	A Public Meeting was held by the proponent on Tuesday 4 July 2023 where such issues were discussed. The presentation for this meeting noted the following: <ul style="list-style-type: none"> That 73 new car parking spaces would be provided in Newcastle Street through the conversion of existing parallel spaces to angled parking. Of these spaces, 53 would be within a 500m walking distance to the centre. All spaces within 200m would be changed to 1 hour (1P) restricted parking limits inclusive of the Ian Street Car Park All spaces within 200-400m would be changed to two hour (2P) restricted parking limits.	N/A
Surrounding infrastructure would need to be upgraded.	Having considered the advice of Council's referral responses, this assessment is satisfied that no infrastructure upgrade works are necessary.	N/A
Security issues pertaining to the 3m setback areas from residential development. Security cameras and lighting should be provided to deter negative activity.	The requirement for CCTV cameras has been enforced via Condition I.5. The 3m setback from 7-13 Dover Road is not an area that would be readily accessible to the public and this aspect of the development is not considered to pose a security risk to that property.	Condition I.5
Query regarding car parking rates and whether periods of free parking would be provided.	An operational plan of management is required by the recommended Condition F.9. This requires operational details to be provided regarding the car park prior to the issue of the occupation certificate.	Condition F.9
Commentary regarding the need for road safety program and reduction of pedestrian safety.	Based on the submitted traffic and architectural documentation, and the advice of Council's Traffic Engineer, this assessment is satisfied that the need for a further road safety program is not necessary.	Annexure 4
Fee structure of future parking.	An operational plan of management is required by the recommended Condition F.9. This requires operational details to be provided regarding the car park prior to the issue of the occupation certificate.	Condition F.9
Pedestrian safety concerns during construction and operation.	This aspect of the proposal would be addressed during the completion of works and operation. As detailed within this assessment report, the shared zone is considered to provide an appropriate pedestrian amenity.	17
Rangers should enforce parking limits and restrictions.	This assessment considers that where necessary parking limits and restrictions could be readily enforceable within the carpark.	N/A
Drawdown effects must not be left until Construction Certificate Stage and rather should be considered prior to determination of this application.	Having considered the advice of internal referral responses and that from DPIE Water Licensing, this assessment is satisfied that the hydrological impacts of the proposal can be appropriately managed subject to the recommended conditions.	26
The proposal will encounter the water table.	It is acknowledged that the proposal will require de-watering. The application was referred to the Department of Planning and Environment (Water Licensing) in accordance with the <i>Water Management Act 2000</i> . This assessment is satisfied that de-watering can be appropriately managed subject to the recommended conditions along with the General Terms of Approval.	Annexure 14

Notification, Advertising and Community Consultation

Issue	Response	Section
Query as to whether a public meeting would be held to discuss the proposal.	The application was suitably notified in accordance with the Woollahra Community Participation Plan 2019.	9
Lack of community consultation prior to lodgement of this application.	Extensive public consultation has been carried out associated with this development, including via letter drop to local businesses and a number of public meetings held throughout 2022. The application itself has also been publicly notified and advertised in accordance with the relevant statutory requirements.	N/A
The notification period should be extended along with deficient notification and advertising process.	The application was advertised and notified from 25/01/2023 to 24/02/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. The application was then re-notified from 26/04/2023 to 26/05/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.	9
Commentary regarding community engagement with parks in Rose Bay.	The proposal does not propose any public parks nor would it have any implications upon parks within the surrounding locality.	N/A
Difficulty finding and accessing information on Council's website.	All relevant information and application documents were made available on the DA Tracking and Enquiry Page, in addition to the 'Major Development Applications' Page of Council's website.	N/A
Support of local business is needed in the lead up to construction and during construction.	The proposal will have a long term benefit to the Rose Bay Centre through the provision of additional parking and amenities at the subject site. The extent to which local business are supported in the lead up to and during construction is at the Applicant's discretion.	N/A

Other

Issue	Conclusion	Section
Pannerong Reserve should be upgraded.	The proposal does not involve any upgrade works to Pannerong Reserve and is therefore outside the scope of consideration.	N/A
The extent of additional parking does not warrant the proposal and associated impacts.	The additional extent of car parking is an improvement over the current configuration and would provide for an overall benefit to those who work within, live and visit the Rose Bay Local Centre.	17.3
Inefficient use of rate payer money and irresponsible fiscal behaviour.	The fiscal basis or rationale for the proposed development is not a relevant planning matter that can be considered in the assessment of this application.	N/A
Deficient public amenities in the area i.e. seating and unsafe play equipment.	The proposal does not involve any upgrade works to public amenities in the locality and is therefore beyond the scope of consideration as it pertains to this development application.	N/A
Query demand for additional retail space.	The proposed retail spaces are permissible with consent in the E1 Local Centre zone and accordingly there is no requirement for their inclusion to be justified on the basis of local demand for retail space.	16.2
Query the selection process for the proposed design and how this process unfolded.	The process which has led to the current application, including tender and design matters, is not a relevant consideration under this assessment. The design in its current form is acceptable having regard to the relevant planning controls.	N/A

Issue	Conclusion	Section
There are more suitable sites for car parking in the locality.	The proposed car parking use is permissible with consent in the E1 Local Centre land zoning.	16.2
Query regarding lan Street car park land.	This application does not relate to the lan Street car park site.	N/A
Risks associated with retail spaces.	The proposed retail spaces are permissible with consent in the E1 Local Centre zone and are considered to be of an appropriate design.	16.2 and 17
Commentary regarding the future of the lan Street car park and that this would be a more viable option for increased parking.	The commentary is noted, however this application does not relate to the lan Street car park site.	N/A
Exploring the encompassment of Nos. 15 and 19-21 Dover Road, Rose Bay into the proposal.	The commentary is noted, however the submitted application that is under assessment does not involve the inclusion of these sites. The design in its current form is acceptable having regard to the relevant planning controls and further consideration of alternative design options is therefore not warranted.	N/A
Privatisation of public spaces/property.	The subject site is not zoned for public purposes. Whilst additional land uses are proposed, the proposal maintains the use of the site as a car park to service the community.	N/A
The proposal is revenue driven.	The process that has led to this application is lengthy and underpinned by detailed strategic justification.	N/A
Commentary regarding missed opportunity regarding connection to grocery store.	The design in its current form is acceptable having regard to the relevant planning controls and further consideration of alternative design options is therefore not warranted.	N/A
The lan Street car park should not be sold.	This application does not relate to the lan Street car park site, nor does it relate to any transfer of property ownership.	N/A
Dover Road should not be narrowed.	The proposal does not involve the narrowing of Dover Road.	N/A
Commentary regarding ownership of service stations and fuel storage.	There are no service stations or fuel storage areas proposed per this application.	N/A
Council should enter into an agreement with Rose Bay RSL Club rather than propose this new community centre.	This commentary is noted, however the proposed community centre is what has been detailed in the subject application and this forms the basis for the assessment of the application. Further consideration of alternative operational models is therefore not warranted.	N/A
Commentary regarding increased Council rates.	The commentary is noted, however this is not relevant to the assessment of the subject application.	N/A
Commentary regarding need for additional retail and community facilities.	Retail and community facilities are permissible within the zone and therefore it is beyond the scope of this assessment to determine whether there is a local demand for such facilities.	16.2
Commentary regarding the lobbying nature of local business to influence design changes.	All submissions have been addressed within this assessment report in accordance with the requirement of the Woollahra Community Participation Plan. This assessment is satisfied that the proposal is acceptable as considered against the relevant planning provisions.	N/A

Issue	Conclusion	Section
Commentary regarding the water quality of Rose Bay.	This is considered to be outside the scope of consideration as it pertains to this development application. For completeness, Council's Development and Drainage Engineer have concluded that the proposal would satisfy the relevant stormwater quality targets subject to the recommended conditions of consent.	Annexures 3 and 8
Commentary that the land was given to Council and should be used solely as a Car Park.	The proposed land uses are permissible within the E1 Local Centre zone and are considered to positively contribute to the Rose Bay Centre. The proposal increases the car parking provision when compared to the current site use.	16.2
Example of development along Plumer Road which has caused issues for businesses and locals.	Each development application is assessed on its own merits. The impacts associated with another development within the municipality are not a matter for consideration in the assessment of this application.	N/A
Climate issues associated with promoting car use rather than utilising passive/active transport mechanisms.	The proposal incorporates bicycle parking as a means of alternative transport. Furthermore, electric vehicle charging stations are also incorporated into the proposed car park design. The proposal will provide a beneficial amenity to the locality through the increased provision of car parking spaces.	N/A
Accuracy of the submitted acoustic report.	The submitted acoustic documentation has been reviewed by Council's Environmental Health Officer, who has given no reason to doubt the accuracy or veracity of the report. Acoustic impacts have been considered and are deemed to be reasonable subject to the recommended conditions.	Annexure 10
Further details of tanked basement are required.	Subject to the recommended conditions, this assessment is satisfied that any tanking requirements where necessary are addressed.	Annexure 3
The proposal does not comply with certain requirements of the Woollahra LEP 2014 and Woollahra DCP 2015.	Where the proposal does not achieve strict compliance with the requirements of the Woollahra LEP 2014 or Woollahra DCP 2015 the proposal has upheld the relevant objectives of each respective control/standard. In the case of the height of buildings non-compliance under Clause 4.3 of the Woollahra LEP 2014 the Applicant's written Clause 4.6 request to vary the standard is found to be satisfactory.	16 and 17

9.2 Replacement Application

The additional information and design amendments noted in Section 4 and 7 of this assessment report were not renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 because the proposal, as amended, will have no greater impacts than the previously advertised application.

9.3 Statutory Declaration

The Applicant has completed the statutory declaration dated 27/02/2023 declaring that the site notice for DA598/2022/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

STATEMENT OF CONSIDERATION

All relevant Environmental Planning Instruments and Woollahra Development Control Plans are considered in the assessment of this application. An assessment of the relevant provisions is detailed below.

10. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

10.1 Chapter 2 – Coastal Management

The provisions of this planning instrument that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast.

It is considered that the proposal, as conditioned, will not have any significant adverse environmental impact upon the harbour coastal locality and therefore satisfactory with regard to the relevant provisions of the planning instrument.

10.2 Chapter 4 – Remediation of Land

Under Clause 4.6(1)(a) of SEPP (Resilience and Hazards) 2021, consideration has been given as to whether the subject site on which the development is occurring is contaminated. The subject site is not identified as being potentially contaminated by Council's GIS data, and is currently occupied by an at grade car park.

The Applicant submitted a preliminary site investigation and a detailed site investigation in accordance with the contaminated land planning guidelines.

These have been reviewed by Council's Environmental Health Officer and no objections have been raised. For a complete assessment reference should be made to the referral response included as **Annexure 10**.

The Detailed Site Investigation Report concluded that the site is suitable for the proposed development and land use, with no requirement for remediation. In this regard, this assessment is satisfied regarding Clause 4.6(1)(b). As the land does not require remediation Clause 4.6(1)(c) is also satisfied.

As outlined above, the relevant matters under Clause 4.6 of the SEPP have been considered, and the proposal is satisfactory under Chapter 4 of the SEPP.

11. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 is not applicable as the development relates to a non-residential land use.

12. STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021

12.1 Chapter 3 – Advertising and Signage

The Applicants' Statement of Environmental Effects details that signage locations are proposed on the built form and throughout the public domain, there is no detailed signage proposed per this application. **Condition A.6** reinforces that no approval is granted to any detailed signage under this application.

No further consideration of Chapter 3 is therefore considered necessary.

13. STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT & INFRASTRUCTURE) 2021

The application was referred to Transport for NSW in accordance with Clause 2.122 of the SEPP which pertains to Traffic-generating development.

Pursuant to Schedule 3 of SEPP (Transport and Infrastructure) 2021, the proposed development is a traffic generating development as it includes a car park with a capacity of 200 or more parking spaces with access to a road.

Subject to the recommended conditions of consent, concurrence to the proposal has been provided by Transport for NSW. Refer also to **Annexure 13** for a copy of the referral response.

The proposal is therefore acceptable with regard to SEPP (Transport & Infrastructure) 2021.

14. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

14.1 Chapter 2 – Vegetation in non-rural areas

Council's Tree and Landscaping Officer has raised no objections to the proposal subject to the recommended conditions of consent. The proposal is considered to be acceptable having regard to Chapter 2 of the SEPP.

14.2 Chapter 6 – Water Catchments

Chapter 6 (Water Catchments) of the SEPP applies to the subject land which is located within a regulated catchment being the Sydney Harbour Catchment.

The land is within the Sydney Harbour Catchment but is outside the Foreshores and Waterways Area and therefore only the provisions in Part 6.2 of the SEPP applies.

In deciding whether to grant development consent to development on land in a regulated catchment, matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management must be considered.

The proposal will have no significantly adverse impacts on the Sydney Harbour Catchment, subject to standard conditions. The proposal is therefore considered to be acceptable having regard to Chapter 6 of the SEPP.

15. STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

Pursuant to Schedule 6 of the *State Environmental Planning Policy (Planning and Systems) 2021*, the application is considered to be regionally significant development as it is Council related development with a capital investment value of greater than \$5million. In this case it is estimated at \$28,826,432.

As already detailed within this assessment report, the consent authority for this development is therefore the Sydney District Planning Panel, being the *Sydney Eastern City Planning Panel* (SECPP) for Woollahra.

16. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

16.1 Clause 1.2: Aims of Plan

The proposal is consistent with the aims in Clause 1.2(2) of the Woollahra LEP 2014.

16.2 Land Use Table

The proposal comprises the following land uses as defined by the Woollahra LEP 2014:

- Community facility;

- Car park; and
- Retail premises.

On 16 December 2022 a total of six repealing State Environmental Planning Policies were made that amended a suite of Local Environmental Plans to introduce 5 new employment zones and 4 new supporting zones. This LEP amendment commenced on 26 April 2023.

State Environmental Planning Policy Amendment (Land Use Zones) (No 6) 2022 under the Environmental Planning and Assessment Act 1979 which commenced on 26 April 2023 had omitted matters relating to business and industrial zones under the Woollahra LEP 2014 and instead inserted the E1 Local Centre zone and the MU1 Mixed use zone.

At the time when this Development Application was lodged, the subject site was zoned B2 Local Centre under the Woollahra LEP 2014. The Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2022 included a number of savings, transitional and other provisions including the following:

5 Continuation of permitted development

Development that is permitted with development consent on land in a former zone under a local environmental plan, as in force immediately before 26 April 2023, continues to be permitted with development consent on the land until 26 April 2025.

As the subject site was zoned B2 Local Centre this is now zoned E1 Local Centre by the SEPP amendments detailed above as it is considered to be the equivalent zone. The proposed land uses remain permissible and are consistent with the objectives of the previous B2 Local Centre zone and current E1 Local Centre zone.

16.3 Clause 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 17.2m as demonstrated in Image 17:

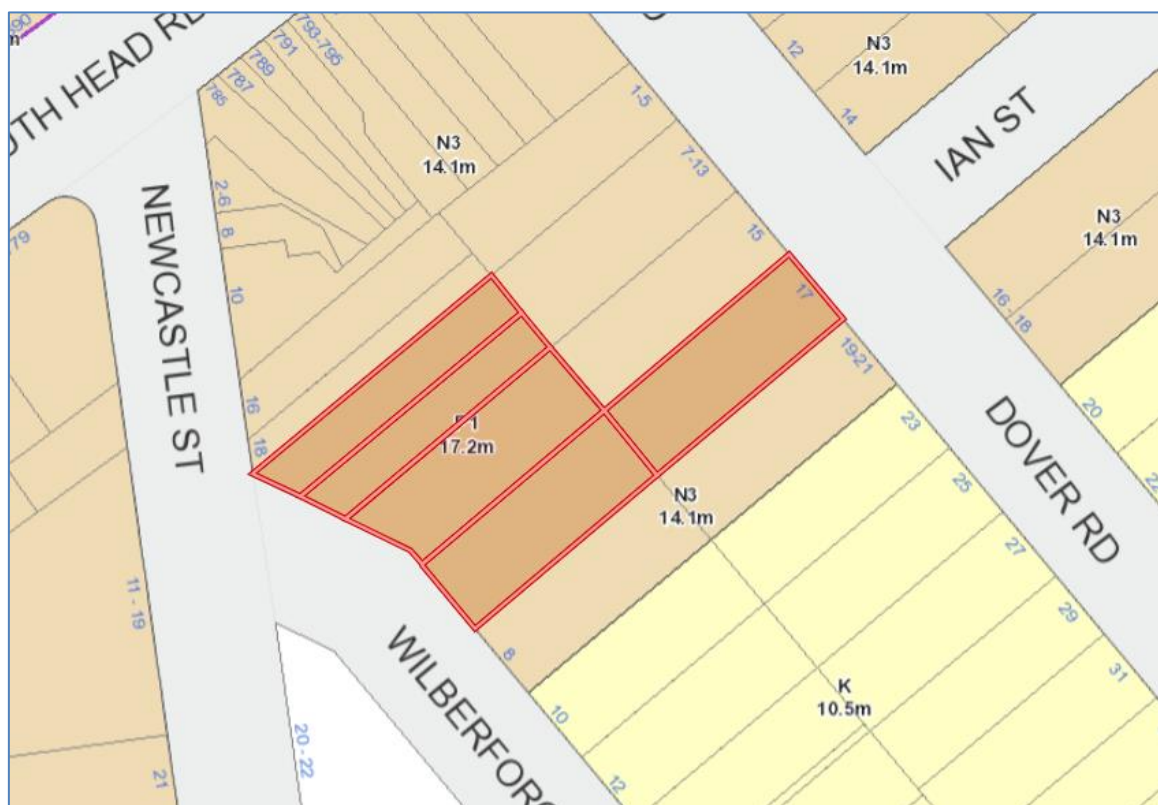


Image 17: Height of buildings map (subject site identified in red)

The proposal does not comply with Clause 4.3 of Woollahra LEP 2014 as detailed and assessed in Section 16.5 of this assessment report.

Part 4.4 limits development to a maximum floor space ratio of 2:1 at the subject site as demonstrated in Image 18:



The proposal complies with the maximum floor space ratio prescribed by Clause 4.4(2) of Woollahra LEP 2014. It is also acceptable with regard to the relevant objectives under Clause 4.4(1) of Woollahra LEP 2014.

16.5 Clause 4.6: Exceptions to Development Standards

16.5.1. Departure

The proposal involves a non-compliance with the maximum building height statutory control under Clause 4.3 of the Woollahra LEP 2014, as detailed in Section 16.3 of this assessment report. Clause 4.3 limits development to a maximum height of 17.2m and the proposal seeks a maximum 2.1m or 12.2% departure from the control. The varying elements and their heights are summarised as follows:

- 19.3m (RL24.225) fire stair;
- 18.9m (RL24.45) lift overrun;
- 18.7m (RL22.80) parapet; and
- 18.27m (RL23.695) fire stair at north-east boundary

The extent of non-compliances are best represented in images 19-21 below:

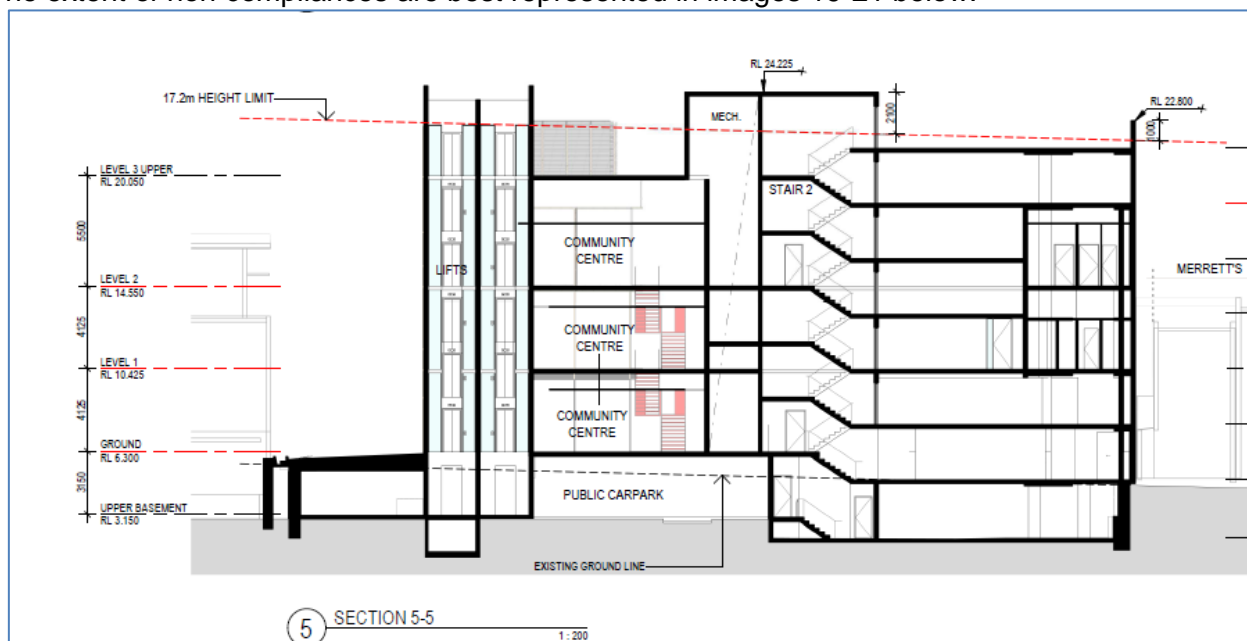


Image 19: Section plan showing the extent of building height non-compliance

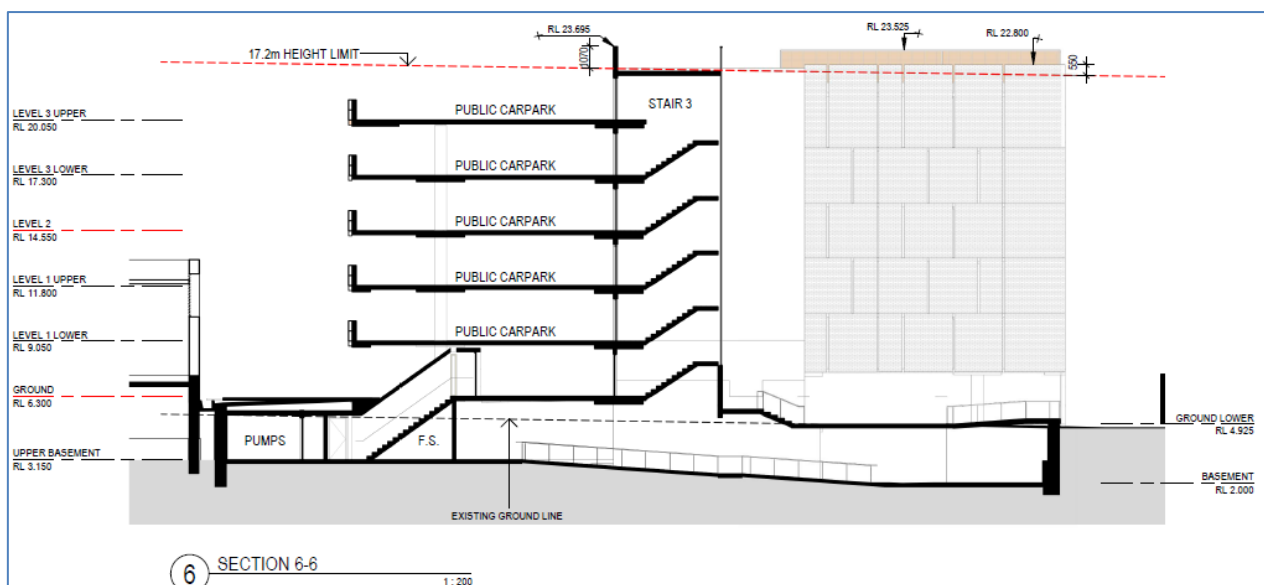


Image 20: Section plan showing the extent of building height non-compliance.

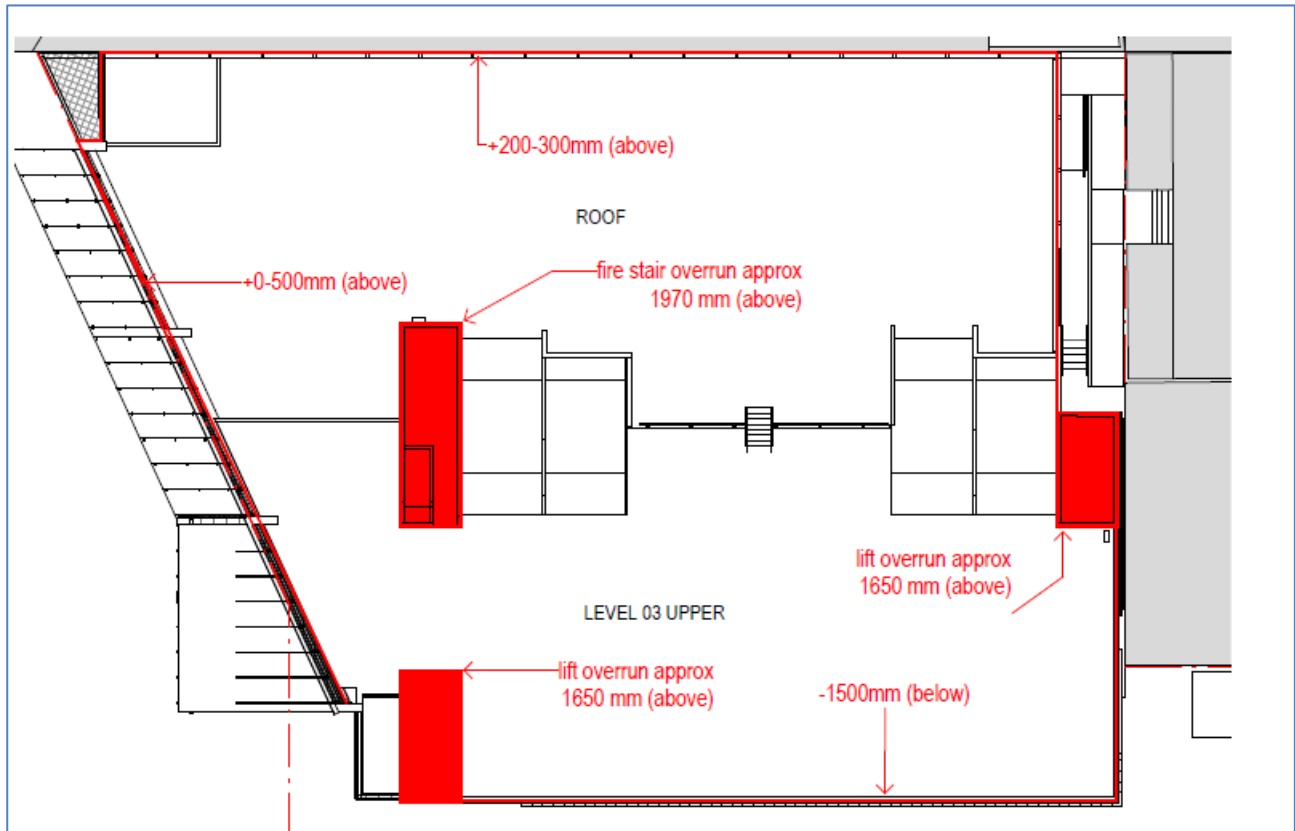


Image 21: Summary of height non-compliances as detailed in the Applicants submitted design report

16.5.2. Purpose

Clause 4.6 facilitates the potential contravention of a development standard under certain circumstances where it can be adequately demonstrated that compliance is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

16.5.3. Written Request

Clause 4.6(3) stipulates that a written request is required from the Applicant that justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The Applicant has provided a written request in relation to the departure to Cl. 4.3 which is attached as **Annexure 2**.

16.5.4. Assessment

Clause 4.6 (4) Consent must not be granted for development that contravenes a development standard unless:

- a) *The consent authority is satisfied that:*
 - i. *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii. *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

b) The concurrence of the Secretary has been obtained.

Clause 4.6(4)(a)(i) – Assessment

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied that the Applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be addressed by CI 4.6(3). There are two separate matters for consideration contained within CI 4.6(3) and these are addressed as follows:

a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Despite the numerical non-compliance, the Applicant's written request has adequately demonstrated that the objectives of the height of buildings development standard are achieved.

The Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by CI 4.6(3)(a). The objectives of the development standard are discussed further in the assessment of Clause 4.6(4)(a)(ii).

b) That there are sufficient environmental planning grounds to justify contravening the development standard.

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be 'environmental planning grounds' by their nature: See Four2Five Pty Ltd. v Ashfield Council. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act including the objects in s1.3 of the EPA Act.

S1.3 of the EPA Act states:

1.3 Objects of Act

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The Applicant's written request, which supports the proposed non-compliance with the height of buildings standard, has adequately demonstrated that the proposed development satisfies objectives (c) and (g) of the Environmental Planning and Assessment Act 1979 as copied above.

Therefore, it is considered that the Applicant's written request has adequately demonstrated sufficient environmental planning grounds to justify the contravention of the development standard as required by Clause 4.6(3)(b) and the consent authority can be satisfied that the Applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6(4)(a)(ii) - Assessment

Clause 4.6(a)(a)(ii) requires the consent authority to be satisfied that:

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the height of buildings development standard and the objectives of the subject E1 Local Centre zone (formally B2 Local Centre Zone). An assessment against these objectives is provided below:

The objectives underlying Clause 4.3 – Height of Building

(a) To establish building heights that are consistent with the desired future character of the neighbourhood.

It is not considered that the extent of variation and its relatively contained nature would compromise the desired future character of the neighbourhood. Majority of the variation pertains to the proposed plant/service areas with majority of the principal building form (notwithstanding parapets) complying with the standard.

(b) To establish a transition in scale between zones to protect local amenity.

Notwithstanding the extent of non-compliances, the proposal is considered to provide a suitable transition to surrounding properties noting that majority (and the greatest extent of variations) relate to the service areas rather than the principal building form. Furthermore, the immediate adjoining properties provide for the same land zoning.

(c) To minimise the loss of solar access to existing buildings and open space.

The extent of overshadowing to surrounding properties is not considered to be excessive and the impacts of the proposal are acceptable having regard to the requirements of the Woollahra DCP 2015.

(d) To minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion.

The subject non-compliances would not result in any significant view loss, loss of privacy, overshadowing or visual intrusion impacts to adjoining properties. The overall exceedances are not considered to result in a discernible increase to the overall bulk and scale of the proposal noting that the service areas including fire-stairs, plant and overruns would have a reduced visibility due to their positioning and are well integrated into the overall building design. There are no view corridors considered to be available from surrounding properties which the non-compliance would impact.

Given the nature of the variations and the elements to which they pertain i.e. parapet and services, these would not create any privacy impacts. The overshadowing impacts are considered acceptable and therefore the non-compliances are not considered to give rise to any unreasonable impacts.

(e) To protect the amenity of the public domain by providing public views of the harbour and surrounding areas.

The proposed non-compliance would not impact upon any public views of the harbour and surrounding areas given the orientation of views and with the variations being relatively contained.

The objectives of the E1 Local Centre zone

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*

The proposed development and associated non-compliances will provide for a multi-use development which would meet the needs and requirements of the local community and those who are visiting the Rose Bay Commercial Centre. This is also a response to Woollahra Council's adopted Community Facilities Study which highlighted the need for such an integrated multipurpose community facility as is proposed. The objective is thereby satisfied.

- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

The proposed development would generate employment opportunities not only during the construction phase but also during its operation. The proposed car parking provision would assist in supporting local businesses for the convenience of customers and patrons to visit and carry out business within the E1 Local Centre zone. The proposal supports economic growth and the objective is thereby satisfied.

- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*

Although no residential development is proposed per this application, the proposal and associated non-compliances would not diminish proximate residential development and would not have any unreasonably adverse amenity impacts in this regard.

Notably, the proposal would not prevent future residential development at the subject site. It is acknowledged that the proposal will positively contribute to the locality with additional amenities and facilities. The objective is thereby satisfied.

- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

The proposal is consistent with the above objective as it comprises retail and community uses at the ground floor to both the Dover Road and Wilberforce Avenue frontages.

- *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.*

The proposal has been appropriately designed to establish transitional street facades from street wall heights along both Newcastle Street and Dover Road. The associated non-compliances would not compromise this outcome. The four storey built form presentation to Wilberforce Avenue transitions to the two storey scale along Newcastle Street. The place based scale of retail land uses along Dover Road would be reinforced. The objective is thereby satisfied.

- *To ensure development is of a height and scale that achieves the desired future character of the local centre.*

The proposed development provides for an appropriate built form when considering the proposed alignments, scale, height and bulk having regard to the existing and desired future character of the commercial centre. This is in keeping with the intended outcome of the previous planning proposal and associated massing study which was carried out.

The variations seek to allow for numerous building elements that offer a safer and more equitable building outcome which do not contribute to any additional gross floor area. The elements associated with the non-compliances would benefit the overall use of the building by future patrons through the provision of safe and equitable access and egress throughout the various levels. The objective is thereby satisfied.

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

The proposed development and associated non-compliances would facilitate a mixed use building with new retail and community land uses which would assist in attracting new commercial and business opportunities to the centre whilst reinforcing and increasing community activities. The objective is thereby satisfied.

- *To ensure development provides diverse and active ground floor uses to contribute to vibrant and functional streets and public spaces.*

The proposed retail and community facility land uses would activate the development at street level. These spaces are of a contemporary design which are accessible and visually open to pedestrians from the site's street frontages along with laneway. This would positively contribute to the vibrancy of the local centre.

- *To maximise public transport patronage and encourage walking and cycling.*

The proposal would accommodate bicycle parking along with end of trip facilities to promote active transportation options. The objective is thereby satisfied.

- *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 proposal includes a comprehensive landscape strategy for the subject site. The proposed planting will contribute to the Rose Bay Commercial Centre whilst providing a visual relief to the use of hard materials. The proposal also includes green walls which will soften facades. The proposed landscaping will provide sustainability benefits such as the minimisation of the urban heat island effect. The objective is thereby satisfied.

Accordingly, the non-compliance is considered to be consistent with the objectives of the zone.

Clause 4.6(4)(a)(b) - Assessment

The Department issued Planning Circular No.PS20-002 (dated 5 May 2020) which notified Councils of arrangements "...where the Director General's concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...". Clause 64 of the EPA Regulations provides that Council may assume the Director-General's [Secretary's] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

In relation to this Part, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) establishes *Planning Principles* which are summarised and assessed as follows:

- i. *Does the applicant's written request demonstrate non-compliance with the development standard is unreasonable or unnecessary?*

Yes. For the reasons already outlined and discussed in this assessment, the proposal satisfies the objectives which underpin the development standard.

- ii. *Are there sufficient environmental planning grounds to justify contravening the development standard?*

Yes. The submitted Clause 4.6 variation request has demonstrated that there are sufficient environmental grounds to justify contravening the development standard in this instance.

- iii. *The public interest and whether the proposal is consistent with the objectives of the development standard.*

Yes. The proposal is deemed to be in the public interest as it does not contravene the objectives of the development standard.

Conclusion

The written submission provided by the Applicant has adequately demonstrated that the variation of the development standard prescribed by Clause 4.3 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

The consent authority can, in this instance, be satisfied that the Applicant's written request has demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that sufficient environmental planning grounds have been demonstrated to justify the contravention of the standard.

Furthermore, the consent authority can be satisfied that the proposal upholds the public interest as the non-compliance is consistent with the objectives of the development standard and those applicable to development within the subject E1 Local Centre zone. Departure from the control is supported.

16.6 Clause 5.10: Heritage Conservation

The subject site is not identified as a heritage item nor is it located within a heritage conservation area. In this regard Council's Heritage Officer concludes that:

The existing car park has no heritage significance and does not make any contribution to the heritage significance of Rose Bay. The property is not heritage listed and is not located within a heritage conservation area.

With respect to impacts upon any proximate heritage items, Council's Heritage Officer concludes that:

There are no listed heritage items in close proximity that would be adversely affected by the proposal.

With respect to Aboriginal Heritage, the site has been identified by Council's mapping as being within an area of potential Aboriginal heritage sensitivity. Council's Heritage Officer considers that further investigation and assessment of tangible and intangible Aboriginal cultural heritage resources within the study area is required. This is due to the high potential for Aboriginal objects

being present in the soil profiles below existing land. Importantly, these additional requirements were also recommended by the Applicant's submitted Heritage Impact Assessment Report.

For a complete assessment reference should be made to **Annexure 6** of this assessment report.

Consequently, conditions of consent have been recommended.

Subject to the recommended conditions, the proposal is considered acceptable with regard to the objectives in Clause 5.10 of the Woollahra LEP 2014.

16.7 Clause 5.21: Flood Planning

The subject site is identified as being within a flood planning area. Clause 5.21(2) states that consent must not be granted unless the consent authority is satisfied that the development:

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

The submitted Flood Assessment report details that all levels have been designed and set at the required flood planning and estuary flood planning levels as required by Council's Development Control Plan. It is therefore deemed to be compatible with the flood function and behaviour of the land (a). These requirements are also reinforced by **Condition C.15**.

The report details that the overall flood impacts of the proposed development upon the surrounds are limited to an acceptable margin (b). Although it is recommended to utilise an alternative driver alert mechanism such as a change of pavement texture and colour in the area of the raised pedestrian crossing at Wilberforce Avenue, this assessment has also relied upon the advice of Council's Drainage Engineering referral response, which does not consider this to be necessary. Accordingly, the assessment is satisfied that along with the recommended conditions, the associated flooding impacts are acceptable.

The report outlines that reliable evacuation access for pedestrians is provided from the lowest habitable floor level to a refuge area above the PMF level which is designed to withstand PMF water forces. It is reinforced that the flood refuge up to the PMF flood levels will be available on the proposed floor levels of the development. It was also recommended that the proposed development ensure that all structures have flood compatible materials, all electrical equipment is appropriately located and protected, all storage areas are suitably located and that the structure is built to withstand the forces of flood water debris and buoyancy thereby satisfying (c) and (d). Having regard to the advice of Council's Drainage Engineering referral response, the necessary safety measures are incorporated into the requirements of **Condition C.15**.

Given the location of the subject site within the urban core of the Rose Bay centre, it is not considered that the proposal would have any adverse impacts upon riparian vegetation or stability of river banks and watercourses. As already mentioned, the overall flood impacts as a consequence of the development upon the surrounds are generally restricted to an acceptable margin, thereby satisfying (e).

Furthermore, in deciding to grant development consent, the consent authority must consider the following matters:

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Having regard to the above, the submitted Flood Planning Assessment report considers that the proposed development will not have adverse impacts upon the flood behaviour in the locality. This has been based off the appropriate modelling, thereby satisfying (a).

The report confirms that the proposed development has been suitably designed in the site's flood planning context, thereby satisfying (b). Although it is recommended to utilise an alternative driver alert mechanism such as a change of pavement texture and colour in the area of the raised pedestrian crossing at Wilberforce Avenue, this assessment has also relied upon the advice of Council's Drainage Engineering referral response which does not consider this to be necessary. Accordingly, the assessment is satisfied that along with the recommended conditions, the associated flooding impacts are acceptable.

All levels have been designed and set at the required flood planning and estuary flood planning levels as required by Council's Development Control Plan. These requirements are also reinforced by **Condition C.15**. The report states that reliable evacuation access for pedestrian is provided from the lowest habitable flood level to a refuge area above the PMF level and is designed to withstand PMF water forces, thereby satisfying (c). Having regard to the advice of Council's drainage referral response, the necessary safety measures are incorporated into the requirements of **Condition C.15**.

Given the subject site's location away from the foreshore, being within the core area of the Rose Bay Centre, it is unlikely that the subject site would be directly impacted by coastal erosion and the proposal is thereby satisfactory with regard to (d).

As per the above and subject to conditions, the proposal is acceptable with regard to Clause 5.21 of Woollahra LEP 2014.

16.8 Clause 6.1: Acid Sulfate Soils

Clause 6.1 requires Council to consider any potential acid sulfate soil affectation so that it does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The subject site is classified as located partly within Class 3 and Class 4 area as specified in the Acid Sulfate Soils Map.

Council's Environmental Health Officer details that an Acid Sulphate Soils Assessment for the Wilberforce Avenue (along with Ian Street) Car Parks for proposed redevelopment into multi-storey car parks was conducted on 26th September 2016. This report has been relied upon for this assessment.

Council's Environmental Health Officer concludes that:

Based on the results of the investigation and laboratory analysis, it is concluded that acid sulphate soils are not present on site and an Acid Sulphate Soils Management Plan is not required.

The proposal is therefore acceptable with regard to Clause 6.1 of the Woollahra LEP 2014.

16.9 Clause 6.2: Earthworks

Clause 6.2(1) requires Council to ensure that any earthworks and associated construction dewatering for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposal involves excavation to allow for the basement car parking area, to a maximum depth of approximately 3.5m.

6.2(3) requires the consent authority to consider the following matters—

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) the effect of the development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the development on the existing and likely amenity and structural integrity of surrounding properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The application was accompanied by detailed geotechnical documentation which was reviewed by Council's Development Engineer. Council's Development Engineer raised no objection to the proposed excavation on technical grounds, subject to conditions of consent. On this basis, it is considered that (a), (d) and (h) are satisfied.

The proposed development does not require any substantial volumes of fill to be delivered to site and excavated material can be appropriately disposed, thereby satisfying (e). Whilst re-development of the land is unlikely in the short to medium term, the excavation proposed would not hinder the long term re-development of the site, thereby satisfying (b). As discussed elsewhere in the report, the potential contamination of the site has been considered and is not deemed to be a significant risk, thereby satisfying (c).

Whilst it is possible that relics would be disturbed during the construction process, this can be adequately addressed by conditions of consent, thereby satisfying (f).

Furthermore, the site is not proximate to any waterway, drinking water catchment or environmentally sensitive area, and the proposal satisfies (g).

The matters for consideration under Clause 6.2 are addressed above, and the proposal is acceptable with regard to Clause 6.2 of the Woollahra LEP 2014.

16.10 Clause 6.10: Development in local centres

The objectives of this clause aim to ensure that to ensure the scale and function of development in local centres are appropriate for the location and that development in local centres is compatible with the desired future character and amenity of surrounding residential areas.

Furthermore, the consent authority must consider the impact of the development on the amenity of surrounding residential areas, the desired future character of the local centre and whether the development is consistent with the hierarchy of centres.

As detailed throughout this assessment report, the proposal is found to be of bulk, scale and design which responds to the envisaged scale, role and functionality of the subject site in the local centre.

The desired future character would be upheld and the amenity of surrounding residential areas would not be unreasonably compromised. The proposed land uses are permissible with consent in the E1 land zone and the hierarchy of centres would be maintained.

The objectives 1(a) and (b) along with the considerations of sub clause 3(a)(i),(ii) and (b) of Clause 6.10 are upheld and satisfied in this case.

17. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

17.1 Chapter D6: Rose Bay Centre

The following assessment should be prefaced by acknowledging that there is an extent of disconnect between the applicable controls under Chapter D6 of the Woollahra DCP 2015 and the proposed development typology. It is acknowledged that these controls were not updated at the time of granting consent to the Planning Proposal which increased the permitted height of buildings development standard across the site.

An independent Urban Design referral response from Urban Design Consultant Diana Griffiths dated 06 March 2023 was received and is included as **Annexure 7** to this assessment report. This referral response raised several urban design based issues, which were considered in the course of the assessment. Detailed commentary and assessment against these issues is outlined throughout Section 17.1 of this report.

Furthermore, it is acknowledged that whilst the built form of the proposed development would contrast with many of the surrounding sites; this derives from the fact that they have not been developed to their full potential in terms of the applicable development standards under the Woollahra LEP 2014 and controls of the Woollahra Development Control Plan 2015. The Rose Bay Centre is in a state of transition with many of the surrounding properties likely to undergo re-development over time.

Part D6.4 of the Woollahra DCP 2015 provides the desired future character outcome for particular streets in the Rose Bay Centre. The applicable street character controls have been summarised below.

D6.4 Street Characters

D6.4.2: Newcastle Street

The subject site is located on the eastern side of Newcastle Street in the core area of Rose Bay. The provisions of Part D6.4.2 of the Woollahra DCP 2015 stipulate the following:

- Build to street alignment with masonry walls and loggias above street level
- Continuous awnings

- No vehicle crossings, vehicle access permitted at the rear

Where the subject site immediately adjoins properties which have a frontage to Newcastle Street, the proposal will be built to the street alignment and generally matches the two storey building heights that are currently exhibited. The four storey building façade which presents to Wilberforce Avenue has been designed in a manner which transitions to the current two storey building scale along Newcastle Street which is considered acceptable.

Above the street level (above the 2 storeys) the proposal built form in the section which immediately adjoins the Newcastle Street properties has been stepped back from the front property boundary. This is considered to have a positive response to the triangular geometry where the subject site meets the property boundary of those which address Newcastle Street. The requirement for loggias above the street level height is not considered appropriate for the proposed building typology and its intended uses. No vehicle crossings are proposed along Newcastle Street. The proposed awning designs are discussed later within this assessment report and are considered contextually suitable.

Overall, the proposal is considered satisfactory having regard to Part D6.4.2 of the Woollahra DCP 2015.

D6.4.3 Dover Road

Part of the subject site is located on the south-western side of Dover Road in the core area of Rose Bay. The provisions of Part D6.4.3 of the Woollahra DCP 2015 stipulate the following:

- Profile of the Rose Bay Hotel
- Parapets encouraged
- Build behind roof terraces above street level with masonry walls and loggias to enhance the amenity of development and increase the visibility of the Rose Bay Hotel
- Continuous awnings

In response to the above, the proposal will provide for an immediate single storey presentation to Dover Road with an awning as is envisaged by the street character strategy under this Part of the DCP. This will provide for an appropriate response to the scale of retail shops along Dover Road. The above street level element is well recessed into the subject site and would have no immediate presentation or visual impression upon Dover Road. The single storey nature of the proposed retail frontage would still encourage views toward the Rose Bay Hotel.

Overall, the proposal is considered satisfactory having regard to Part D6.4.3 of the Woollahra DCP 2015.

D6.4.4 Wilberforce Car Park Edge

Part of the subject site is located on the north-western side of the Wilberforce car park edge in the core area of Rose Bay. The provisions of Part D6.4.4 of the Woollahra DCP 2015 stipulate the following:

- Encourage parapets
- Built to the street alignment with masonry walls and loggias above ground
- Built to boundary with glazed retail frontage at ground level

The proposed presentation to the car park edge is generally four storeys which is in keeping with the envisaged scale. Although the complete extent of the ground floor does not provide for retail, this is interspersed along the frontage noting that the proposed building typology requires allowances for vehicle entry and exit along with services. Nevertheless the ground floor would be suitably activated as envisaged.

Toward Dover Road the height of the built form decreases to two storeys and then 1 storey to provide for retail frontages. This is seen to be an extension to the envisaged single storey retail frontage outcome along Dover Road which wraps around into the laneway. This is deemed to reinforce the more distinctive village scale of Dover Road whilst maximising capacity for natural light and sense of openness into the shared laneway promoting a positive pedestrian amenity.

Overall, the proposal is considered satisfactory having regard to Part D6.4.4 of the WDCP 2015.

D6.5 Built Form Envelopes: Control Drawings

D6.5.2 Explanatory Legend

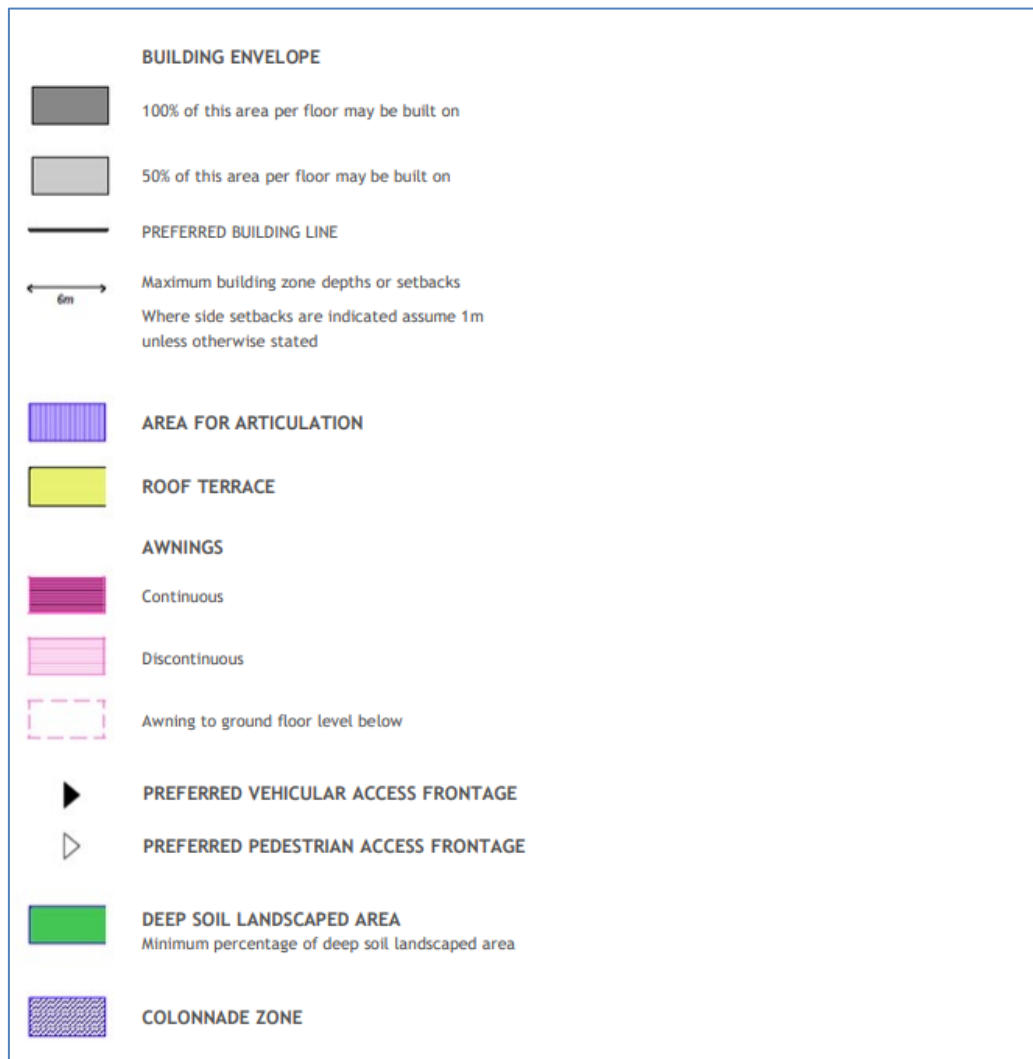


Image 22: Explanatory Legend from Part D6.5.2 of the Woollahra DCP 2015

D6.5.7: Control Drawing 4

The subject site is identified on control drawing 4 which has been copied below. The extent of the subject site has been outlined in red and labelled by the author of this assessment report.

Control drawing 4 in Part D6.5.7 of the Woollahra DCP 2015 stipulates the required setbacks, building envelope, area for articulation and percentage of the area per floor that may be built on at the subject site.

As detailed previously, and given the proposed development typology, not all requirements of control drawing 4 may be feasible nor would they properly facilitate the proposal.

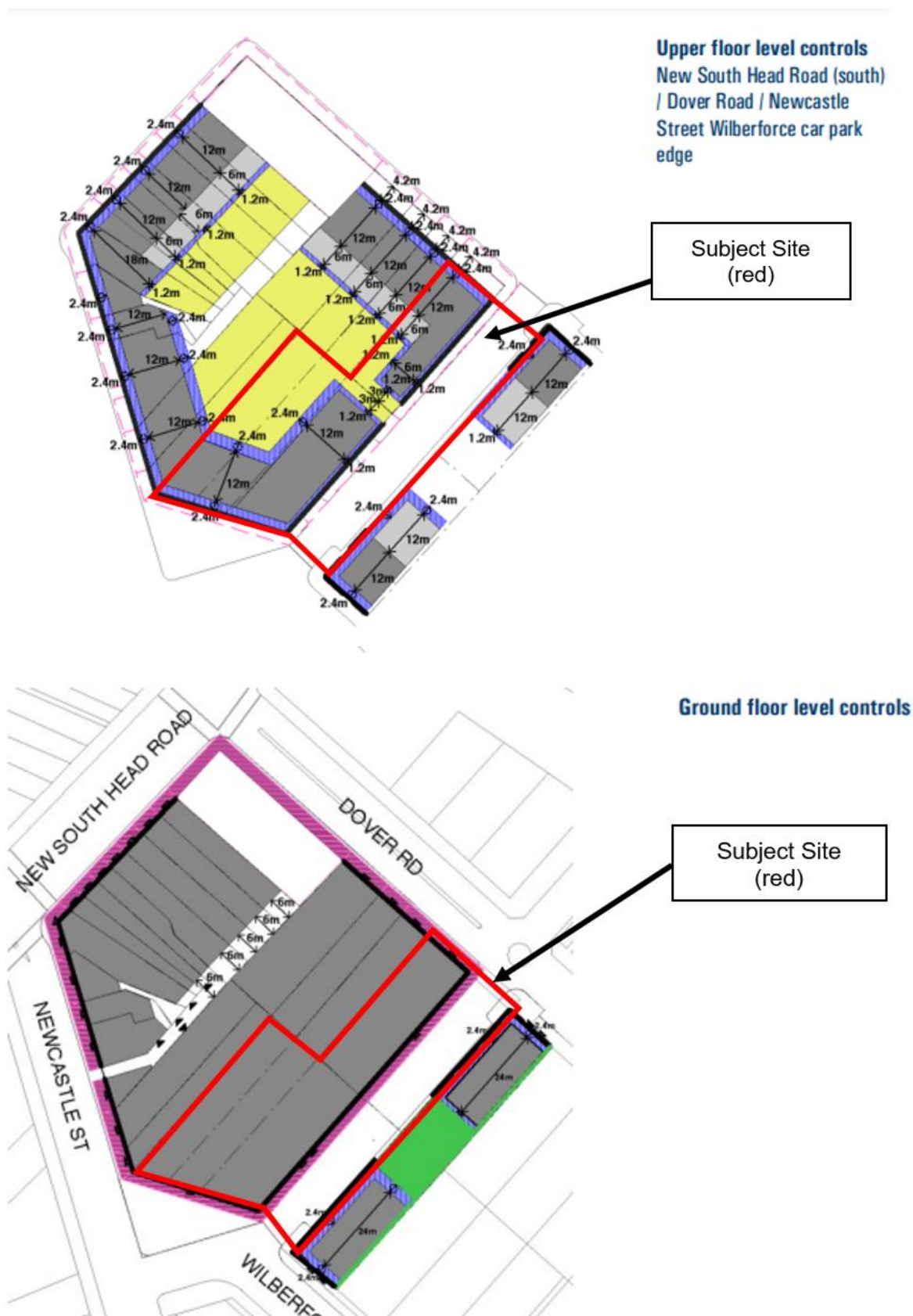


Image 23: Control drawing 4 within Part D6.5.7 of the Woollahra DCP 2015

D6.6 Built Form Development Objectives and Controls

D6.6.2 Use

C1 requires that buildings be designed to accommodate a mix of uses. The proposal involves a number of land uses which are permissible with consent within the current E1 Local Centre and previous B2 Local Centre land zoning as stipulated by the Woollahra LEP 2014. Compliance with C1 is achieved.

C2 requires that buildings, places and spaces be designed to be adaptable and durable. Overall, the proposal provides a built form which offers a variety of land uses, noting that the final fit outs of the community and retail spaces do not form part of this application. There is considered to be sufficient flexibility to allow adaptability within these spaces. Compliance is achieved.

C3 requires that buildings design for retail, commercial and community uses at ground floor. Compliance is achieved.

C5 requires that the maximum retail frontage for individual tenancies is 15m. The proposed retail spaces 3A and 3B provide widths of between 16m and 16.8m which is non-compliant with C5. Although non-compliant, the underlying objective O3 is upheld as follows:

O3 Discourage large scale retail establishments, by limiting the frontage width of individual retail tenancies.

- Due to the relatively narrow widths of these retail spaces, it is not considered unreasonable to have an increased width. This will allow for flexibility of future tenants and commercial uses. On balance, the retail tenancies are not considered excessive. Furthermore, these spaces would address the laneway and would not have a primary streetscape presentation. Therefore, their non-compliant widths would not create an unbalanced or out of character retail presentation to the streetscape. O3 is upheld.

For the reasons detailed above the proposal is considered acceptable having regard to Part D6.6.2 of the Woollahra DCP 2015.

D6.6.3 Urban Character

6.6.3.1 Building Envelopes

With regard to the building envelope, it is not considered that any major objections were raised by Council's Urban Design referral response regarding the overall, bulk, scale and massing of the proposed building envelope.

Commentary from the Pre-Development Application (Pre DA) Urban Design referral and the Development Application (DA) Referral have been copied below. An Assessment Officer response follows these comments.

Urban Form – Issue 1

Pre DA Comment

The site geometries result in a change in the built form orientation on the subject site along Wilberforce Avenue which primarily addresses Panterong Reserve. The proposed development incorporates upper levels setbacks above the second storey that provides a consistent street wall height. However, the triangular setback to the adjacent built form at 18 Newcastle Street, providing access to the public toilets, creates an awkward transition and does not provide a well-defined street edge.

DA Comment

No amendments have been made to respond to the recommendation that the development should provide a well defined street edge.

The Design Report includes key design principle diagrams to explain how the design proposes to transition from the 17.2m height of the carpark site to the maximum 14.1m height of the adjacent town centre and address the awkward triangular geometries where the two buildings meet at the corner (see left side of Figure 4 below)

The 3D model (see below) illustrates the complex geometries proposed at the corner including the triangular setback at street level adjacent to 18 Newcastle Street.

Assessment Officer Comment

The triangular geometries are recessed below a balcony form which continues the street edge and inherently defines the bend from Newcastle Street to Wilberforce Avenue.

It is understood that the design intent behind the street wall recess is to ensure access to the car park and amenity areas at a civic scale with access to natural light along with offering vistas to the street when using this space and entry. The proposal maintains a consistent two storey building height at the corner with upper levels setback so as to promote a suitable transition in scale between the existing buildings and differing height of building development standards on adjoining sites.

Urban Form – Issue 2

Pre DA Comment

The proposed design addresses Newcastle Street but the way the building turns the corner onto the new laneway and addresses the terminating view along Wilberforce Avenue is less successful. Some plans show the lifts backing onto the corner which is much less desirable than the options that show the lift lobby on the corner. The proposed projecting terrace on Level 2 may help to resolve the terminating view but this would require detailed design consideration, including how it looks from street level, how it is supported and roofed and how it relates to the building at 19 -21 Dover Road.

DA Comment

The amendment to the lift is substantially in accordance with the recommendation. This is insufficient to create a strong terminating view. Other recommendations to address the terminating view along Wilberforce Avenue by using the architectural elements to ‘turn the corner’ onto the laneway, or detailed design consideration of the projecting terrace on level 2, have not been adopted.

Currently the proposed balcony sits close to the southwestern corner. It is not located over the obvious entry opposite the stair access, which compromises the legibility of the entry and distorts the sense of approach to the building. This is further exacerbated by the design of the awning which does not run perpendicular to the façade, and therefore skews the balance and cohesiveness of the façade.

Assessment Officer Comment

The proposed balcony has been positively integrated into the Wilberforce Avenue façade design with the timber screen and the awning comprising key details. Overall, the proposed entry points are considered well designed and legible.

Notably, the community facility entry will be clearly established through the provision of a widened staircase that offers a visual and physical connection to the streetscape and Pannerong Reserve beyond.

In terms of the balcony, this is considered to provide a beneficial function to the community centre use. In its current form it provides an area of 46m² and if it were to be redesigned in accordance with the urban design recommendations the area would equal approximately 29m². Other beneficial amenity outcomes of the current design are that it has a greater opportunity to capture views to Rose Bay and that it enables some winter sunlight into the subject site from 1pm.

Overall, the proposal in its current form is considered to provide a beneficial streetscape response and amenity in its context and is supported.

Urban Form – Issue 3

Pre DA Comment

To accommodate the required parking the bulk and scale of the proposed development is greater than that of surrounding buildings and this is exacerbated by the fact that many buildings in the centre, including the adjoining building at 18 Newcastle Street, are not developed to their full potential. The proposed bulk and scale is emphasized by a lack of upper-level setbacks. Large expanses of concrete and minimal articulation along the façade facing 18 Newcastle Street, as seen on the north-west elevation, creates a bulky visual appearance and will be visible from the street. Incorporating public art on this blank façade would improve this view in the short-term.

DA Comment

Provision of custom designed painted super graphics is considered acceptable and should be a condition of consent.

Assessment Officer Comment

The requirement for public art to this north-western facade is reinforced by **Condition D.14**.

Urban Design – Issue 4

Pre DA Comment

Public art along the blank adjoining walls adjoining 15 Dover Road and 19-21 Dover Road could also substantially improve the amenity of the new laneway.

DA Comment

The urban design comments to the pre-DA drawings refers to the blank walls adjoining 15 Dover Road, which have not been adequately addressed by the Architect's response or the proposed design. Possible solutions include public art or wrapping the green wall system around this façade.

The planning proposal identified opportunities and envisaged the "Parisi site to be adapted to address the laneway and provide an active edge with retail uses". It is recommended that Council work with the owners of 19-21 Dover Road to activate the through site link and develop a better urban design solution.

If this is unfeasible, a horizontal deflection in the shared laneway could also be considered and the use of temporary retail kiosks along the boundary with 19-21 Dover Road facing the car park.

Assessment Officer Comment

To the north-east, the proposal incorporates simple concrete block work with stretcher and bond patterns to provide a visual interest and avoid the presence of blank walls whilst also providing light spill and acoustic mitigation measures.

It is not considered that the suggested adaptation design outcome is necessary as it falls outside the scope of the proposal and the present assessment. The provision of temporary retail kiosks along the boundary with No. 19-21 Dover Road facing the car park is not considered feasible in this instance as this would compromise the overall design of the shared zone. Furthermore, it is considered that sufficient retail spaces are proposed within the subject site noting this would offer a consistent presentation to Dover Road and laneway. Activation of the streetscape and laneway would occur.

Urban Design – Issue 5

Pre DA Comment

The horizontality of the façade treatment for the car park structure, as seen on the south-east elevation, further adds to its bulk. To achieve a cohesive built form, the screening treatment of the car park structure should reflect the verticality of the south-west façade. It is understood that Council would like to see green elements, including green walls when feasible, however a combination of vertical screening treatments and horizontal green elements would help to tie the two main facades of the building together. It would also reduce costs as green walls (or vertical landscaping) can be expensive to maintain. It may also be possible to introduce public art into the vertical screening as shown in Figure 4 below.

DA Comment

The proposed horizontal green wall panels on the car park create a dominant horizontal character and do little to screen the carpark. The design report illustrates the ‘Junglefy breathing wall, Manly’ (shown in image below) as a precedent and inspiration.

The green wall system proposed does not reflect the case study example and does not achieve a similar look and feel. The regularity of the horizontal panels detracts from it being a ‘natural’ element of the façade.

Justifications for not adopting a vertical greening system also includes high costs. However, the development proposes dramatic lighting effects in the evening. The visual impacts of the design should prioritise daytime appearance, as this is when the centre is likely to be most active.

Dramatic lighting could also be problematic for residents of nearby residential apartment buildings. Possible solutions include incorporating sections of vertical wire trellising above the horizontal panels and encouraging climbing plants, especially at the corners. This would help to reduce the current strong horizontal banding.

Assessment Officer Comment

The green panels have been designed to support cascading plants on the car park façade. These green wall panels have been augmented by a proprietary stainless steel vertical cable trellis system so as to enhance vertical plant growth. The proposal is therefore considered satisfactory.

6.6.3.1 Building Envelopes

C1 states that development may only occur within the building envelopes shown on the control drawings (see Sections 6.5.2-6.5.8). As already detailed throughout this assessment report, there is an extent of disconnect between the control drawings and the proposed building typology per this application. The prescribed controls would be contrary to the proposed and permissible car park and community centre land use.

C2 states that well-designed buildings which achieve the maximum height are encouraged to enhance the definition of the street edge. Although the proposal does not meet the maximum permitted height per the Woollahra LEP 2014 it is nevertheless considered to be an acceptable contextual response to the desired future character of the Rose Bay Centre. Compliance is achieved.

C3 states that the maximum permissible building depth above ground level is 12m. The maximum building depth for the above ground community centre area is in the order of 17.8m, these areas are framed by the car park to the rear. The relevant objective O5 reads as follows:

O5 Accommodate commercial uses by allowing deep building footprints at the ground floor level only.

Given the nature of the development and proposed land uses, allowing building depths above ground beyond the 12m control will assist to facilitate flexibility in the adaptation of such spaces creating a greater amenity for future occupants. Furthermore, the proposed car park element would also require building depths greater than 12m to accommodate sufficient car parking, access and circulation. It is reasonable in this case to provide for deeper building depths above the ground floor. O5 is upheld.

Whilst this does not allow for exterior garden and courtyard spaces as required by objective O4 and envisaged by control drawing 4 (albeit two balconies are proposed addressing Wilberforce Avenue) these would not be in keeping with the proposed land uses and building typology, hence are not deemed necessary in this case.

C4 requires a minimum floor to ceiling height of 2.7m for habitable spaces in the centre to provide quality internal environments and to facilitate future adaptability of uses. Compliance is achieved.

C5 requires a minimum floor to floor height of 4m for ground floor retail in the Rose Bay Centre. Floor to floor heights of at least 4.125m are proposed which achieve compliance.

6.6.3.2 Setbacks

C1 requires that building alignments should comply with those shown on the control drawings (see Sections 6.5.2-6.5.8). In this instance building to the site's frontages is permitted per control drawing 4 which is achieved by the proposal and is therefore compliant with C1.

Furthermore, the proposal offers a nil setback to 18 Newcastle Street, a varied setback in the order of between 7.6-8.6m to the south (allowing for laneway), 3m to 7 Dover Road and between nil and 3m to 11 Dover Road is proposed. These setbacks are considered contextually appropriate as reiterated throughout this assessment report.

Compliance with C3 is achieved which requires that the design of corner buildings consider their relationship with street geometry, topography, sight lines and the design of skyline elements. As already detailed throughout this assessment report, the proposal offers a positive response to these considerations.

In response to C4, the front building alignment will define a coherent alignment to the public domain as is consistent with surrounding built form addressing the street and will suitably respond to the corners. The need for front gardens is not identified at the subject site by the Woollahra DCP 2015. Compliance is achieved.

In response to C5, the proposal will have acceptable privacy and solar access relationships with surrounding properties. Pedestrian access is supported through the proposed laneway to where activated and usable areas are proposed. There are no views from the public domain that would be impacted and no objection has been raised to the proposed stormwater design by Council's Development Engineer. The issue of building to the adjoining boundary shared with No. 18 Newcastle Street and ensuring an acceptable amenity is maintained is addressed via the **Deferred Commencement Condition 1** and **Condition F.7**. Compliance is achieved.

In response to C6, the subject site does not adjoin any residentially zoned land and therefore the need for consolidated landscaped areas is not applicable. Notably, the proposal is permitted to have complete site coverage which would inherently restrict natural infiltration of stormwater. The proposal would have acceptable privacy and solar access relationships with surrounding properties and compliance with C6 is achieved.

6.6.3.3 Building Articulation

C1 states that to achieve high quality architectural resolution on frontages that address a street, the following percentages of internal and external space should be incorporated with the composition of the building for all floors above ground level.

- a) Buildings in the core area must provide 80% internal space and 20% external space in the SFAZ.
- b) Where the control diagrams indicate that articulation on parts of the building envelope that are not in the SFAZ, the mix of internal and external space is discretionary.

The proposal does not incorporate the specified internal and external percentages per C1. Although non-compliant, the proposal is found to have satisfied the relevant and underlying objectives as detailed below:

O1 Promote buildings of articulated design and massing, with building facades that contribute to the character of the street, and provide usable private external spaces.

O2 Encourage buildings to respond to environmental conditions, and promote energy efficient design principles.

O3 Utilise building articulation elements of appropriate scale to their use and context.

O4 Reinforce the development pattern of buildings on the street alignment in the Core.

O5 Reinforce the more open streetscape quality in the Transition Areas.

- Overall the proposal will be suitably articulated. From Wilberforce Avenue and Newcastle Street, the proposed car park will be primarily masked by the community and commercial uses along with green treatments.

To the north-west, the proposal incorporates simple concrete block work with stretcher and bond patterns to provide a visual interest and avoid the presence of blank walls. The north-eastern façade incorporates a similar concrete block pattern as does the north-west whilst also providing light spill and acoustic mitigation measures.

To the south-west (laneway), a spandrel solution has been incorporated which assists to hide vehicles manoeuvring in the car park whilst maintaining a sense of openness for natural ventilation to the car park. A modular green vegetated façade has been incorporated. The green modules are designed to support cascading plant growth. These have been augmented to facilitate vertical plant growth.

The south-western façade (to Pannerong Reserve) provides the 'sleeve' or 'skin' to the car park. The façade is articulated through the use of awnings along with materials, finishes and terrace/balconies. The raised civic terrace which overlooks the street and reserve also assists to provide a visual interest to the overall development.

The main lift area which is closest to the community facility entry point acts as an identifiable marker promoting visual interest.

Retail tenancies 3A and 3B will be articulated through the use of timber mullion detailing.

In accordance with the above. O1 is upheld.

- The proposal is accompanied by a Section J Energy Efficiency – Part J1 Statement of Compliance. O2 is upheld.
- In line with the comments made to address O1, O3 is upheld as the building articulation measures are conducive to the context of the subject site and broader locality.
- The proposed building alignment is considered satisfactory as already detailed throughout this assessment report. O4 is satisfied.
- O5 is not applicable as the subject site is within the core area

6.6.3.5 Architectural Resolution

C1 requires that a clear street address to each building should be provided. Pedestrian entries should be well defined. The proposed entry points are considered to be legible and well defined. The entry to the community facility will be clearly established through the provision of a widened staircase which offers a visual and physical connection to the streetscape and Pannerong Reserve beyond. Car park entries will also be well defined along with access to amenities and retail uses.

C2 requires that vehicular entries should be discrete and minimise conflicts with pedestrians. Council's Traffic Engineer considers that the proposed vehicle entry and egress design is acceptable in the site's context and is therefore supported achieving compliance with C2.

C3 requires materials which are compatible with the existing development context, such as red face brick and rendered masonry, should be encouraged in street facade design. The proposed materiality is considered to be in keeping with the overall character of the Rose Bay Centre and is therefore acceptable. No objection was raised in the Urban Design referral response to this aspect of the proposal. Compliance is achieved.

C4 requires that the colour of the building facade is not intrusive or unreasonably dominant within the streetscape, and is compatible with the character of the centre. The proposed materials and finishes are not considered to be out of character with the centre and offer a positive response in this regard. No bright, corporate or fluorescent colours are proposed. Compliance is achieved.

C5 requires that new buildings and facades do not result in glare that causes discomfort or threatens safety of pedestrians or drivers. There are no unreasonable impacts considered to result which is reinforced by the orientation of the site and the glazed areas. Furthermore, street planting will assist to visually obscure glazed areas. Compliance is achieved.

C6 states that extensive areas of unprotected glazing are not permitted. The extent of glazing is not deemed to have any unreasonable amenity impacts upon the streetscape or surrounding areas. Notably, the extent of glazing is considered suitable in maximising opportunities for daylight

into retail and community spaces. No objection was raised in the Urban Design referral response to this aspect of the proposal. Compliance is achieved.

C7 Predominantly glazed shopfronts are to be provided to ground floor retail areas. Compliance is achieved due to the extent of glazing that is proposed.

C8 states that street corners are to be strengthened by massing and building articulation. The Urban Design referral raised concerns with the terminating view along Wilberforce Avenue. Whilst no concern has been raised with respect to the lift location, the issue of the proposed balcony, its proximity to the south-west corner and that it does not run perpendicular to the façade were raised. The proposed balcony is considered to provide a beneficial function to the community centre use. In its current form it provides an area of 46m² and if it were to be redesigned in accordance with the urban design recommendations the area would equal approximately 29m². Other beneficial amenity benefits of the current design is that it has greater opportunity to capture views to Rose Bay and that it enables some winter sun from 1pm.

Whilst the balcony may not be located over the primary entry point, it is considered that the legibility of the entry areas and built form would not be compromised. This is reinforced through the wide centralised stairway which offers a visual and physical connection to the streetscape and across to Pannerong Reserve.

Overall, the proposal is considered to suitably balance the urban design concerns whilst providing a suitable amenity to this space and the community centre use. For these reasons the proposal satisfies C8.

C9 states that roller shutters to shopfronts are not permitted. None are proposed and compliance is achieved.

C10 requires that the design of window and balcony openings should take into account the streetscape, heritage items, privacy, orientation and outlook. The proposed openings are not considered to have any adverse streetscape, privacy or heritage impacts. Given the proposed building typology and context the subject site, the proposal will have acceptable outlooks to the laneway, streetscape and Pannerong Reserve where possible.

C11 states that blank party walls are to be avoided. The requirement for public art to the north-western façade is reinforced by **Condition D.14**. The façade adjoining No. 15 Dover Road does not have immediate presentation to the streetscape and due to its recess within the site, additional treatment is not deemed necessary.

C12 states that facades are to be richly articulated and should express the different levels of the building and/or its functions. The proposal is deemed to be suitably articulated. Differing façade characteristics have been employed for the community, car park and retail buildings which express and delineate the varying functions of the proposal. Compliance is achieved.

C13 requires that commercial space should be designed to permit maximum flexibility for future uses. This is considered to have been achieved and the proposal is acceptable in this regard.

C14 requires that all rooms above ground floor level, including kitchens and bathrooms, are to have windows/skylights wherever possible. Where possible/practicable these have been included. As detailed further within this assessment report, the proposal allows for suitable opportunities to encourage ventilation and solar access for the proposed building typology and land uses. The proposal is acceptable with regard to C14.

C15 is not applicable in this case as it applies to residential components of which none are proposed.

6.6.3.6 Roof Design

The proposed roof design is reflective of the car park land use which forms part of this proposal, noting that the roof top area will be utilised for car parking. The design has incorporated parapets which is consistent with controls C1 and C2.

As detailed within this assessment report, the proposed overshadowing relationships are acceptable and therefore compliance with C4 is achieved.

Given the nature of the proposed land uses and with the roof top being occupied by car parking there is no scope to accommodate a roof terrace area. This would also conflict with the proposed land uses. Control C5 is upheld.

Overall, the proposed plant equipment situated at the roof has been suitably integrated into the design and is not considered to generate any unreasonably adverse visual impacts from the public domain. Compliance with C6 is achieved.

Overall, the proposal is considered satisfactory against the relevant considerations of Part D6.6.3.6 of the Woollahra DCP 2015.

6.6.3.7 Awnings

C1 requires that development must provide continuous awnings to street frontages as indicated on the control drawings. Awning design should be suspended steel box section type with a minimum soffit height of 3.2m. Awning heights should provide continuity with adjoining properties.

The proposal incorporates an awning to a height of approximately 3.7m along the Wilberforce Avenue frontage. This awning will terminate at the alignment of the protruding upper level terrace area which inherently would provide weather protection at the ground level area below.

Along Dover Road, the proposed awning would have a soffit height of approximately 3.3m with the continuous awning to retail addressing the lane having soffit heights generally between 3m-3.8m based on the proposed levels.

Not all awnings are of a suspended steel box section which is non-compliant with C1. Although some non-compliances are proposed the underlying objective is upheld in the following manner.

O1 Retain and supplement the existing awnings to provide continuous and coherent awning cover along footpaths.

The proposed awning outcome is considered acceptable in the context. At present No. 15 Dover Road (Chemist Warehouse) does not provide for an awning and therefore there is no adjoining pattern to which it can conform to. Similarly, within and along the laneway, the proposal will establish the awning pattern with the design considered to be harmonious with the overall development. Along Wilberforce Avenue, again the site does not immediately present to Newcastle Street rather it is located at its junction with Wilberforce Avenue. Wilberforce Avenue does not have an established or continuous awning typology noting that the site is currently occupied by a car park. The proposed design is coherent with the overall design of the primary built form and establishes an appropriate character for the subject site. O1 is upheld in the circumstances of this case.

6.6.3.8 Public Art

The public art requirements are considered to be suitably addressed via **Condition D.14**. The proposal is therefore acceptable with regard to Part D6.6.3.8 of the Woollahra DCP 2015.

D6.6.4 Visual and Acoustic Privacy

Visual Privacy

C1 requires that visual privacy is to be protected by providing adequate distance between opposite windows of neighbouring dwellings where direct view is not restricted by screening or planting.

C2 requires that main living spaces are to be oriented to the street or rear garden to avoid overlooking between neighbouring properties. Living areas with primary openings facing the side boundary should be avoided.

Whilst the controls C1 and C2 relate more so to residential buildings rather than the proposed typology and land uses, it is considered more appropriate to provide an assessment against the underlying objectives of this Part as detailed further below.

Acoustic Privacy

C3 requires buildings to be sited to minimise the transmission of external noise to other buildings on the site and on adjacent land.

C4 requires that the internal layout of rooms, courtyards, terraces and balconies, the use of openings, screens and blade walls, and choice of materials, should be designed to minimise the transmission of noise externally.

C6 requires that restaurants and cafes should be designed to minimise the impact of noise associated with late night operation, on nearby residents.

C7 notes that rear courtyards would only be permitted for restaurant use if Council is satisfied that the hours of operation would not have an unreasonable impact on residential amenity.

In response to abovementioned controls, although commercial spaces are proposed no tenants are nominated and no fit-out works form part of this development application. It is considered that the complete operational details of such spaces including hours of operation would form separate approvals and the associated amenity impacts would be assessed at that time. In a general sense, such land uses are permissible with consent in the land use zone and it is noted that there is no immediate presentation between the commercial spaces and residential areas.

C8 Noise impact associated with goods delivery and garbage collection, particularly early morning, should be minimised.

Having further regard to controls C3, C4 and C8, Acoustic Assessment Reports were submitted with the Development Application and have been assessed by Council's Environmental Health Officer. It is found that these assessments are satisfactory and relevant conditions of consent have been recommended which includes the requirement to implement the recommendations and acoustic mitigation measures detailed in these reports. Therefore, subject to the conditions of consent the proposal is considered acceptable and an acceptable acoustic amenity relationship with surrounding properties would occur.

For a complete assessment, reference should be made to Council's Environmental Health referral response included as **Annexure 10** to this assessment report.

Furthermore, it would be prudent to also provide an assessment against the underlying objectives of this Part. The following assessment is made.

O1 Ensure adequate visual and acoustic privacy to residential apartments in the centre and private open spaces.

O2 Protect the privacy of adjacent residential neighbours.

- Given the nature of the proposed land use, this is not considered to generate any adverse visual privacy impacts upon surrounding residential properties or private open spaces. To ensure an acceptable visual privacy relationship, with No. 7-13 Dover Road as view lines would be obstructed by the proposed façade finish and detailing. The 3m setback of the car park façade will also assist in providing an extent of privacy separation and when coupled with the proposed screening relationships are considered satisfactory.

The recommendations of the acoustic assessment report have been incorporated into the conditions of consent. It is considered that subject to the implementation of these recommendations the resulting acoustic relationships between the subject site and surrounding properties is acceptable. Notably, this has been confirmed by Council's Environmental Health Officer.

Accordingly, O1 and O2 are upheld.

Overall, the proposal is considered to provide acceptable visual and acoustic privacy relationships with surrounding properties and is therefore satisfactory against the relevant considerations of Part D6.6.4 of the Woollahra DCP 2015 is considered necessary.

D6.6.5 Private Open Space

6.6.5.1 Landscaped Area

At present the subject site does not provide for any substantive deep soil landscaping noting its use as a car park. This condition is upheld by the proposal. It is acknowledged under this Part that the provision of deep soil landscaping within the Core of the Rose Bay Centre is limited. Furthermore, control drawing 4 referenced earlier in this assessment report permits development to have a complete site coverage which inherently would restrict opportunities for deep soil landscaping. The non-provision of deep soil areas is therefore supported in this case.

6.6.5.2 Above Ground Open Space

No further consideration of this Part is necessary due to the proposed land uses which are not considered to require areas of private open space. It is, however, acknowledged that a terrace and smaller scale balcony are proposed at Level 2 which address the streetscape and would contribute a favourable amenity to the community centre use at this level.

6.6.5.3 Front Fences

No front fences are proposed and therefore no further consideration in this regard is considered necessary.

In accordance with the assessment above, no further consideration of Part D6.6.5 of the Woollahra DCP 2015 is considered necessary.

D6.6.6 Solar Access and Natural Ventilation

6.6.6.1 Solar Access

The proposal is non-compliant with C1 as it has not been designed to the requirements of control drawing 4.

However, C2 states that where development does not comply with the control diagrams it must maintain existing solar access to existing development for at least 3 hours between 9am and 3pm on 21 June to north facing windows of habitable rooms, and at least two hours to at least 50% of the private open space.

The submitted shadow diagrams demonstrate that the proposal would maintain at least 3 hours of solar access to north facing habitable rooms of surrounding built form and at least 2hrs of solar access to 50% of private open spaces to existing developments at 21 June between 9am and 3pm. Compliance with C2 is achieved.

For completeness, C3 requires that solar access be achieved for a minimum period of 3 hours to habitable room windows and two hours to private open spaces for new development between 9am-3pm on 21 June. However, C3 is not considered relevant given the proposed land uses. This control is considered more so relevant for residential land uses which is not the case in this instance.

As required by C4, shadow diagrams are also to be prepared for the hours of 10am to 2pm on 21 March and 24 September in order to consider the overshadowing effects of new buildings on public domain areas. The proposal will have acceptable overshadowing impacts during these times and would not adversely impact the surrounding public domain areas including Pannerong Reserve.

6.6.6.2 Natural ventilation

C1 requires that development provide windows to all rooms above ground floor level, including kitchens and bathrooms, to facilitate natural light and ventilation. The reliance on mechanical ventilation or air conditioning above ground level should be minimised.

C2 requires that development facilitate cross ventilation by locating windows opposite each other where possible.

Whilst it is considered that the requirements of this Part relate more so to residential land uses, the proposal is considered to provide an acceptable amenity to the built form. Notably, cross ventilation in a north-eastern to south-western direction is somewhat difficult to achieve as these areas are framed by car parking to the north and north-east. Habitable areas are designed with outlooks over Wilberforce Avenue with access to natural light. Operable doors to the ground floor and to the level 2 terraces will also facilitate opportunities for natural ventilation which is considered acceptable and appropriate to the proposed land use. Notably, no objections were raised by the Urban Design referral to this aspect of the development.

The underlying objective O1 is deemed to be upheld in this instance.

For the reasons detailed above the proposal is considered acceptable having regard to Part D6.6.6 of the Woollahra DCP 2015.

D6.6.7 Parking and Servicing

The proposal accommodates an acceptable car parking and servicing design in accordance with the relevant controls and objectives specified under this Part of the Woollahra DCP 2015.

Furthermore, Council's Traffic Engineer has reviewed the proposal and raises no objections to the proposal parking and servicing outcome subject to the recommended conditions of consent. For a complete assessment reference should be made to **Annexure 4**.

Overall the proposal is considered acceptable having regard to Part D6.6.7 of the Woollahra DCP 2015.

D6.6.8 Geotechnology and Hydrogeology

Council's Development Engineer has raised no objections to this aspect of the proposal subject to the recommended conditions of consent and the submitted Geotechnical Statement and Geotechnical and Hydrogeological Report which were found to be satisfactory. The proposal is therefore considered acceptable against Control C1 and the underlying objectives under Part D6.6.8 of the Woollahra DCP 2015.

D6.6.9 Site facilities

C1 requires that loading facilities must be provided via a rear lane or side street where such access is available. A loading area is accommodated within the laneway and is considered acceptable with regard to C1.

C2 requires that hydraulic fire services such as fire hydrants and booster installations are concealed. Service areas are deemed to have been properly concealed as required by C2.

C4 requires that buildings are designed to accommodate venting from ground floor uses, to avoid potential impacts from exhaust and odour, such as cooking smells. There are no such elements specified on the architectural plans and therefore none are considered to be proposed per this application.

C5 requires that air conditioning units should not be visible from the public domain. There are no air conditioning units specified on the proposed plans and therefore none are considered to be proposed per this application.

D6.6.10 Application of Bonuses

It is acknowledged that certain bonuses may be available to the development. In the context of the subject site, this would be achieved through the provision of through block connections and through the provision of community facilities.

The relevant controls and objectives would need to be upheld in order to consider for bonuses or variations to standards. Specific reference is made to private developments under this Part of the Woollahra DCP 2015 which the proposal is not, noting it is made on behalf of Woollahra Council and pertains to Council owned land. Although this is the case, it is considered prudent to identify the key consideration of each aspect under this Part which the proposal provides and its positive response to these.

6.6.10.2 Through Block Connections

C1 provides details as to where through block connections are encouraged by Council. The proposed shared way is generally in accordance with Figures 38 and 39. It is considered that clear sightlines would be available through the shared way and the proposal does not specify whether any time restriction would be placed upon the use of the shared way. Overall the proposal is acceptable having regard to C1.

C2 states that pedestrian safety and the security of adjacent businesses should be considered in the design of through block connections. Specific consideration must be given to street level lighting at night. The proposal is not considered to adversely impact upon pedestrian safety or security of adjacent business therefore achieving compliance.

C3 requires that through block connections must have a minimum width of 3m and be, clear of any obstruction, except for connections through shops. Compliance is achieved.

C4 states that paving must be coordinated with public footpaths. The proposed treatment is considered acceptable in this instance.

Controls C5 and C6 are not relevant as no arcades are proposed.

C7 requires that lanes must have a minimum width of 3m if one way, and 5m if two way. Compliance is achieved as the through block connection will have a total width in the order of 7.25m.

C8 is not applicable in this case.

C9 requires that lanes must provide rear service access to properties fronting New South Head Road, Dover Road or Newcastle Street to sites which currently have only one vehicular frontage. The lane will provide suitable connections between Wilberforce Avenue and Dover Road. Although not strictly offering access to properties along New South Head Road, this would not be feasible given the site location.

C10 states that buildings should address new lanes to provide passive surveillance. Suitable options for passive surveillance would be created.

C11 states that Applicants must demonstrate that the proposed service lane will be of benefit to the traffic circulation system in the Rose Bay Centre as a whole. This has been demonstrated by the Applicant and Council's Traffic Engineer has raised no objections in this regard.

Having regard to the Urban Design Referral response and the commentary regarding pedestrian amenity within the through block connection between Wilberforce Avenue and Dover Road, these issues are addressed later within the assessment report under Section 17.2 under the heading of 'Pedestrian Amenity'.

The commentary made under that assessment is also applicable in addressing the suitability of the proposed connections and relevant considerations under this Part of the Woollahra DCP 2015.

This assessment is satisfied that the relevant matters have been considered and that the proposal is acceptable in this regard.

6.6.10.3 Community Facility and Public Conveniences

C1 requires that the community facility should be located as identified in Figure 41. The proposal is generally in the location as specified.

C2 requires that the community facility must provide a community display area, public seating and public conveniences. Although, no detailed fit out is proposed per this application it is considered that a suitable amenity can be achieved in the proposed spaces.

C3 states that the minimum area of the community facility is 100m², including conveniences. Compliance is achieved.

C4 states that the community facility may incorporate a privately operated cafe. An integrated cafe/community area is proposed at the ground floor, thereby achieving compliance.

C5 states that the community facility should clearly address the public domain. The community areas will address Wilberforce Avenue and therefore achieve compliance.

C6 requires that public conveniences should be incorporated in building developments generally, and should cater for the needs of people with mobility disabilities such as the elderly, and the

needs of parents with infants. Although, no detailed fit out is proposed per this application it is considered that a suitable amenity and disabled access can be achieved in the proposed spaces.

C7 states that the provision of natural light and ventilation to public conveniences is highly desirable. The dedicated community spaces are considered to provide for an acceptable amenity as already detailed throughout this assessment report, therefore achieving compliance. Overall, the proposal is considered acceptable having regard to Part D6.6.10 of the Woollahra DCP 2015.

17.2 Other Amenity Considerations

Visual Intrusion

For the reasons already detailed throughout this assessment report including but not limited to masking the car park from Wilberforce Avenue/Newcastle Street by the community centre component, articulation of facades and use of green panelling, the proposal will have acceptable visual impacts.

Furthermore, it is prudent to note that upon Nos. 8 Wilberforce Avenue and 19-21 Dover Road to the south-west and south-east, the proposal would not have any unreasonable visual impacts given the adjoining facades are largely blank walls with only minimal glazing inherently reducing visibility from within this site.

No. 15 Dover Road to the north-east presents a blank wall to the car park and therefore there is no immediate visual relationships from within this site.

Having regard to No. 18 Newcastle Street to the north-west, the Applicant had written to the owner of this property as the area between the building and current car park is Council owned and the proposal would result in a nil side boundary setback to the built form. The correspondence details Council's intention to address any resulting amenity impacts from the nil side boundary setback with this requirement being conditioned accordingly. Refer to the **Deferred Commencement Condition 1** and **Condition F.7**.

It is acknowledged that habitable areas along with private open spaces of units at No. 7-13 Dover Road to the north-east currently address the subject site and the open car park. The assessment report has detailed that a 3m setback is proposed to this shared boundary. Given the current setback of private open spaces to the shared boundary, the overall physical separation distance will be in the order of 10m from habitable spaces. Coupled with a suitable extent of articulation to the façade as already detailed in this assessment report, the resulting visual impact relationships are contextually considered acceptable in the circumstances of this case.

Furthermore, this adjoining site has long benefited from the undeveloped nature of the subject site which has facilitated the current outlooks and visual relationships.

It is also important to realise that these impacts were already somewhat envisaged and anticipated when consent to the Planning Proposal was granted and future building envelopes (along with in-principle relationships with surrounding properties) were considered and deemed acceptable.

Light Spillage

Noting that No. 11 Dover Road presents a blank wall to the subject site, light spillage upon the residential units at No. 7-13 Dover Road has been considered. The Applicant's documentation details that the north-eastern wall to the car park will comprise concrete block work in stretcher panels with a honed finishes. There is considered to be minimal opportunity for light spillage through this finish. Furthermore, a full height acoustic louvre panel is proposed away from the balcony areas in the areas where natural ventilation to the car park is to be achieved. This Panel

will assist in mitigating any residential light spillage from these areas. The proposal is acceptable in this regard.

Additionally, **Condition I.8** is recommended to assist in addressing the potential impacts of outdoor lighting which states that this must comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting*.

View Loss

Whilst view impacts were not an issue that was raised in the objections, for the purpose of undertaking a comprehensive assessment, potential view impacts have been considered below.

The issue of view loss was addressed in the assessment report pertaining to the planning proposal which was presented to the Urban Planning Committee on 12 February 2017 seeking consent to submit the planning proposal to the Greater Sydney Commission requesting a gateway determination to amend the Woollahra LEP 2014 to increase the building height across the site to 17.2m.

This report notes that particular attention was paid to the following locations:

- Apartments in the building at 2-4 Ian Street, Rose Bay;
- Public domain in Blake Street in Dover Heights;
- New South Head Road near Kambala School in Rose Bay; and
- Sydney Harbour.

Furthermore the report details the following:

The views were constructed using a 3D model of the terrain and buildings in and around the Centre provided by AAM Group, with significant vegetation inserted based on a survey prepared by S J Dixon Surveyors Pty Ltd. The proposed maximum building heights and concepts prepared by AJ+C were inserted into the model to examine views to and over these sites.

From the above-mentioned properties and public domain areas, the proposal is considered to maintain, land, water and whole views over the subject site and would not obstruct any iconic views which are held in high regard as per the planning principle established under *Tenacity v Warringah Council (1004) NSWLEC 140*. Particularly from No. 2-4 Ian Street, the majority of the view is orientated to the west and has little relationship with the subject site. Therefore, from existing locations where views may be available, whether in a standing or sitting position, these are deemed to not be unreasonably affected.

Overall, it was considered that the private view sharing impacts associated with the proposal were minor and from the public domain the impacts were considered appropriate. This assessment is satisfied of the same and concurs with those findings.

A View Impact Assessment was also prepared for the post exhibition report for the planning proposal which was presented at the Council meeting of 21 May 2018 and which considered the following locations:

- 4 Carlisle Street, Rose Bay (a three storey dwelling house);
- 4/37 Dover Road, Rose Bay (a two storey residential development); and
- 7-13 Dover Road, Rose Bay (a four storey mixed used development containing three residential levels above a ground floor retail level).

Having reviewed and considered the aforementioned assessment, including the photos taken from any site inspections and photomontages which were prepared, it is concluded that that the

proposed development and associated variations to the height of buildings development standard would have an acceptable view sharing impact to surrounding properties.

With respect to No. 4 Carlisle Street Rose Bay, the primary view corridor is to the north-west which is not orientated over the subject site. These views are obscured by mature trees in the direction of Sydney Harbour where whole views are available along with the iconic view of the Sydney Harbour Bridge. Views from the main bedroom balcony, main bedroom, along with living and dining room areas were considered. These are achieved from a standing and seated position. Given the orientation of the subject site it is deemed that the proposal may have a minor impact upon land views to the north-west and parts of the Sydney CBD. These impacts are not considered to be of an unreasonable nature given the relatively contained areas of non-compliance associated with the roof which pertain largely to service areas. Such views are not highly valued when compared to the whole and iconic views orientated away from the site.

With regard to No. 4/37 Dover Road, the view corridor toward Sydney Harbour would be over the proposed retail portion of the development which is contained well below the permitted height of buildings development standard. This orientation is where land, water and whole views of Sydney Harbour would be captured. The iconic view of the Sydney Harbour Bridge is not obtained over the subject site and the proposal would have no impacts in this regard. Notably there are several mature trees in numerous gardens which currently restrict view lines. The views were considered from a standing position on the main bedroom balcony. The variation to the height of buildings development standard would have no material impact upon views noting that these would likely be obscured if compliance were otherwise achieved with the height of buildings development standard.

Lastly, No. 7-13 Dover Road obtains water, land and whole views toward Sydney Harbour, views of the Sydney CBD and iconic views of the Sydney Harbour Bridge. Views from the roof deck were considered noting that views from lower level units would either have a more restricted view or would be impacted by any development in accordance with the previous 14.1m or current 17.2m height of buildings development standard.

Looking directly south-west, the district view would be affected by any development up to the 17.2m height limit across the site and even by the previous 14.1m control. The prescribed 17.2m height limit would impact views of the Sydney CBD including Sydney Tower along with some whole, land and water views. Therefore, the non-compliant elements associated with the roof level, would have no material impact on this view corridor as a compliant scheme would otherwise have the same impacts. Importantly, the proposal would maintain iconic views of the Sydney Harbour Bridge and expansive Harbour views to the north and north-west which are of a higher value.

Overall, this assessment concludes that view sharing impacts associated with the proposal are considered acceptable.

The analysis of private views was conducted in accordance with the view sharing principles set out in *Tenacity v Warringah Council (1004) NSWLEC 140* which established a four step assessment of view sharing.

Internal Amenity

Car Park Land Use

The Urban Design referral raised the following concerns with respect to the amenity of the car park.

- *It appears that access for the 3 motorcycle parking spaces proposed within the upper basement would be difficult to access as they are located adjacent to the accessible parking space and would have inadequate space for manoeuvring*

- *The proposed location for the ramp in the southern corner to access the lower basement may cause confusion and issues around wayfinding within the basement.*
- *No direct access has been provided from the car park to the community centre space, which is currently only accessible via fire stair or lifts.*

Council's Traffic Engineer has raised no concerns with regard to the overall layout of the car park nor issues with acceptability to any of the proposed parking spaces, including motorcycle and bicycle spaces.

The basement ramp referred to above is primarily intended for fire egress, however, it could be utilised by prams and shopping trolleys to access lifts.

Access from the car park to community facilities has been detailed below where issues with the community centre land use are addressed.

Trolley return bays are proposed at the basement and ground levels which is considered suitable for the proposal. It should be acknowledged that whilst the proposal would service the Rose Bay Centre it does not specifically service a type of supermarket that would otherwise have a greater trolley demand. Nevertheless, there appears sufficient scope to provide additional trolley bays throughout the upper levels at a later stage if considered necessary.

Community Centre Land Use

The Urban Design referral raised the following concerns with respect to the amenity of the community centre.

- *The layout creates a wasted space between the lift lobby and stair 1 on all levels.*
- *There is a lack of flexibility for the proposed community spaces which is exacerbated by inefficient circulation. Access to amenities is restricted if community centre areas are divided to host different activities.*
- *The width from the lobby to general community centre is very restricted with a diagonal distance of 1.75m between the end of the stair 1 and the services duct located south of stair 2.*
- *The design and location of stair 1 would also create possible sound transmission floor to floor and would impact community events occurring in different spaces.*
- *The access from the community centre to the amenities through the fire stairs is convoluted and may create confusion.*
- *The balcony on the south western corner is not connected to the large Community Centre space and appears relatively unusable. The proposed location for the balcony also increases congestion of the smaller 'lobby' space.*

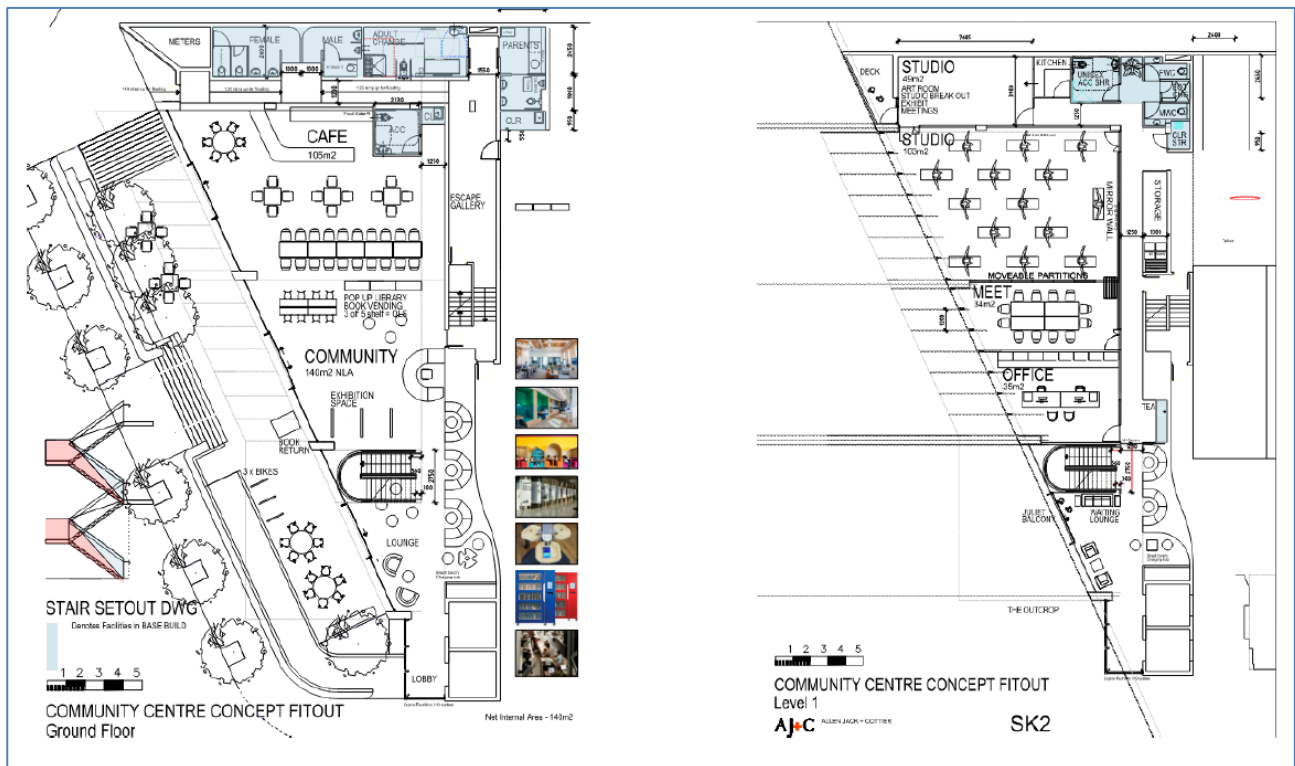
It is important to reiterate that no detailed fit out of the community space is proposed as part of this application. The Applicant describes the community centre as a 'cold shell product' with the fit out being subject to a separate design process.

With regard to access from the car park to the community centre spaces, access can be provided at level 2 RL 14.55 to the Lobby space which is likely to contain meeting rooms. Service access is available on Level 1 at RL 10.425 to back of house areas. Level 1 is likely to contain activity spaces.

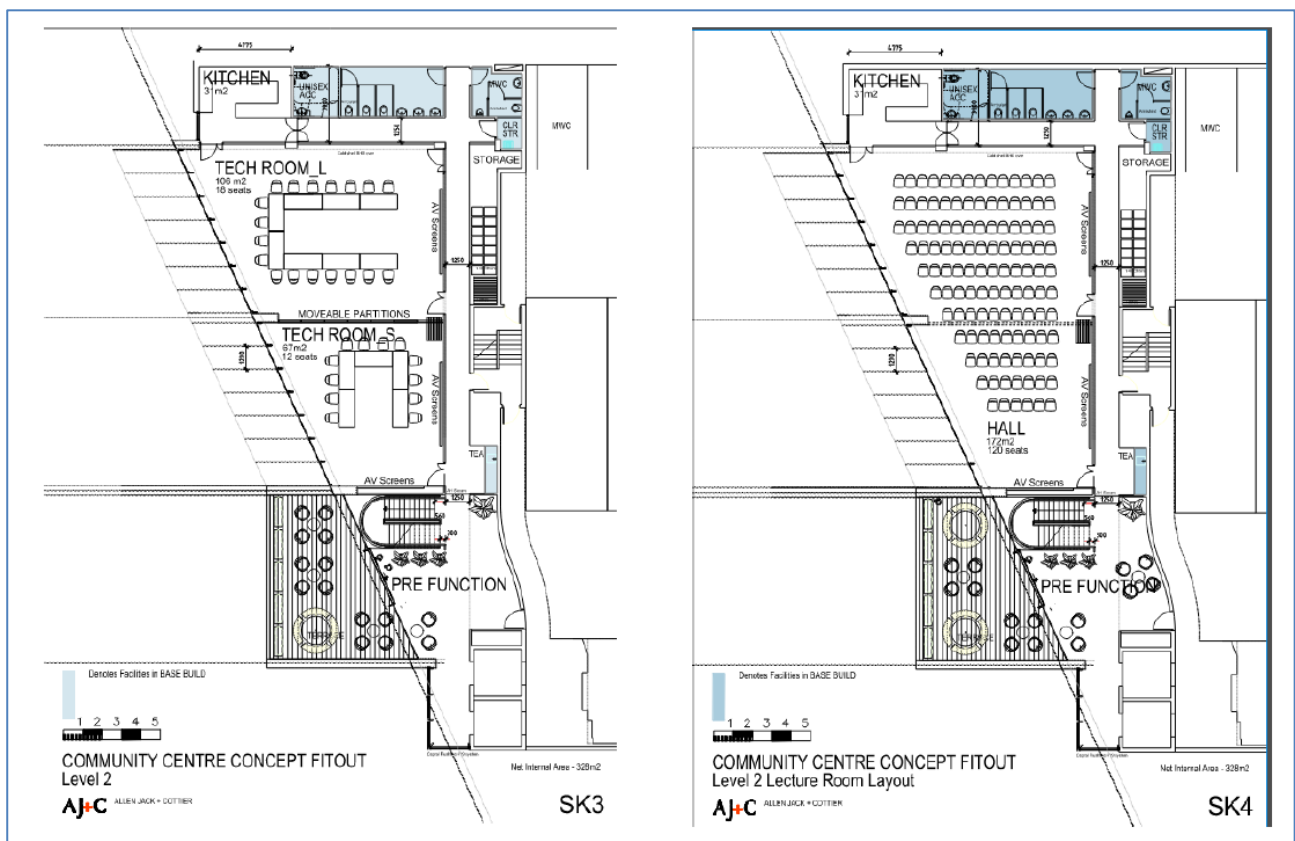
It is envisaged that the community centre will have its own amenities at each floor whereby the intention of the public amenities are primarily for retail and car park users.

Some test fit outs accompanied the Applicant's submission which demonstrate a variety of ways the community centre spaces could be adapted. These have been submitted for information

purposes only and consent is not sought for these configurations under this development application. These are shown in Image 24 and 25.



Source: AJC Architects
Image 24: Community concept fit out (1)



Source: AJC Architects
Image 25: Community concept fit out (2)

The terrace and balcony provide a beneficial amenity for the community centre uses. The terrace is of a size and design which promotes usability and will also promote views toward Rose Bay and access to winter sun after 1pm.

The use of these spaces and potential sound transmission between levels would be managed by the operator of the facility through suitable timing and scheduling of use.

Retail Land Use

The Urban Design referral raised the following key concerns with respect to the amenity of the proposed retail spaces.

- *It is unclear how level access can be achieved through the operable facades given the difference between the proposed floor levels of the retail spaces and the shared laneway.*
- *Retail spaces to have a more direct relationship with the street level.*
- *These small retail facilities should be reconsidered as they reduce accessibility along the laneway.*
- *The proposed development does not provide adequate amenities to the retail spaces. The proposed café space within the community facilities does not indicate the location of cooking, storage or 'back of house' facilities.*
- *Retail spaces along Ian Lane have limited access to amenities such as toilets.*
- *Retail 2 does not show a door or point of entry. The proposed design creates a congested space around the waste room access and kiosk substation. The kiosk substation also obstructs entry to the proposed retail space at 3A.*
- *The proposed retail spaces do not provide diversity as they are narrow and very long.*
- *The quality and amenity of the proposed retail spaces is compromised and would ultimately detract from the accessibility of the area and attractiveness of the site.*
- *Given the number of facilities proposed along Ian Lane including substations, waste storage area, car park entry and exit, loading zone, landscaping and pedestrian zone; removing the retail spaces would achieve a better urban design outcome.*

Level access to retail tenancies 3A and 3B will be achieved at either each extremity of the retail space at RL6.5 or in the centre at the height of the flood crest RL7.10. Therefore, two level access points to each retail tenancy are proposed. It is understood that providing level access across the entire retail frontage to the laneway was explored by the Applicant, however, would have resulted in internally stepped areas which would have comprised the functionality and viability of these retail spaces.

There is considered to be sufficient access along the laneway as detailed further below where pedestrian amenity is discussed. The retail spaces are considered to be an integral part of the development that will provide for activation of the laneway and will contribute to the number and diversity of retail spaces throughout the Rose Bay Centre.

The proposed retail spaces have been designed as 'cold shells' and no detailed fit outs including amenities and 'back of house facilities' form part of this development application. These would form part of future applications once future tenants are confirmed.

Entry to Retail 2 would be via a pair of centrally positioned bi-folding doors.

As already detailed within this assessment report, the proposed retail spaces are considered to provide suitable flexibility which adheres to the objectives of the underlying controls pertaining to retail tenancy width.

Retail premises are permissible with consent in the prescribed land zone and are well articulated to provide a visual interest and suitable transition from the taller car park component to the lower scale retail frontage along Dover Road.

Pedestrian Amenity

The Urban Design referral raised the following key concerns with respect to pedestrian amenity.

- *No indication of a 10 km/h speed limit being imposed along the 'shared zone' has been provided by the proposal.*
- *None of the images show the carriageway being shared with the pedestrians.*
- *No information regarding the use of the laneway by bicycles has been provided. Further, the access to bicycle parking is assumed to be via the carpark entry, which would cause conflicts between vehicles and bicycles.*
- *Fundamentally pedestrians are still not being invited to move easily along Ian Lane.*
- *The 'clear pedestrian zone' shown in the architect's response to urban design comments shows an indirect pathway which crosses both the car park entrance and exit and is impacted by retractable bollards.*
- *The Landscape Plans also imply pedestrians will use the narrow area allocated to a "pedestrian access path" (referred to under drawing L202), and not use the area allocated to 'carpark entry' or 'carpark exit'.*
- *The level change and proposed retaining wall at Dover Road also implies that pedestrians and vehicles are separated and do not share the same space. The location and operation of the loading zone blocks direct sight lines down the laneway and reduces pedestrian access.*
- *The location of proposed trees along Ian Lane is not consistent between the photomontages shown in the design report and the landscape plans.*
- *The location and operation of the loading zone hinders the movement of pedestrians through the shared zone and creates an unpleasant urban design outcome within the Centre.*
- *Given the site is in a key location within the Rose Bay Centre on a key route connecting the centre and linking to a large car park, the proposal should aim to achieve a high-quality pedestrian environment, and not just seek to meet the minimum requirements.*
- *The risk of potential conflicts between pedestrians and vehicles remain as 'the clear pedestrian zone' indicated within the architect's response to urban design comments, still requires pedestrians to cross the car park entrance and exit and travel through the loading zone.*
- *As mentioned above, the preferred width for clear path of travel for pedestrians is a minimum of 3.2m not 2.15m or 2.5m.*
- *It is recommended that the raised foyer is setback further from Wilberforce Avenue to provide a minimum Continuous Accessible Path of Travel zone of 3.2m along the footpath.*
- *The impact on the public domain has been further reduced by the decision to locate a ramp, connecting the upper basement and the lower basement of the carpark, within the public domain as this has contributed to a substantially reduced footpath width.*
- *However, the extension of basement into the public domain not only reduces the accessible path of travel but also limits the opportunities for larger trees and additional landscaping along the street which would help create a pleasant pedestrian environment.*
- *The comments related to relocating the proposed pedestrian crossing to provide a more direct connection between the northern corner of Panterong Reserve and corner between Newcastle Street and Wilberforce Avenue, parallel to Newcastle Street (See figure below). This connection would have minimal impact on the current location of the truck zone. But if the truck zone is a problem, it could be relocated to be further away from the corner.*
- *The realignment of the northern kerb on Wilberforce Avenue to widen the public domain is welcomed however the proposed elevated terrace located over the basement parking ramp has 'filled' this space and reduced the area available for pedestrian access along*

Wilberforce Avenue. The existing footpath width is 3.6m and the proposed design reduces it to approximately 2.25m. The proposed clear path of access for pedestrians between the proposed trees and the elevated entry terrace is only 1.65m.

It is considered that all technical aspects including speed limits within the shared zone would be a deliverable of the project and could be accommodated.

Majority of the shared zone has been designed without kerbs. Where kerbs are proposed these are contained to the portion of the shared zone that is closest to Dover Road and are a consequence of flooding crest requirements.

Despite the anomalies in the photomontages the laneway has been designed to be a shared zone. To reinforce this, and to ensure that the shared zone is perceived as a pedestrian priority area, the two pavement types as originally proposed have been reduced to one with the use of stone setts which will be durable when used by vehicles. Furthermore flush stone inlays will provide carriageway guidance for drivers when entering and exiting the car park. The proposal also incorporates feature inlays where tree planters are proposed to increase legibility of such areas.

In terms of widths and pedestrian movement/circulation, the shared zone will have a total width of 7.1m with a pedestrian width of 3.6m that will comprise a minimum clear and continuous pathway width of 2.3m for pedestrians. This 2.3m would be clear of street furniture, tree planting and loading zone when in use, noting this is intended to be used three times a week. In front of retail tenancy 3B where the shared zone carriageway is separated by the flood barrier, the pathway would generally be 3.6m in width.

The Applicant has detailed that bicycle parking is located within 30m of the entry and exit locations and within one level of street access points which satisfies the relevant Australian Standard AS2890.3:2015. It is anticipated that bicycles would be ridden to the end of trip facility via the shared pathway with vehicles to minimise conflict with pedestrians.

The proposed pedestrian crossing location is considered to be the most appropriate as it will provide a direct connection between the primary stair location along Wilberforce Avenue and Pannerong Reserve. There will be a direct visual and physical connection which is considered to have a positive amenity and would reinforce the community functions of the subject site and proposal.

If the foyer were to be further setback along Wilberforce Avenue as suggested, this would inherently narrow the foyer area which would have a reduced usability. Alternatively, the Applicant notes that the footpath width could be widened if the carriageway of Wilberforce Avenue were reduced. This is not considered to be a desirable planning outcome.

The Applicant's documentation details that the footpath width along Wilberforce Avenue is not necessarily a primary determinant for the location of basement ramping rather it is largely a consequence of flooding requirements along with offering suitable amenity in the form of an acceptable terraced space. The proposal is considered to provide a suitable balance between footpath widths along with usability of the raised terrace area for a beneficial amenity.

17.3 Chapter E1: Parking and Access

The proposed provision of car parking has been assessed in accordance with the Woollahra DCP 2015.

General Vehicle, Motorbike and Bicycle Parking

With regard to the mixed-use nature of the proposal, the following tables have been copied from the Traffic Engineering referral response.

Table 1: Car Parking Provision – Mixed Use

Non-residential Component	Quantity	DCP Minimum Requirement per 100m ² GFA*	DCP Minimum Required Parking
Community Facility	909m ² (812+97)	2	12.7 (13)
Retail	316m ²	3.3	7.3 (7)
Total Required			20

*Note: 0.7 parking multiplier for Rose Bay Local Centre E1 Zone

The proposal accommodates a total of 229 new parking spaces at the subject site, of which 29 would satisfy the parking demand generated by the retail and community land uses. The current car park accommodates 95 car parking spaces and therefore the proposal will increase the public parking provision by 105 spaces, thereby achieving compliance with minimum requirements.

In terms of bicycle and motorbike parking the following summary was provided by Council Traffic Engineer.

Table 2: Bicycle and Motorbike Parking Provision

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Community Facility Employees	3 staff	1 per 10 staff	0.3 (0)
Community Facility Visitors	909m ²	2 + 1 per 200m ² of GFA	6.5 (7)
Shop Employees	316m ²	1 per 250m ²	1.3 (1)
Shop Customers	316m ²	2 + 1 per 100m ² over 100m ² GFA	4.2 (4)
Total required			12
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	229	1 per 10 car spaces	22.9 (23)
Total required			23

The proposal would result in a shortfall of one motorbike space, however, the requirement for an additional motorbike space has been conditioned. Additionally, the proposal does not accommodate any charging points for electric bicycles whereby a minimum of two charging points are required in this instance to comply with Part E1.6.1. This has also been conditioned accordingly.

End of trip facilities have been included in the design which is considered satisfactory.

Accessible Parking

With respect to accessible parking the following summary was provided by Council's Traffic Engineer.

Table 3: Accessible Parking Provision

Class	Quantity	BCA Requirement	BCA Required Parking
Class 6*	20 spaces	1 space for every 50 car parking spaces or part thereof	0.4 (0)
Class 7a*	209 spaces	1 space for every 100 car parking spaces or part thereof	2.1 (2)
Total required			2

*Note: Class 6 building is a shop or other building for the sale of goods by retail or the supply of services direct to the public.

*Note: Class 7a building is a car park.

A total of three accessible spaces are proposed which achieves compliance with the minimum requirements.

Small Car Parking

In accordance with Part E1.9.6 of the Woollahra DCP 2015, small car parking spaces are permitted within public car parks, however, must comprise less than 5% of the total number of parking spaces. A maximum of 12 small parking spaces are permitted with 5 proposed. Compliance is achieved.

Electric Vehicle Charging

In accordance with Part E1.11 of the Woollahra DCP 2015, the proposal is to accommodate a minimum of 23 spaces with a 'Level 2' electrical vehicle charging point. A total of 39 spaces with EV charging points are proposed which achieves compliance.

Traffic Generation

The retail component of the proposal is set to generate an additional 25.4 trips per day in the weekday peak hour period with a total increase of 131.5 trips across the day.

The community land use component would generate an additional 35.5 vehicle trips per day.

The public car park component will result in 373.9 trips during the weekday peak hour period.

Having considered the submitted documentation along with SIDRA Analysis, it has been concluded that there will not be a significant change to traffic performance in the area.

Separately it was resolved by Council's Local Traffic Committee to install timed 'No Stopping' restrictions on both Dover Road and Newcastle Street to assist in improving access and mitigating congestion.

The signalised intersections to New South Head Road pertain to a State Road under the care and control of Transport for NSW noting that no objection was raised in their referral response in terms of future traffic implications.

Access, Loading Bay & Pedestrian Safety

No concerns have been raised in this regard by Council's Traffic Engineer and the proposal is supported in the circumstances of this case.

For a complete Traffic and Parking assessment reference should be made to Council's Traffic Engineering Referral Responses included as **Annexure 4**.

Subject to the recommended conditions, the proposal is acceptable with regard to Chapter E1 of the Woollahra DCP 2015.

17.4 Chapter E2: Stormwater and Flood Risk Management

Council's Development and Drainage Engineers have reviewed the proposal and consider the proposal to be acceptable subject to the recommended conditions of consent. The proposal is therefore acceptable with regard to Chapter E2 of the Woollahra DCP 2015.

17.5 Chapter E3: Tree Management

Council's Tree and Landscape Officer has determined that the proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the recommended conditions of consent. The proposal is acceptable with regard to Chapter E3 of the Woollahra DCP 2015.

17.6 Chapter E5: Waste Management

The requirements to comply with a Site Waste Minimisation and Management Plan (SWMMP) are enforced by Conditions E.20 and E.21 which is considered satisfactory.

Part E5.2: Demolition and Construction Phase

The potential impacts associated with the demolition and construction phase were raised as concerns in the public submissions. To assist in managing the associated impacts the requirement of a Construction Management Plan has been included as **Condition D.6**.

The proposal is acceptable with regard to Part E5.2 of the Woollahra DCP 2015.

Part E5.3: On-Site Waste and Recycling Controls for all Development

	Proposed	Control	Complies
Garbage and Recycling Areas	Separated	Separated	Yes
Location of Garbage and Recycling Areas	Behind Building Line and in non-habitable areas.	Behind Building Line or Non-Habitable Areas	Yes

The proposal is acceptable with regard to Part E5.3 of the Woollahra DCP 2015.

Part E5.6: Commercial and Non-Residential Developments

The proposal is acceptable with regard to Part E5.3 of the Woollahra DCP 2015.

17.7 Chapter E6: Sustainability

The proposal is accompanied by a Section J Energy Efficiency – Part J1 Statement of Compliance including an electric vehicle charging statement and is therefore considered acceptable with regard to Chapter E6 of the Woollahra DCP 2015.

Furthermore, it should be noted that a referral response was received from Council's Environment and Suitability Officer with some of the recommendations having been incorporated into the recommended conditions of consent. In some instances some of the recommendations were not considered conducive to the proposed development and context and therefore have not been

adopted. Reference should also be made to **Annexure 11** for a complete assessment in this regard.

18. DRAFT AMENDMENTS TO POLICIES AND PLANS

None that are relevant.

19. CONTRIBUTION PLANS

Contributions plans allow funds to be raised from approved development applications. The funds are used for the intended provision, extension or augmentation of public facilities, or towards recouping the cost of facilities that have been provided, extended or augmented. These contributions relate to sections 7.11 and 7.12 of the EP&A Act, formerly known as section 94 and section 94A.

19.1 Section 7.12 Contributions Plan

In determining whether it is appropriate in this instance to impose developer contributions on the subject development, this assessment has considered Section 7.12 of the Act as well as the following practice notes issued by the NSW Department of Planning & Environment:

- *Section 7.12 fixed development consent levies Practice Note – February 2021*
- *Development Contributions Practice Note – July 2005*

In this instance, it is recommended that development contributions *not* be imposed for the following reasons:

- The payer and recipient of the development contributions would be the same body;
- The practice notes clearly detail that Section 7.12 authorises but does not require consent authorities to impose development contributions;
- The subject development comprises public infrastructure designed to meet an identified need within the local area;
- Future development applications for the retail and/or community facilities may be subjected to development contributions if appropriate.

20. APPLICABLE ACTS/REGULATIONS

20.1 Environmental Planning and Assessment Regulation 2021

Clause 61(1) Additional matters that consent authority must consider

Clause 61(1) of the EPA Regulation 2021 requires Council to take into consideration Australian Standard AS 2601-2001: The demolition of structures. This requirement is addressed by Council's standard conditions.

Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2023

The Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2023 commenced on 3 April 2023. Clause 13 of Schedule 6 of the Regulation states as follows:

An amendment made by the Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2023 does not apply to a development application made but not finally determined before the commencement of the amendment.

As the application was lodged on 22 December 2022, the provisions of Clause 66A of the Regulations are not strictly applicable to the subject application. Nonetheless they are considered below as follows:

66A Council-related development applications—the Act, s 4.16(11)

(1) A council-related development application must not be determined by the consent authority unless—

- (a) the council has adopted a conflict of interest policy, and*
- (b) the council considers the policy in determining the application.*

(2) In this section—

conflict of interest policy means a policy that—

- (a) specifies how a council will manage conflicts of interest that may arise in connection with council-related development applications because the council is the consent authority, and*
- (b) complies with the Council-related Development Application Conflict of Interest Guidelines published by the Department and available on the NSW planning portal, as in force from time to time.*

A conflict of interest statement has been developed for the subject application as Woollahra Council is both the owner of the land and the proponent for the development. The statement requires that a peer review of the assessment report is to be undertaken by an external planning consultant.

This assessment report has been reviewed by Gyde Consulting Pty Ltd (Gyde) who were appointed by Woollahra Municipal Council to undertake an independent peer review of the assessment report and recommendation being made to the Sydney Eastern District Planning Panel.

As such, the conflict of interest management statement has been implemented.

21. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report, or are considered to be satisfactory and not warrant further consideration.

22. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

23. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

24. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 4.15.

25. DISCLOSURE STATEMENTS

There have been no disclosure statements regarding political donations or gifts made to any Councillor or to any council employee associated with this development application by the Applicant or any person who made a submission.

26. RECOMMENDATION: PURSUANT TO SECTION 4.16 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THAT the Sydney Eastern City Planning Panel, exercising the functions of Council, as the consent authority, is of the opinion that the written request from the applicant under Part 4.6 of the Woollahra Local Environmental Plan 2014 to the height of buildings development standard under Clause 4.3 of Woollahra LEP 2014 has adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and the zone. The Panel assumes the concurrence of the Secretary, Department of Planning, Industry and Environment.

AND

THAT the Sydney Eastern City Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 598/2022/1 for Demolition of existing at-grade car park and encroaching structures and construction of: A mixed use building with frontage to Wilberforce Avenue incorporating a new multi-storey car park, ground floor retail premises and community centre and public amenities across multiple levels; Single storey ground floor retail building with frontage to Dover Road; and public domain and landscaping works on land at 17 Dover Road ROSE BAY, subject to the following conditions:

DEFERRED COMMENCEMENT CONDITIONS OF CONSENT

1. Deferred Commencement - (section 4.16(3) of the Act, clause 76 of the Regulation)

Development consent is granted subject that this consent is not to operate until the Applicant satisfies the Council, in accordance with the *Regulations*, as to all matters specified in this condition:

- a) The proponent shall take the following measures with regard to the property at No. 18 Newcastle Street, Rose Bay:
 - i. Contact the owner and make an offer to the owner(s) to remove any existing glazing on the first floor north-eastern elevation where located along the boundary and replace this with a solid wall, introduce new glazing at the first floor to ensure BCA compliance and reasonable amenity in the form of natural light and ventilation, for the first floor residential use. The development consent for which this report has been prepared for does not authorise these mitigation works.
 - ii. If the Owner accepts the offer, written confirmation of such is to be provided to the consent authority.
 - iii. If the Owner requests in the alternative to install the mitigation works using their own resources, then the Proponent must pay to the Owner the cost of the mitigation works the Proponent would have incurred to comply with the requirements of this condition. Written confirmation of this payment is to be provided to the consent authority.
 - iv. If the Owner refuses the offer by the Proponent to install the mitigation works or to alternatively accept payment as provided for in this condition, then the Proponent is deemed to have satisfied the requirements of this condition in respect of that Owner. Written confirmation of such from the Proponent and Owner is to be provided to the consent authority.
 - v. If the Owner does not respond within 6 months of making the offer, the Proponent is deemed to have satisfied the requirements of this condition.

Period within which evidence must be produced

The Applicant must produce evidence to Council sufficient enough to enable it to be satisfied as to those matters above within 365 days (1 year) of the date of determination.

Clause 76(3) of the *Regulation*:

(3) A consent authority may specify the period within which the applicant must produce sufficient evidence to the consent authority to enable it to be satisfied about the relevant matters.

If the evidence is not produced within 730 days (2 years) of the date of determination this deferred commencement consent is of no effect, the consent does not operate and no Construction Certificate can be issued. No development can lawfully occur under this consent unless it operates.

Note: Nothing in the *Act* prevents a person from doing such things as may be necessary to comply with this condition. (See section 4.16(3) of the *Act*)

This consent does not operate until Council has acknowledged compliance with this condition in writing.

Note: Implementing the development prior to written confirmation of compliance may result in legal proceedings. If such proceedings are required Council will seek all costs associated with such proceedings as well as any penalty or order that the Court may impose. No *Construction Certificate* can be issued until all conditions including this condition required to be satisfied prior to the issue of any *Construction Certificate* have been satisfied.
Standard Condition: A3 (Autotext AA3)

OTHER CONDITIONS OF CONSENT

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the *Act*") and the provisions of the *Environmental Planning and Assessment Regulation 2000* ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

Standard Condition: A1 (Autotext AA1)

A.2 Definitions

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

Applicant means the applicant for this consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs" published by the Southern Sydney Regional Organisation of Councils).

Stormwater drainage system means all works, facilities and documentation relating to:

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

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

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

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.

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.

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

Standard Condition: A2 (Autotext AA2)

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 as submitted by the Applicant 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/Drawn	Date(s)
DA0000 (Rev 2)	Cover Sheet	Alan Jack + Cottier	15.08.2023
DA1001 (Rev 1)	Site Plan		10.12.2022
DA1101 (Rev 1)	Demolition Plan		10.12.2022
DA2000 (Rev 3)	Ground Floor Plan		15.08.2023
DA2001 (Rev 2)	Basement Plan		15.08.2023
DA2101 (Rev 2)	Level 1 Plans		15.08.2023
DA2102 (Rev 2)	Level 2 Plans		15.08.2023
DA2103 (Rev 2)	Level 3 Plans		15.08.2023
DA3101 (Rev 2)	Elevations		15.08.2023
DA3201 (Rev 2)	Sections		15.08.2023
220595-Wilberforce Car Park-Revised Supplementary Noise Impact Assessment-Revision 4	Revised Supplementary Noise Impact Assessment	Pulse White Noise Acoustics	15 August 2023
Report No. 23921A	Preliminary Contamination and Acid Sulfate Soils Assessment	Ideal Geotech Pty	October 2016
Report No. 23921B	Additional Information for Site Contamination	Ideal Geotech Pty (IdealCorp Pty Ltd)	22 February 2023
Report No. E23006RB-R01F-R0	Preliminary Site Contamination Assessment	Geo-Environmental Engineering	17 April 2023
Report No. E23006RB-R02F-R0	Detailed Site Contamination Assessment	Geo-Environmental Engineering	02 June 2023
Job No. 201270, Revision P8	Stormwater Management Plan	TTW	22/09/2023
201270	Civil Stormwater Report	TTW	9 December 2022
201270	Stormwater Response to Council's Referral Response – Development Engineering	TTW	22 September 2023
Job No. 23921B	Geotechnical Statement	Ideal Geotech	January 2023
P2845_02 rev3	Geotechnical and Hydrogeological Report	Morrow	20 September 2023
Job No. 201270, Revision P4	Swept Path Analysis Plan	TTW	14/08/2023
L000 (Issue 4) L001 (Issue 2) L002 (Issue 3) L003 (Issue 4) L004 (Issue 4) L005 (Issue 4) L006 (Issue 5)	Landscape Plans	Oculus	13/12/2022 12/04/2022 13/12/2022 09/05/2023 13/12/2022 13/12/2022 13/12/2022

L101 (Issue 2)			12/04/2022
L200 (Issue 7)			10/05/2023
L201 (Issue 6)			10/05/2023
L202 (Issue 7)			10/05/2023
L701 (Issue 2)			12/04/2022
L702 (Issue 2)			12/04/2022
L703 (Issue 2)			12/04/2022
201270	Traffic Impact Assessment	TTW	6 December 2022
Drawing No.SK 39	Updated Swept Path Analysis for Waste Trucks	TTW	14 August 2023
Drawing No.SK 45	Updated Swept Path Analysis for Blind Aisle	TTW	14 August 2023

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should 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 plan.

Note: 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 (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5 (Autotext AA5)

A.4 Conditions of Concurrence – Transport for NSW

A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on New South Head Road during construction activities. A ROL can be obtained through

<https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

A.5 Tree Preservation & Approved Landscaping Works

All landscape works shall be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees shall be retained

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)
1	<i>Harpullia pendula</i> (Tulipwood)	Planting pit adjacent to driveway at Dover Street	7 x 7
2	<i>Lophostemon confertus</i> (Brush Box)	Road reserve in front of No.8 Wilberforce Avenue	2.5 x 1

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

b) The following trees on Council Land may be removed:

Council Ref No.	Species	Location	Dimension (metres)
3	<i>Lophostemon confertus</i> (Brush Box)	Road reserve adjacent to carpark in Wilberforce Avenue	3 x 2

4	<i>Lophostemon confertus</i> (Brush Box)	Road reserve adjacent to carpark in Wilberforce Avenue	5 x 2
5-10	<i>Syzygium paniculatum</i> (Magenta Cherry)	Adjacent to carpark masonry wall	8 x 5

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

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

A.6 Development Consent is Not Granted in Relation to these Matters

This approval does not give consent to the operation of the proposed retail premises or community facilities, or any site signage. A separate Development Consent or Complying Development Certificate, and certificates under section 6.4 of the *Act*, as appropriate, will need to be obtained prior to these uses commencing operation.

Standard Condition: A9 (Autotext AA9)

A.7 Acoustic Report – Implementation of Acoustic Controls & Strategies

All acoustic mitigation strategies, as detailed in the *Revised Supplementary Noise Impact Assessment: prepared by Pulse White Noise Acoustics – Report Reference: 220595-Wilberforce Car Park-Revised Supplementary Noise Impact Assessment-Revision 4 – 15 August 2023*, be implemented during the design and operational phase of the development.

A.8 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.

Note: 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.

Standard Condition: A8 (Autotext AA8)

A.9 No Underpinning Works

This development consent does NOT give approval to any works outside the boundaries of the subject site, including any underpinning works to any structures on adjoining properties without written approval from all affected properties.

A.10 General Terms of Approval – *Water Management Act 2000* (Department of Industry – Water)

The following general terms of approval have been imposed by the NSW Department of Industry – Water

Sections 89, 90 and 91 - Water use approval, water management work approval or activity approval under Part 3 of Chapter 3.

Dewatering

GT0115-00001 - Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For

clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.

GT0119-00001 - All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.

GT0120-00001 - The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.

GT0142-00001 - A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity.

GT0159-00001 - This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval.

GT0202-00001- Before any Construction Certificate is issued for any excavation under the development consent, the applicant must: (a) Apply to the department for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and (b) Notify the department of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity.

GT0203-00001 - If no water access licence is obtained for the first 3ML per year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) Record water taken for which the exemption is claimed; and (b) Record the take of water not later than 24 hours after water is taken; and (c) Make the record in the approved form; and (d) Keep the record for a period of 5 years; and (e) Give the record to the department, (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if the department directs the person in writing to give the record to the department on an earlier date, by that date.

GT0204-00001- Construction phase monitoring bore requirements: (a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by the department; and (b) The location and number of proposed monitoring bores must be submitted for agreement by the department with the application of water supply work approval; and (c) The monitoring bores must be installed and maintained as required by the water supply work approval; and (d) The monitoring bores must be protected from construction damage.

GT0205-00001 - Construction phase monitoring programme and content: (a) A monitoring programme must be submitted, for approval, to the department with the water supply work approval application. The monitoring programme must, unless agreed otherwise in writing by the department, include matters set out in any guideline published by the NSW Department of Planning, Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the monitoring programme must

include the following (unless otherwise agreed in writing by the department): (i) Pre-application measurements-the results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of an application for water supply work approval to the department; and (ii) Field measurements-include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; and (iii) Water quality-include a programme for water quality testing which includes testing for those analytes as required by the department; and (iv) Quality Assurance-Include details of quality assurance and control; and (v) Laboratory Assurance-include a requirement for the testing by National Association of Testing Authorities accredited laboratories. (b) The applicant must comply with the monitoring programme as approved by the department for the duration of the water supply work approval (Approved Monitoring Programme).

GT0206-00001 - Reporting arrangements: (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to the department; and (b) The completion report must, unless agreed otherwise in writing by the department, include matters set out in any guideline published by the NSW Department of Planning, Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by the department): (i) All results from the Approved Monitoring Programme; and (ii) Any other information required on the department completion report form as updated from time to time on the department website; and (c) The completion report must be submitted using the department Completion Report for Dewatering Work form.

GT0207-00001 - The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to the department to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment.

GT0208-00001 - Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by the department (Term of the dewatering approval).

GT0209-00001 - Construction phase monitoring requirements: (a) The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with the department; and (b) The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme); and (c) The applicant must submit all results from the Approved Monitoring Programme, to the department, as part of the Completion Report.

Note: These conditions have not been imposed by Council but are required to be incorporate as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent the more onerous requirement prevails.
Standard Condition: A17 (Autotext AA17)

B. Conditions which must be satisfied prior to the demolition of any building or construction

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" pursuant to section 6.6 of the *Act*.

In such circumstance all conditions in Part C and Part D of this consent must be satisfied prior to any demolition work. 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.

Standard Condition: B1 (Autotext BB1)

B.2 Identification of Hazardous Material

In accordance with Australian Standard AS2601: *The Demolition of Structures*, the Owner shall identify all hazardous substances located on the site including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per clause 1.6.1 of the Standard.

In this regard, **prior to the commencement of any work**, Council shall 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.

Note: This condition is imposed 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.

Standard Condition: B6

B.3 Public Road Assets Prior to Any Work/Demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the public road infrastructure adjacent to the development site.

The report must be submitted to Council **prior to the commencement of any work** and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. 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 work under this consent.

Note: If the Applicant or Owner fails to submit the asset condition report required by this condition and damage is occasioned to public assets adjoining 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

Standard Condition: B7

B.4 Skeletal Remains

If any skeletal remains suspected of being human are found during construction works, work must cease immediately and no further disturbance of the site must occur. The NSW Police and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified and details of the remains and their precise location are to be provided.

Standard Condition: B9

B.5 Aboriginal Objects – Unexpected Findings

If unexpected Aboriginal objects or bones are found during any activity associated with this consent, 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 LALC on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Not recommence any work at the particular location unless authorised in writing by Heritage NSW. Additional assessment and approval pursuant to 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.

Note: The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: 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.

Standard Condition: B10 (Autotext BB10)

B.6 Aboriginal Heritage Due Diligence Responsibilities

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.

Standard Condition: B12 (Autotext BB12)

B.7 Aboriginal Heritage Induction

- 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 being submitted to Council and the Principal Certifier.

Standard Condition: B13 (Autotext BB13)

B.8 Establishment of Tree Protection Zone (TPZ) Fence

Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970-2009). Tree protection zones must also comply with the following requirements;

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
2	<i>Lophostemon confertus</i> (Brush Box)	Road reserve in front of No.8 Wilberforce Avenue	1.5

Note: Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.

- c) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No.	Species
1	<i>Harpullia pendula</i> (Tulipwood)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- e) 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.
- g) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- h) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- i) The project arborist shall provide written certification of compliance with the above condition.

B.9 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Approved works
1	<i>Harpullia pendula</i> (Tulipwood)	Crossover & footpath paving

The project arborist shall provide written certification of compliance with the above condition.

B.10 Demolition and Construction Management Plan

Any Demolition and Construction Management Plan shall be reviewed and certified by the Project Arborist that appropriate tree protection measures have been accounted for. The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

- Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;
- Site construction access, temporary crossings and movement corridors on the site defined;
- Contractors car parking;
- Phasing of construction works;
- The space needed for all foundation excavations and construction works;
- All changes in ground level;
- Space for site sheds and other temporary structures such as toilets;
- Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.

B.11 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall 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 shall be kept on site by the Site Foreman.

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<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

	<p>tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.</p> <ul style="list-style-type: none"> The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.
Prior to any occupation or use of the building	<ul style="list-style-type: none"> Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> The project arborist shall supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

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

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

C. Conditions which must be satisfied prior to the issue of any Construction Certificate

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

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the following amendments:

- a) Amended Landscape Plan. The submitted landscape plan shall be amended to include the following prior to the issue of the Construction Certificate:
 - Proposed planting table on Drawing No. L003 Issue 04, shall be amended for consistency with:
 - a) Drawing Nos. L200 & 202 Issue 07 and Drawing No. L201 Issue 06; and
 - b) Conditions of Consent.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.
Standard Condition: C4 (Autotext CC4)

C.2 Payment of Long Service Levy, Security, Contributions and Fees

The Certifying Authority must not issue any certificates under section 6.4 of the *Act* 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
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	
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	\$244,442	No	T115
Infrastructure Works Bond -completing any public work required in connection with the consent.	\$679,341	No	T113
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road/Footpath Infrastructure Inspection Fee	\$645	No	
Security Administration Fee	\$215	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$924,643.00 plus any relevant indexed amounts and long service levy		

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 Certifying Authority 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.

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 the issue of the Construction Certificate, 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.

Standard Condition: C5

C.3 Road and Public Domain Works

A separate application under section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council for infrastructure works prior to the issuing of any Construction Certificate.

The following infrastructure works must be carried out at the Applicant's expense:

Encroachment Works:

- a) The encroachments by the existing building (including landscaping) over Council's road reserve on Cambridge Street requires formalisation.
Structural Engineering drawings for the encroaching structures must be provided and accompanied with a certificate by a suitably qualified engineer, certifying that all encroachments are structurally sound. All new works and existing encroachments, including landscaping, must be clearly depicted on plans including a detailed survey plan.

Drainage Works:

- b) Other than amended by Council's Asset Engineer, the discharge of stormwater by direct connection to Council's existing belowground drainage system on Dover Road and New Castle Street and Council's relocated and redesigned belowground drainage system on Wilberforce Avenue.

As such, Council's existing belowground drainage system on Wilberforce Avenue must be relocated and redesigned as depicted on the referenced Stormwater Management Plan or as amended by Council's Asset Engineer. The line requires three (3) Kerb Inlet Pits (KIPs) over the new line, two (Pits 5 and 6) as shown on Stormwater Management Plans and an additional third KIP (not shown on plans) placed adjacent to the proposed Pedestrian Crossing with 0.5m clearance. An additional Standard Junction Pit (Pit 4) is also required over the new line fronting the site as demonstrated on the Stormwater Management Plan. A Standard Junction Pit (Pit 1) is to be placed over Council's existing line on New Castle Avenue.

Note: The Standard Junction Pit must be in accordance with Council's standard drawing DR3 and the KIPs must be standard double grated gully pits with a 1.8m kerb lintel and in accordance with Council's standard drawing DR1. The KIPs must be at least 0.5 metre away from any vehicular crossing. The grates must be Class D "bicycle friendly" type.

Note: The proposed Council's underground system must be made by using minimum Class 4, 375mm RRJ steel reinforced concrete pipe (RCP).

Longitudinal sections (scale 1:100) showing the extension of Council's underground system must be submitted with all stormwater pipes having a minimum 1% gradient. All design details and location of all existing public utility services must be included in the longitudinal section.

Road and Footpath Works:

- a) The removal of the any redundant pram ramps and the area reinstated with kerb and gutter.

- b) Provision of a new Pedestrian Crossing fronting the site on Wilberforce Avenue in accordance with Council's Specifications. Council's Traffic Section to be consulted.
- c) The redundant Pram Ramps at the corner of Wilberforce Avenue and New Castle Street must be removed other than amended by Council's Asset Engineer.
- d) Removal and replacement of all cracked or damaged footpath and kerb and gutter for the full width of the property on all road frontages in accordance with Council's standard drawing RF3.
- e) Removal of all driveway crossings and kerb laybacks which will be no longer required.
- f) Reinstatement of footpath, kerb and gutter to match existing.
- g) 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.

Pedestrian Facility Upgrade Works

The developer must liaise with Council's Traffic and Transport Team, and accordingly develop, fund and install pedestrian facilities near the site, in accordance with Council's Draft Active Transport Plan, to reduce vehicle speed and improve pedestrian safety in the vicinity, to the satisfaction of the Council's Engineering Services Department, including:

- a) Removal of the existing at-grade pedestrian crossing and associated signage and line markings at the intersection of Wilberforce Avenue and Newcastle Street, Rose Bay and installation of a raised pedestrian crossing in Wilberforce Avenue, Rose Bay, in line with the pedestrian entry in front of the community centre;
- b) Removal of the existing concrete median island and associated signage and line markings in Dover Road, south of Ian Street, Rose Bay, and installation of a raised pedestrian crossing at this location;
- c) Upgrade of the existing roundabout servicing Dover Road and Ian Street, Rose Bay, if required, to accommodate the new raised pedestrian crossing.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. 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 and Local Government Approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.

Note: See *section K. Advise*s of this consent titled *Roads Act Application*.
Standard Condition: C13 (Autotext CC13)

C.4 Provision for Energy Supplies

The Applicant must provide to the Certifying Authority a letter from Ausgrid setting out Ausgrid's requirements relative to the provision of electricity/gas supply to the development.

Any required electricity pillar and/or substation must be located within the boundaries of the site. Where an electricity pillar and electricity substation required within the site 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. Council will assess the proposed location of the required electricity pillar and/or substation.

The Construction Certificate plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Ausgrid.

Where the electricity pillar and/or substation is required, the Construction Certificate plans and specifications must provide:

- a) A setback not less than 3m from the road boundary and dense landscaping of *local native plants* to screen the electricity pillar and/or substation from view within the streetscape.
- b) A setback not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3).
- c) A setback to and not within the drip line of any existing tree required to be retained.
- d) 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 2419.1-1994 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 pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and
- e) The Owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity pillar and/or substation to be established, if required. The size and location of the electricity pillar and/or 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.

Note: If the electricity pillar and/or substation is not located within the building its location, screening vegetation, 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 Certifying Authority prior to issue of the Construction Certificate. The Certifying Authority must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Note: This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Austgrid's satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.

Note: Where it is proposed to shield any booster connection or any building from any electricity pillar and/or substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 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 pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 4.55 of the *Act* to allow assessment under section 4.15 of the *Act*.

Note: Electricity pillar and/or Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 *Parking Facilities Set whether such driveways service the site or any adjoining land*.
Standard Condition: C21

C.5 Soil and Water Management Plan – Submission and Approval

The Principal Contractor or Owner-builder must submit to the Certifying Authority a soil and water management plan complying with:

- a) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; 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 Certifying Authority must be satisfied that the soil and water management plan complies with the publications above prior to issuing any Construction Certificate.

Note: This condition has been imposed to eliminate potential water pollution and dust nuisance.

Note: 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.

Note: The “*Do it Right On Site, Soil and Water Management for the Construction Industry*” publication can be downloaded from www.woollahra.nsw.gov.au, and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm.

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an Accredited Certifier may be satisfied as to this matter.

Standard Condition: C25

C.6 Professional Engineering Details

The Construction Certificate plans and specifications, clause 7 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, 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, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the Certifying Authority with the application for any Construction Certificate.

Note: This does not affect the right of the developer to seek staged Construction Certificates.

Standard Condition: C36

C.7 Engineer Certification

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 without written approval from all affected properties.

Any structural design is not to incorporate any underpinning works which encroaches outside the boundaries of the subject property without written approval from all affected properties.

C.8 Geotechnical and Hydrogeological Design, Certification and Monitoring

The Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation* must be accompanied by 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.

Note: the Geotechnical and Hydrogeological Report must be prepared to ensure compliance with every requirement within Council’s document Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports and Section E2.2.10 of Council’s Chapter E2 “Stormwater and Flood Risk Management” DCP.

Geotechnical reports must be prepared by an appropriately qualified Geotechnical Engineer who is NER registered with a minimum of 10 years practice in the geotechnical field in the last 15 years.

These details must be certified by a 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 foundation tanking 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 of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
- 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 2187.2-1993 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.

Standard Condition: C40 (Autotext: CC40)

C.9 Ground Anchors

This development consent does **NOT** give approval to any ground anchors encroaching onto adjoining private properties. Use of any Ground Anchors extending beyond site boundaries requires the approval of neighbouring private properties in writing. The use of permanent ground anchors under Council land is not permitted.

Temporary ground anchors 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.

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. Four weeks should be allowed for assessment.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

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

Note: Clause 20 of the *Roads (General) Regulation 2000* 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, and soil anchoring within or under any road.

Standard Condition: C41 (Autotext: CC41)

C.10 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan and specifications for all off-street car parking must be prepared by a suitably qualified person, demonstrating the following;

- a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a Level 2 electric vehicle charger point. The construction certificate plans are to:
 - Identify the power capacity to each car parking space.
 - identify the load management system on each level of parking such as a distribution board.
 - identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).
- b) A minimum of one Level 2 electric charger must be provided and Level 2 chargers must be provided to not less than 10% of all car parking spaces. The location of all electric vehicle chargers must be shown on the construction certificate plans.
- c) The certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

Note: The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are:

- a) Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and
- b) Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power

Standard Condition: C57 (Autotext CC57)

C.11 Tree Management Plan

The *Construction Certificate* plans and specifications shall show the following information:

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
- b) References to applicable tree management plan, arborists report or transplant method statement.

This plan shall be kept on site until the issue of the final occupation certificate.

C.12 Parking Facilities

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:2015 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2018 - *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) A 2m x 2.5m driveway sightline splay be provided, clear of obstruction, along both sides of the access driveway wholly within the property boundary;
- c) A continuous pedestrian path be provided at each car park level to guide pedestrians from parking space to the lift. Pavement marking should be installed to clearly demonstrate the pedestrian path;
- d) A minimum of two (2) charging points be provided for electric bicycles, as per E1.6.1 of Council's DCP;

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

The Certifying Authority 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.

Standard Condition: C45 (Autotext: CC45)

C.13 Relocation or Reconstruction of Council's Stormwater Drainage System

The developer must meet all costs of relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development. All engineering drawings (plan, sections and elevation views) and specifications of the new stormwater drainage system to be constructed are to be prepared by the Applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

Note: Four weeks should be allowed for assessment.

The design and construction of the works must be in accordance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management and "Specification for Road Works, Drainage and Miscellaneous Works" which include Council's standard drawings. These documents are available from Council's website www.woollahra.nsw.gov.au.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.
Standard Condition: C.48 (Autotext CC48)

C.14 Stormwater Management Plan

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Stormwater Management Plan for the site and prepared by a suitably qualified and experienced civil engineer. The Stormwater Management Plan must detail:

- a) General design in accordance with the Stormwater Management Plan, Job No. 201270, Revision P8, prepared by TTW, dated 22/09/2023, other than amended by this and other conditions;
- b) Other than amended by Council's Asset Engineer, the discharge of stormwater by direct connection to Council's existing belowground drainage system on Dover Road and New Castle Street and Council's relocated and redesigned belowground drainage system on Wilberforce Avenue.
As such, Council's existing belowground drainage system on Wilberforce Avenue must be relocated and redesigned as depicted on the referenced Stormwater Management Plan or as amended by Council's Asset Engineer. The line requires three (3) Kerb Inlet Pits (KIPs) over the new line, two (Pits 5 and 6) as shown on Stormwater Management Plans and an additional third KIP (not shown on plans) placed adjacent to the proposed Pedestrian Crossing with 0.5m clearance. An additional Standard Junction Pit (Pit 4) is also required over the new line fronting the site as demonstrated on the Stormwater

Management Plan. A Standard Junction Pit (Pit 1) is to be placed over Council's existing line on New Castle Avenue.

Note: The Standard Junction Pit must be in accordance with Council's standard drawing DR3 and the KIPs must be standard double grated gully pits with a 1.8m kerb lintel and in accordance with Council's standard drawing DR1. The KIPs must be at least 0.5 metre away from any vehicular crossing. The grates must be Class D "bicycle friendly" type.

Note: The proposed Council's underground system must be made by using minimum Class 4, 375mm RRJ steel reinforced concrete pipe (RCP).

Longitudinal sections (scale 1:100) showing the extension of Council's underground system must be submitted with all stormwater pipes having a minimum 1% gradient. All design details and location of all existing public utility services must be included in the longitudinal section.

- c) The location of the existing Stormwater Drainage System including all pipes, inspection openings, surface drains, pits and their discharge location,
- d) Any remedial works required to upgrade the existing Stormwater Drainage System crossing the footpath and any new kerb outlets,
- e) Any new Stormwater Drainage Systems complying with the BCA,
- f) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- g) Compliance with the objectives and performance requirements of the BCA,
- h) Any rainwater tank (see Note below) required by BASIX commitments including Their overflow connection to the Stormwater Drainage System,
- i) General compliance with Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
- j) Provision of Water Treatment/Quality Systems and Rain Gardens with the minimum area determined by a study completed by a suitably qualified practitioner in accordance with Council's Chapter E2 "Stormwater and Flood Risk Management" DCP OR with a minimum area of 24m².

All section details must provide all relevant levels, including pipe inverts, top of water levels and dimensions.

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 Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof.

The layout plan must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of the Rain Gardens and Stormwater Treatment Systems,
- 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 Council's drainage infrastructure, and
- f) Overland flow paths over impervious areas.

Stormwater Management Systems

The Systems utilised within the site must address:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed retention storage,
- c) Diameter of the outlet to the proposed retention storage basin,
- d) Plans, elevations and sections showing the retention 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 System, and
- h) Non-removable fixing details for Orifice plates where used.

Copies of certificates of title

- a) Showing the creation of private easements to drain water by gravity, if required.

Subsoil drainage

The subsoil drainage is to address:

- a) Subsoil drainage details,
- b) Clean out points, and
- c) Discharge point.

Where any new *Stormwater Drainage System* crosses the footpath area within any road, 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* dated February 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"*.
Standard Condition: C.51 (Autotext CC51)

C.15 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a) A permanent flood risk management plan must be installed in a prominent area of the carpark.
- b) Permanent brass plaques must be fixed at prominent locations in the outdoor area indicating the 1% AEP flood level.
- c) The Wilberforce Avenue entry terrace area and surrounding streetscape must be designed so that it does not adversely affect upstream flood levels by an engineer experienced in flood mitigation.
- d) The proposed non habitable floor levels near the Wilberforce Avenue must be set at or above the flood planning level of 6.15m AHD.
- e) The proposed non habitable floor levels near Dover Road must be set at or above the flood planning level of 7.05m AHD.
- f) The vehicle entry off Dover Road must be protected by a physical threshold set at or above the flood planning level of 7.10m AHD.
- g) The proposed below ground car park entry must be protected by a physical threshold set at or above the flood planning level of 6.10m AHD.
- h) Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) must be installed in the car parking area.
- i) Flood compatible materials must be used for all flood exposed construction.
- j) All flood exposed electrical wiring and equipment must be waterproofed.
- k) All flood protection measures must 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” DCP.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, 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.
Standard Condition C.54 (autotext CC54)

C.16 Acoustic Assessment – Mechanical Plant Services and Equipment

A full and detailed acoustic assessment, with fully documented acoustic treatments and/or strategies must be undertaken at the detailed design phase of the development.

Compliance Testing, following construction and installation of the mechanical plant services and equipment be undertaken by an acoustic engineer, with results forwarded to Council demonstrating compliance, or otherwise, that noise emissions comply with the relevant Project Noise Trigger levels detailed in the Revised Supplementary Noise Impact Assessment (PWNA 15 August 2023).

C.17 Aboriginal Cultural Heritage Assessment

- a) As per the recommendations of the Aboriginal Heritage Impact Assessment (AHIA), and due to the coastal nature of the study area with the potential to contain midden material and/or burials, test excavation under the Code of Practice, will not be possible. In this instance, any Aboriginal archaeological test excavation at the study area requires approval under an Aboriginal Heritage Impact Permit (AHIP) issued under s.90 of the National Parks and Wildlife Act 1974. The program of Aboriginal archaeological testing is to be done in association with the Registered Aboriginal Parties (RAPs) and is to be undertaken prior to bulk excavation and construction of the underground car park and in all areas where the natural ground surface will be disturbed. The Applicant must satisfy the terms and conditions of the issued AHIP before the proposed works for the development can commence.
- b) The AHIP is to inform the Aboriginal Cultural Heritage Assessment (ACHA), which is to be completed to investigate, assess and manage both tangible and intangible Aboriginal cultural heritage resources within the study area. This further assessment must be completed in accordance with relevant Heritage NSW statutory guidelines. The ACHA is to include consultation with relevant Aboriginal stakeholders and undertaken in accordance with Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010.
- c) Any conditions and management recommendations resulting from the ACHA are to be incorporated into the development design and implemented during works.

D. Conditions which must be satisfied prior to the commencement of any development work

D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

For the purposes of 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 2004*, 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.

Note: 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.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: D1 (Autotext DD1)

D.2 Dilapidation Reports for Existing Buildings

Dilapidation surveys and dilapidation reports must be conducted and prepared by a *professional engineer* (structural) 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. 8 Wilberforce Avenue
- b) No. 18 Newcastle Street
- c) No. 7-13 Dover Road
- d) No. 15 Dover Road
- e) No. 19-21 Dover Road

The dilapidation reports must be completed and submitted to the *Certifying Authority* for approval. An approved copy of the reports must be submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by Section 6.6(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out.
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land.

Note: Also refer to the Dilapidation Report Advising for more information regarding this condition
Standard Condition: D4 (Autotext DD4)

D.3 Dilapidation Reports for Public Infrastructure

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demolition), the Principal Contractor must submit a

dilapidation report, prepared by a professional engineer, on Council's infrastructure within and near the development site.

The dilapidation report must be submitted to Council prior to the commencement of any work and include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) photographs showing any existing damage to retaining walls within the footway or road,
- e) closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- f) the full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in Word. 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 work. 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 work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining 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.
Standard Condition: D5 (Autotext DD5)

D.4 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.
Standard Condition: D6 (Autotext DD6)

D.5 Piezometers for the Monitoring of Ground Water Levels

The Principal Contractor must provide minimum 2 piezometers within the excavation area and a further minimum 2 piezometers around the perimeter of the wall. 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 *Final 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).

Standard Condition: D7 (Autotext DD7)

D.6 Construction Management Plan

As a result of the site constraints, limited space and access a Construction Management Plan (CMP) is to be submitted to, and approved by Council. Also, due to lack of on-street parking a Work Zone may be required during construction.

The Principal Contractor or Owner must submit an application for approval of the CMP by Council's Traffic Engineer and pay all fees associated with the application.

The CMP 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 consultation with local community stakeholders and schools
- b) 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.
- c) Identify local traffic routes to be used by construction vehicles.
- d) Identify ways to manage construction works to address impacts on local traffic routes.
- e) 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.
- f) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- g) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
- h) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- i) Provide for the standing of vehicles during construction.
- j) 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.).
- k) 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.).
- l) 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.
- m) 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 Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
- n) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
 - o) 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.)
 - p) Show the location of any proposed excavation and estimated volumes.
 - q) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work shall 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.
 - r) 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).

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.
Standard Condition: D9 (Autotext: DD9)

D.7 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

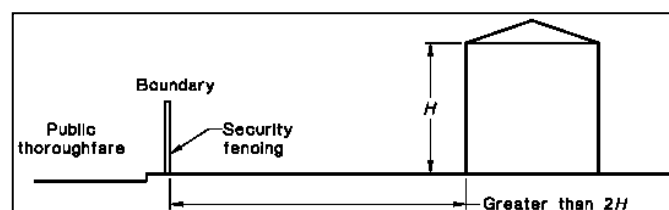
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.
Standard Condition: D10 (Autotext DD10)

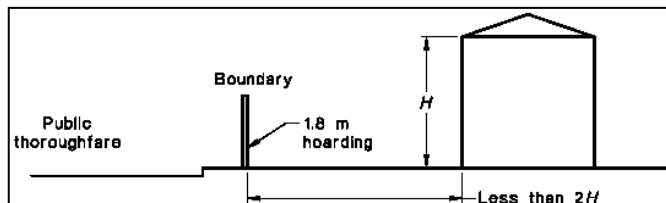
D.8 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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.



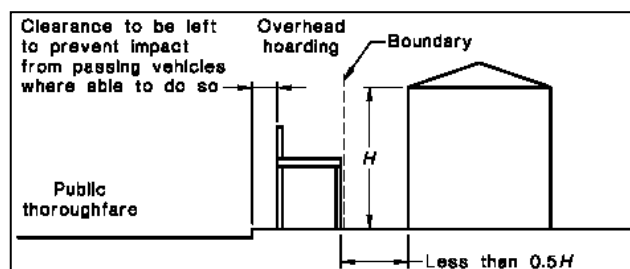
Type B Hoarding

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:

- the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- 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:

- extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- have a clear height above the footpath of not less than 2.1m,
- 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
- together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The Principal Contractor or Owner-builder must ensure that overhead protective structures are 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'

The Principal Contractor or Owner-builder must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

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 Principal Contractor or Owner-builder. The Creative Hoardings Policy can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: The Principal Contractor or Owner must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the *Roads Act 1993* will be subject to its own conditions and fees.

Note: 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 B2 Local Centre, or B4 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:
 - i. the capital investment value of the work to which the hoarding relates is less than \$1 million
OR
 - ii. the land is zoned R2 Low Density Residential
OR
 - iii. the land is zoned R3 Medium Density Residential and the hoarding located in a lane or street that does not have through traffic (eg 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 or for more information contact Council's Cultural Development Team.

Standard Condition: D11 (Autotext DD11)

D.9 Site Signs

The Principal Contractor or Owner-builder must ensure that the sign/s required by clauses 98A and 227A of the *Regulation* is/are erected and maintained at all times.

Clause 98A 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 227A of the *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.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

Note: 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 98A and clause 227A of the *Regulation*.

Standard Condition: D12 (Autotext DD12)

D.10 Toilet Facilities

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.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with SafeWork NSW requirements.

Standard Condition: D13 (Autotext DD13)

D.11 Erosion and Sediment Controls – Installation

The Principal Contractor or Owner-builder must install and maintain water pollution, erosion and sedimentation controls 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*” published by the Southern Sydney Regional Organisation of Councils, 2001; 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.

Note: 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.

Note: The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication can be downloaded from www.woollahra.nsw.gov.au and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm

Note: 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.

Note: 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.
Standard Condition: D14 (Autotext DD14)

D.12 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

The erection of the building in accordance with this development consent must not be commenced 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.

Note: *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.

Note: *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.

Note: 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.

Note: Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: 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*.
Standard Condition: D15 (Autotext DD15)

D.13 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - In the case of work for which a Principal Contractor is required to be appointed:
 - the name and licence number of the Principal Contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - In the case of work to be done by an Owner-builder:
 - the name of the Owner-builder, and
 - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) 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.
Standard Condition: D17 (Autotext DD17)

D.14 Public Art

A complete Public Art Plan is to be submitted to the Woollahra Council Public Art Coordinator for, but not limited to, the north-western façade of the built form. This will then be forwarded to the Council's Public Art Panel for assessment and recommendation. The Public Art plan is to be prepared in accordance with the Woollahra Council Public Art Policy Adopted on 12 October 2009 and last reviewed on July 2019 and the Woollahra Council Public Art Guidelines for Developers. This should include but not be limited to:

- the proposed final artworks for Council's Public Art Panel to assess and provide recommendation on
- the timeline for the public artwork

- a detailed and itemised budget breakdown, corresponding to the Public Art Guidelines assessment criteria, including 6.5: 'Value of public art' (at least 1% of CIV)"

Written confirmation from either the Woollahra Council Public Art Coordinator or the Woollahra Council's Public Art Panel is to be issued confirming that the requirements of this condition have been satisfied.

E. Conditions which must be satisfied during any development work

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

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 any building work:

- a) that the 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 clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, 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.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: E1 (Autotext EE1)

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

Standard Condition: E2 (Autotext EE2)

E.3 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier or Council on request.

Note: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.
Standard Condition: E3 (Autotext EE3)

E.4 Requirement to Notify about New Evidence

Any new information which comes to light during remediation, demolition or construction works 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.

Standard Condition: E4 (Autotext EE4)

E.5 Critical Stage Inspections

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* 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 *Regulations* for the purposes of section 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

Note: The PC may require inspections beyond mandatory critical stage inspections in order that the PC be satisfied that work is proceeding in accordance with this consent.

Note: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

Standard Condition: E5 (Autotext EE5)

E.6 Hours of Work –Amenity of the Neighbourhood

- 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:
 - (i) piling,
 - (ii) piercing,
 - (iii) rock or concrete cutting, boring or drilling,
 - (iv) rock breaking,
 - (v) rock sawing,
 - (vi) jack hammering, or
 - (vii) 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 break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: 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.

Note: Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RMS and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: 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*.

Note: NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nqlg.htm
Standard Condition: E6 (Autotext EE6)

E.7 Public Footpaths – Safety, Access and Maintenance

The Principal Contractor or Owner-builder and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching 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) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect heritage listed street name inlays in the footpath which are not to be 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.

Note: Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* 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.

Note: 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.

Note: 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.
- Standard Condition: E7 (Autotext EE7)

E.8 Maintenance of Environmental Controls

The Principal Contractor or Owner-builder must ensure that the following monitoring, measures and controls are maintained:

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

Standard Condition: E11

E.9 Compliance with Geotechnical / Hydrogeological Monitoring Program

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 hydrogeological measures by the professional engineer, and
- c) the contingency plan.

Note: 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.

Standard Condition: E12 (Autotext EE12)

E.10 Support of Adjoining Land and Buildings

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.

Note: 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:

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the *Access to Neighbouring Land Act 2000*, or
- c. an easement under section 88K of the *Conveyancing Act 1919*, or
- d. an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

Note: 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).

Note: Clause 20 of the *Roads Regulation 2008* 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.

Note: 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*.

Standard Condition: E13 (Autotext EE13)

E.11 Vibration Monitoring

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*.

Note: *professional engineer* has the same mean as in clause A1.1 of the BCA.

Note: *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...."

Note: *supported land* has the same meaning as in the *Conveyancing Act 1919*.

Standard Condition: E14 (Autotext EE14)

E.12 Erosion and Sediment Controls – Maintenance

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls 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*" published by the Southern Sydney Regional Organisation of Councils, 2001, 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.



Note: 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.

Note: 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.

Standard Condition: E15 (Autotext EE15)

E.13 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the *Roads Act 1993*.
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or 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.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

Standard Condition: E17 (Autotext EE17)

E.14 Site Cranes

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 Principal Contractor or Owner-builder have the relevant approval 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.

Note: Where it is proposed to swing a crane over a public place the Principal Contractor or Owner-builder must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain 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. 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.

Standard Condition: E19 (Autotext EE19)

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

The Principal Contractor or Owner-builder must ensure that a registered surveyor carries out check surveys and provides 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.

The Principal Contractor or Owner-builder must ensure that 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 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.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

Standard Condition: E20 (Autotext EE20)

E.16 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that 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.

Note: 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.

Standard Condition: E21 (Autotext EE21)

E.17 Prohibition of Burning

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.

Note: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

Standard Condition: E22 (Autotext EE22)

E.18 Dust Mitigation

Dust mitigation must be implemented in accordance with “*Dust Control - Do it right on site*” 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.

Note: “*Dust Control - Do it right on site*” can be downloaded from Council’s website www.woollahra.nsw.gov.au or obtained from Council’s office.

Note: 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.

Note: 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.

Standard Condition: E23 (Autotext EE23)

E.19 Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

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 Owner, Principal Contractor or Owner-builder 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.

Note: A copy of Council's *Specification for Roadworks, Drainage and Miscellaneous Works* can be downloaded from Council's website www.woollahra.nsw.gov.au

Standard Condition: E24 (Autotext EE24)

E.20 Site Waste Minimisation and Management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) the provisions of a 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) provide separate collection bins and/or areas for the storage of residual waste,
- d) clearly 'signpost' the purpose and content of the bins and/or storage areas,
- e) implement measures to prevent damage by the elements, odour, health risks and windborne litter, and
- f) minimise site disturbance, limiting unnecessary excavation.

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.

Note: Materials that have an existing reuse or recycling market should 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.

Standard Condition: E31 (Autotext EE31)

E.21 Site Waste Minimisation and Management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) the provisions of a Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,
- c) consider organising to return excess materials to the supplier or manufacturer,

- d) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- e) clearly 'signpost' the purpose and content of the storage areas,
- f) arrange contractors for the transport, processing and disposal of waste and recycling and ensure that all contractors are aware of the legal requirements for disposing of waste,
- g) promote separate collection bins or areas for the storage of residual waste,
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
- i) minimise site disturbance and limit unnecessary excavation,
- j) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
- k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

Standard Condition: E32 (Autotext EE32)

E.22 Asbestos Removal

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 shall be left in any public place.

Note: This condition is imposed to protect the health and safety of persons working on the site and the public

Standard Condition: E39

E.23 Classification of Hazardous Waste

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, Part 1: Classifying Waste, 2014*.

Note: This condition is imposed 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.

Standard Condition: E40

E.24 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed 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.
Standard Condition: E41

E.25 Asbestos Removal Signage

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 when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.
Standard Condition: E42

E.26 Notification of Asbestos Removal

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.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.
Standard Condition: E43

E.27 Tree Preservation

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 TPZ 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.

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

E.28 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in *deep soil landscaped area* and 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.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)
1 x <i>Lophostemon confertus</i> (Brush Box)	Public footpath on Wilberforce Avenue	200L
4 x <i>Angophora costata</i> (Sydney Pink Gum)	Public footpath on Wilberforce Avenue	200L
3 x <i>Livistona australis</i> (Cabbage Tree palm)	In front of Retail 2	200L
2 x <i>Brachychiton acerifolius</i> (Illawarra Flame tree)	Adjacent to Retail 3A & 3B	400L
3 x <i>Waterhousia floribunda</i> (Weeping Lillypilly)	Adjacent to Retail 3A & 3B	400L

The project arborist shall document compliance with the above condition.

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the Act and Part 8 Division 3 of the Regulation)

F.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.

Note: New building includes an altered portion of, or an extension to, an existing building.

Standard Condition: F1 (Autotext FF1)

F.2 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 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.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- All flood protection measures.
- All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- All stormwater drainage and storage systems.
- All mechanical ventilation systems.
- All hydraulic systems.
- All structural work.
- All acoustic attenuation work.
- All waterproofing.

- j) Such further matters as the Principal Certifier may require.

Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the *Act*, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.

Note: 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).

Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.
Standard Condition: F7 (Autotext FF7)

F.3 Commissioning and Certification of Public Infrastructure Works

The Principal Contractor or Owner-builder must submit, to the satisfaction of Council, 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).

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.

Standard Condition F9 (Autotext FF9)

F.4 Certification of Electric Vehicle Charging System

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, 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 as required by **Condition C.10**.

Standard Condition: F22 (Autotext FF22)

F.5 Fire Safety Certificates

In the case of a ***final 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,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an ***interim occupation certificate*** to authorise a person:

- a) to commence occupation or use of a partially completed *new building*, or
- b) to commence a change of building use for part of an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

F.6 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

F.7 Adjacent Property Works (18 Newcastle Street, Rose Bay)

The proponent shall take the following measures with regard to the property at No. 18 Newcastle Street, Rose Bay if the offer stipulated by Deferred Commencement Condition 1 (c) is accepted.

- a. Remove any existing glazing on the first floor north-eastern elevation where located along the boundary and replace this with a solid wall, introduce new glazing at the first floor to ensure BCA compliance and reasonable amenity in the form of natural light and ventilation, for the first floor residential use.
- b. The Proponent must, with the consent of the Owner, obtain any required development consent at its expense (the development consent for which this report has been prepared for does not authorise the mitigation works);
- c. The mitigation works must be installed and completed to the satisfaction of the Owner acting reasonably at no cost to the Owner.

Note: If the Owner requested the alternative to install the mitigation works using their own resources in accordance with Deferred Commencement Condition 1(c), then the Proponent is deemed to have satisfied the requirements of this condition in respect of that Owner.

F.8 Implementation of the Approved Public Art Plan

Any public art works approved in accordance with **Condition D.14** of this development consent are to be implemented/installed.

F.9 Operational Plan of Management

The Applicant must submit an Operational Plan of Management to Council for approval which must cover the operational details of the car park. This includes but is not limited to:

- Payment structure;
- Security measures;
- Hours of operation;
- Acoustic mitigation measures;
- Light spill;
- Exhaust emissions;
- Shopping trolley management;
- Ongoing management and service arrangements and responsibilities; and
- Any other operational aspects which are considered relevant.

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

G.1 Electricity Substations – Dedication as Road and/or Easements for Access

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 pillar and/or 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 energy 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 energy authority have been met prior to issue of the Construction Certificate.

Where an electricity pillar and/or substation is provided on the site adjoining the road boundary, the area within which the electricity pillar and/or 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.

Standard Condition: G4 (Autotext GG4)

H. Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

H.1 Removal of Ancillary Works and Structures

The Principal Contractor or Owner must remove 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.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the Final Occupation Certificate.

Standard Condition: H12 (Autotext HH12)

H.2 Road Works (including footpaths)

The following works 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 Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,
- c) removal of redundant driveways and vehicular crossings,
- d) new footpaths within the *road*,
- e) relocation of existing power/light pole,
- f) relocation/provision of street signs,
- g) new or replacement street trees,
- h) new footway verges, 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,
- i) new or reinstated kerb and guttering within the *road*, and
- j) new or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final 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.

Standard Condition: H13 (Autotext HH13)

H.3 Dilapidation Report for Public Infrastructure Works

The Principal Contractor must submit a follow up dilapidation report, prepared by a professional engineer, on Council's infrastructure within and near the development site to Council upon completion of the work.

The Final Occupation Certificate must not be issued until Council's Civil Works Engineer is satisfied that the works have been satisfactorily completed and the Principal Certifier has been provided with correspondence from Council to this effect.

The dilapidation report must include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) photographs showing any existing damage to retaining walls within the footway or road,
- e) closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- f) the full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in Word. 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. If the required report is not submitted then Council will assume any damage to any infrastructure in the immediate vicinity of the site was caused by the principle contractor and Owner carrying out work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining 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.

Standard Condition: H14 (AutotextHH14)

H.4 Follow Up Dilapidation Report for Private Properties

The Principal Contractor must undertake a follow up dilapidation report, prepared by a professional engineer, on the properties as required under **Condition D.2** upon completion of the work.

The reports are to be supplied in both paper copy and electronic format in Word. 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 damage.

H.5 Covenant for Private Works on Council Property

Prior to the granting of an Occupation Certificate and to ensure the encroaching structures on and/or below Council public road reserve accord with Council's "Policy for Managing Encroachments on Council Road Reserves", the person with the benefit of this consent, must do the following:

- a) Lodge an "Application to Formalise the proposed Encroachment on and/or below Council Land" with Council in consultation with Council's Property & Projects Department AND;
- b) Enter into a legal agreement with Council for the encroachments by the existing building on and/or below Wilberforce Avenue, as depicted on the approved referenced plans within this consent.

The owner must enter into a legal agreement as follows:

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 the on-going maintenance of any private structures on or over or below Council property for which consent has been given, such as steps, retaining walls, access ways, overhang, balconies, awnings, signs and the like.

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 prior to the issuance of any Occupation Certificate.

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: No Occupation Certificate must be issued until this condition has been satisfied.
Standard Condition: H19 (Autotext HH19)

H.6 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

On completion of construction work, stormwater drainage works are to be certified by a *professional engineer* with Works-As-Executed drawings supplied to the *PCA* detailing:

- a) Compliance with conditions of development consent relating to stormwater;
- b) The structural adequacy of the Rain Gardens and Stormwater Treatment/Quality Systems.
- c) That the works have been constructed in accordance with the approved design and will be in accordance with the submitted calculations;
- d) Pipe invert levels and surface levels to Australian Height Datum;
- e) 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 Rain Gardens and Stormwater Treatment/Quality Systems 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 Final Occupation Certificate.

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

H.7 Landscaping

The *principal contractor* or *owner* must provide to *PCA* 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 works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

I. Conditions which must be satisfied during the ongoing use of the development

I.1 Noise from Mechanical Plant and Equipment

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 $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

Note: This condition has been imposed to protect the amenity of the neighbourhood.

Note: 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-\(2017\)](http://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

Standard Condition: I59

I.2 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to *Council* and the Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

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

The owner and occupier, in compliance with AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces	
Car Parking	Retail	11
	Community centre	18
	Other	200
	Total	229
Bicycle Parking	14	
Motorbike Parking	23	

This condition has been imposed to ensure adequate on-site parking is maintained.

Standard Condition: I21

I.4 Hours of Use

The hours of use are limited to the following:

Car Park

- a) Public: 6am to 11pm – Monday to Sunday (inclusive)
- b) Roof Top: 7am to 10pm – Monday to Saturday and 8am to 10pm – Sunday and Public Holidays

Community Centre

- a) 7am to 11pm – Monday to Sunday (inclusive)

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

Note: 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 then such internal activities must not occur outside these hours of use. This condition does not restrict the operation of noise pollution laws.

Standard Condition: I1 (Autotext: I11)

I.5 Surveillance Cameras (CCTV)

The Management must maintain a closed-circuit television (CCTV) system on the premises.

The CCTV system must comply with the following requirements:

- a) It must operate continuously.
- b) It must record in digital format at a minimum of six frames per second.
- c) Any recorded image must specify the time and date of the image.
- d) The system's cameras must be located within the property and cover:
 - i) all entry and exit points of the premises,
 - ii) the footpath immediately adjacent to the premises, and
 - iii) all publicly accessible areas (other than toilets) on the premises, from floor level to a minimum height of two metres.
- e) CCTV recordings must be retained for at least 30 days.
- f) Management shall ensure the system is accessible by at least one member of staff at all times it is in operations, and
- g) Provide any recordings made by the system to Council or NSW Police within 24 hours of any request by an authorised officer to provide such recordings.

Note: The lead agency for enforcement is NSW Police.

I.6 Noise Control

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*.

Note: This condition has been imposed to protect the amenity of the neighbourhood.

Note: 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 2000* 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.

Standard Condition: I56

I.7 On-going Maintenance of the Rain Gardens and Stormwater Treatment/Quality Systems

The Owner(s) must in accordance with this condition and any positive covenant:

- a) Permit stormwater to be temporarily detained by the system;
- b) Keep the system clean and free of silt rubbish and debris;
- c) If the car park is used as a retention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain;
- d) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- e) Carry out the matters referred to in paragraphs (b) and (d) at the Owners expense;
- f) 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;
- g) 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;
- h) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- i) 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;
- j) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

Note: This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.
Standard Condition: I29

I.8 Outdoor Lighting – Commercial

Outdoor lighting must comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminare and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282:2019.

Note: This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: 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.
Standard Condition: I50

J. Miscellaneous Conditions

Nil.

K. Advisings

K.1 Criminal Offences – Breach of Development Consent and Environmental Laws

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.

Warnings as to potential maximum penalties

Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

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.

Note: 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.
Standard Advising: K1 (Autotext KK1)

K.2 Dial Before You Dig



The Principal Contractor, Owner-builder or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and dial 1100 Before You Dig or visit www.1100.com.au

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

Standard Advising: K2 (Autotext KK2)

K.3 Builder's Licences and Owner-builders Permits

Section 6.6(2)(d) of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a Principal Contractor for residential building work who must be the holder of a contractor licence.

The Owner(s) must appoint the Principal Certifier. The Principal Certifier must check that the required insurances are in place before the commencement of building work. The Principal Contractor (builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the *Home Building Act 1989* for the residential building work.

Note: For more information go to the NSW Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating

Standard Condition: K5 (Autotext KK5)

K.4 Building Standards - Guide to Standards and Tolerances

The Principal Certifier does not undertake detailed quality control inspections and the role of the Principal Certifier is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia.

Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "NSW Guide to Standards and Tolerances 2017" are achieved.

The quality of any development is a function of the quality of the Principal Contractor's or Owner-builder's supervision of individual contractors and trades on a daily basis during the development. The Principal Certifier does not undertake this role.

Council, as the Principal Certifier or otherwise, does not adjudicate building contract disputes between the Principal Contractor, contractors and the Owner.

Note: For more information on the *NSW Guide to Standards and Tolerances* go to the NSW Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances or call 133 220.

Standard Condition: K6 (Autotext KK6)

K.5 SafeWork NSW Requirements

The *Work Health and Safety Act 2011* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: For more information go to the SafeWork NSW website www.safework.nsw.gov.au or call 131 050.

Standard Condition: K7 (Autotext KK7)

K.6 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Civil and Administrative Tribunal www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing_fences.aspx

Note: Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Around 75% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. To contact the Community Justice Centres go to www.cjc.nsw.gov.au or call 1800 990 777.

Standard Advising: K10 (Autotext KK10)

K.7 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Valdis Aleidzans, Assessment Officer, on (02) 9391 7159.

However, if you wish to pursue your rights of appeal in the Land and Environment Court you are advised that Council generally seeks resolution of such appeals through a section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14 (Autotext KK14)

K.8 Release of Security

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 a Final 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.

Note: The Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au
Standard Condition: K15 (Autotext KK15)

K.9 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17 (Autotext KK17)

K.10 Owner-builders

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.

Note: For more information go to the NSW Fair Trading website www.fairtrading.nsw.gov.au or call 133 220.

Standard Condition: K18 (Autotext KK18)

K.11 Pruning or Removing a Tree Growing on Private Property

The provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the Woollahra Development Control Plan 2015 (DCP), Chapter E3 –Tree Management, may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the Woollahra DCP from Council's website www.woollahra.nsw.gov.au or call Council on 9391 7000 for further advice.

K.12 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) 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 due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23 (Autotext KK23)

K.13 Roads Act 1993 Application

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:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- 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:

- 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). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- 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.

Note: 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 shall 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.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

Note: When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

Note: *road* has the same meaning as in the *Roads Act 1993*.

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road 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.

Standard Advising: K24 (Autotext KK24)

K.14 General Terms of Approval – *Water Management Act 2000* (Department of Industry – Water)

The attached GTA issued by DPE-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to DPE-Water for a Water Supply Work approval after consent has been issued by the panel and before the commencement of any work or activity.

A completed application form must be submitted to DPE-Water together with any required plans, documents, application fee, and proof of development consent.

DPE-Water requests that Panel provides a copy of this letter to the development consent holder.

DPE-Water also requests a copy of the determination for this development application be provided as required under section 4.47 (6) of the EP&A Act.

Information to the Proponent

- Detailed information required to permit a hydrogeological assessment to be carried out by the Department of Planning and Environment is to be provided for any further application related to the subject property according to the minimum requirements for building site groundwater investigations and reporting.
- An extraction limit will be determined by the Department of Planning and Environment following the hydrogeological assessment using the detailed information and the extraction limit will be included on the conditions applied to the approval for the dewatering activity.
- The approval will be issued for the purpose of temporary construction dewatering only and it does not constitute any form of permission for ongoing pumping of groundwater from basement levels after the building is issued an occupation certificate.

ATTACHMENTS

1. Architectural Documentation, Landscape Plans and Site Survey
2. Clause 4.6 Variation Request – Height of Buildings
3. Development Engineering Referral Response
4. Traffic Engineering Referral Response
5. Trees and Landscaping Referral Response
6. Heritage Referral Response
7. Urban Design Referral Response
8. Drainage Engineering Referral Response
9. Fire Safety Referral Response
10. Environmental Health Referral Response
11. Environment and Sustainability Referral Response
12. Community Services (Public Art) Referral Response
13. Transport for NSW Referral Response
14. Department of Planning and Environment (Water Licensing) Referral Response