Sydney Eastern city planning panel

Development Application ASSESSMENT REPORT

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| **ITEM No.** | 0.0 |
| **FILE No.** | DA240/2024/1 |
| **ADDRESS** | 80, 82 and 84 Drumalbyn Road BELLEVUE HILL |
| **COUNCIL WARD** | BELLEVUE HILL |
| **SITE AREA** | No.80 (Strata Plan 9684) = 897.4m2  No.82 (Strata Plan 16386) = 973.2m2  No.84 (Strata Plan 11198) = 826.3m2  **Total Site Area = 2,696.9m2** |
| **ZONING** | R3 Medium Density Residential |
| **PROPOSAL** | Demolition of the existing three (3) residential flat buildings and associated structures on the sites and the construction of a new residential flat building comprising 26 units, two swimming pools & landscaping with the sites consolidated |
| **TYPE OF CONSENT** | Integrated development requiring approval under s90(2) of the *Water Management Act 2000* |
| **COST OF WORKS** | $30,764,585.00 |
| **DATE LODGED** | 15/07/2024 |
| **APPLICANT** | MHN DESIGN UNION PTY LTD |
| **OWNER** | The Owners - Strata Plan 9684, Strata Plan 16386 and Strata Plan 11198 |
| **AUTHOR** | Mr V Aleidzans |
| **TEAM LEADER** | Mr G Fotis |
| **SUBMISSIONS** | Twenty-One (21) |
| **RECOMMENDATION** | Conditional Approval |

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

The application is to be determined by the Sydney Eastern City Planning Panel pursuant to Schedule 6 of the *State Environmental Planning Policy (Planning and Systems) 2021*, as the application is considered to be regionally significant development with a capital investment value of greater than $30million. In this case it is estimated at $30,764,585.00.

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*).

1. 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.
* The Clause 4.6 is well-founded and as such, the exceedance of the statutory height of buildings development standard is justified.
* 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.
* The site is suitable for the proposed development.
* The proposal is in the public interest.

1. LOCALITY PLAN

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| Subject site  Objectors    North |

*Note: Also submitting three (3) unique objections:*

* *Ms L Regan, Bellevue Hill Councillor, Woollahra Municipal Council*
* *Ms M Zipkis (address not noted in the objection)*
* *Ms J Demetriou (address not noted in the objection)*

*Note: Mr A Boskoviz submitted four (4) unique objections on behalf of the following properties:*

* *No.67 Latimer Road BELLEVUE HILL*
* *No.71 Latimer Road BELLEVUE HILL (noted in the Locality Plan)*
* *No.73 Latimer Road BELLEVUE HILL*

1. PROPOSAL

The proposal involves the demolition of the existing three (3) residential flat buildings and associated structures on the sites and the construction of a new residential flat building comprising 26 units, two swimming pools & landscaping with the sites consolidated.

Lower Ground Floor:

* Two swimming pools (one private and one communal).
* Terrace areas (private and communal).
* Pool plant room.
* Landscaping to the rear setback.

Ground Floor:

* 1 x 4 bedroom unit with private open space (balcony) facing the rear and access to the private swimming pool at the lower ground level via external stairs.
* Communal facilities, including communal lounge area, gym, bathrooms and external terrace.
* lobby to access lifts, stairs and bicycle parking.
* Service facilities, including plant/storeroom, bulky waste and cleaner’s room.

Level 1:

* 2 x 3 bedroom units and 2 x 2 bedroom units all with private open spaces (balconies) facing the rear of the site.
* Central lobby with lift, stair and services cupboards.
* Car parking with waste room and service areas. Vehicular access to the car park proposed via 2 x car lifts, located to the south-west of the site.

Level 2:

* 2 x 3 bedroom units and 2 x 2 bedroom units all with private open spaces (balconies) facing the rear of the site.
* Central lobby with lift, stair and services cupboards.
* Car parking with service areas. Vehicular access to the car park proposed via 2 x car lifts located to the south-west of the site.

Level 3:

* 1 x 4 bedroom unit with private open spaces facing the rear (balcony) and front (terrace) of the site.
* 1 x 3 bedroom and 2 x 2 bedroom units all with private open spaces (balconies) facing the rear of the site.
* Central lobby with lift, stair and services cupboards.
* Car parking with vehicular access to the car park proposed via 2 x car lifts located to the south-west of the site.

Level 4:

* 2 x 3 bedroom units with private open spaces (terraces and balconies) facing the front of the site.
* 2 x 3 bedroom and 2 x 2 bedroom units with private open spaces (balconies) facing the rear of the site.
* Central lobby with lift, stair and services cupboards.
* 2 x car lifts to the South-West of the site.

Level 5 (Street Level):

* 2 x 3 bedroom units with private open spaces (balconies) facing the front of the site.
* 1 x 4 bedroom, 1 x 3 bedroom and 1 x 2 bedroom units all with private open spaces (balconies) facing the rear of the site.
* Pedestrian entry from Drumalbyn Road with access to the central lobby.
* Central lobby with lift, stair and services cupboards.
* Vehicular crossing along Drumalbyn Road and driveway access to the 2 x car lifts at the south-west corner of the site.

Level 6:

* 1 x 3 bedroom and 1 x 4 bedroom units with private open spaces facing the rear (roof terraces) and front (balconies) of the site.
* Central lobby with lift, stair and services cupboards.

Roof

* Solar panels.
* A/C units.
* Mechanical ducting.
* Roof hatch.
* Skylights.
* Acoustic screening to A/C units.
* Green roofs throughout and over various levels.

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| Image 1 – Artist’s impression of the proposed development as viewed from Drumalbyn Road.  *Source: MHNDUnion* |
| Image 2 – Artist’s impression of the proposed development looking north-west towards the rear of the site.  *Source: MHNDUnion* |

1. ISSUES
   1. Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

| **Clause** | **Development Standard** | **Departure from Development Standard** | **Conclusion** |
| --- | --- | --- | --- |
| Part 4.3  Part 4.3A | Height of Buildings  Exceptions to building heights (Areas A–H) | 2.79m or 16.9% departure from the 16.5m development standard.  0.18m or 4.5% departure from the 4m development standard. | **Satisfactory** |

* 1. Primary Issues

| **Issue** | **Conclusion** | **Section** |
| --- | --- | --- |
| Bulk, scale and form. | The proposal will provide for a high level and quality of design which seeks to minimise potential impacts upon surrounding properties whilst minimising the perceived bulk and scale of the built form. | 13, 14 and 15 |
| Setback non-compliances. | The setback non-compliances are supported in this instance as the underlying objectives of those controls have been satisfied. | 15 |
| Amenity impact upon surrounding properties | The proposal will have acceptable amenity relationships with surrounding properties which are supported in this case. | 13, 14 and 15 |
| Demolition of the existing buildings. | Council’s Heritage Officer is supportive of the proposed demolition works subject to the recommended conditions. | 14.7 |

* 1. Summary of Submissions

| **Issue** | **Conclusion** | **Section** |
| --- | --- | --- |
| Height, bulk and scale of the proposal, including issues related to the Woollahra LEP 2014 and DCP 2015 non-compliances. | The proposal will be suitably integrated in the context of the site and streetscape. Impacts associated with visual intrusion and visual amenity are mitigated by the sympathetic design response and extent of visual interest that is created through the building’s articulation, siting in the streetscape, response to the underlying topography and overall architectural design.  The height of building non-compliances per the Woollahra LEP 2014 are supported and so too any variations to the Woollahra DCP 2015 for the reasons detailed throughout the assessment report. | 13, 14 and 15 |
| Streetscape character and key elements of the Bellevue Hill North Precinct, including non-compliances with the Woollahra DCP 2015, inadequate rear presentation and built form at the rear, inadequate setbacks (front, side and rear). | The proposal is considered to provide a positive response to the desired future character of the locality.  Any non-compliances with regards to the Woollahra DCP 2015 including those regarding setbacks are supported in this instance as the underlying objectives of those controls have been satisfied. | 13 and 15 |
| Potential loss of heritage significant buildings. | Council’s Heritage Officer is supportive of the proposed demolition works subject to the recommended conditions. | 14.7 |
| Impact on neighbouring amenity, including issues related to visual and acoustic privacy, loss of green corridors between buildings, loss of light, noise issues related to the echo in the gully, outlook, loss of water views, overshadowing. | The proposal will have acceptable amenity impacts as detailed throughout this assessment report. | 13, 14 and 15 |
| Swimming pool, including issues related to inadequate setbacks, privacy impacts, wastewater and deep soil area. | The proposed swimming pool locations are supported and there are no adverse amenity impacts considered to arise. A compliant deep soil landscaped area is achieved. | 15 |
| Excavation, including issues related to excavation volume miscalculation, development not being ecologically sustainable. | The proposed extent of excavation is supported in this case. This is also supported on a technical basis by Council’s Development Engineer subject to the recommenced conditions of consent. | 14 and 15 |
| Traffic, including issues related to construction, traffic congestion, development proposing an inadequate number of car park spaces, safety issues. | Council’s Traffic Engineer has raised no issues with regard to the proposal in this regard and is supportive of the application subject to the recommended conditions of consent. | 15 |
| Development Engineering issues, including structural/geotechnical issues, stormwater, drainage and flooding. | Council’s Development and Drainage Engineers have raised no issues with regard to the proposal in this regard and are supportive of the application subject to the recommended conditions of consent. | 14 and 15 |
| Landscaping and deep soil, including inadequate provisions, miscalculations, inadequate tree canopy. | The proposal will provide for a compliant degree of deep soil landscaping and tree canopy cover. | 13, 14 and 15 |
| Impact on local flora and fauna, including loss of biodiversity, corridor for wildlife, loss of tree canopy, impact on significant adjoining neighbouring trees. | No concerns have been raised by either Council’s Tree and Landscaping Officer or Environment and Sustainability Officer in this regard subject to the recommended conditions of consent. | 13, 14 and 15 |
| Insufficient and/or inadequate information, including on-going waste management, substation integration in the development, inadequate survey information, lack of information on adjoining properties, inconsistency in the GFA noted in the cost report and that of the proposed development, requirement for an Acid Sulfate Soils Manual. | Where additional information was required, this was requested from the applicant. The additional information requests were satisfied during the assessment of this application. | 7 |
| Notification sign not adequately exposed. | The Development Application was re-advertised and re-notified in accordance with the Woollahra Municipal Council Community Participation Plan 2019. | 9 |
| Development does not provide diverse housing choices (i.e. affordable housing) in the Municipality. | The proposal provides a mix of 2, 3 and 4-bedroom units which is deemed to be of an appropriate mix in this context. | 13 |
| Construction issues, including noise, vegetation impacts, soil movement and vibration. | These issues would be suitably managed by the recommended conditions of consent. | 24 |

PROPERTY DETAILS AND REFERRALS

1. SITE AND LOCALITY

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| **Physical features** |
| The site is located on the Eastern side of Drumalbyn Road. The site shape, resulting from the proposed amalgamation of the 3 existing lots is irregular, with a front boundary length of 54.7m that bends to follow the curve of Drumalbyn Road. The northern side boundary length equals 57m, the southern side boundary length equals 65.27m with the eastern rear boundary length equalling 53.37m. The consolidated site has a total area of 2,696.9m². |
| **Topography** |
| The site falls approximately 18m between the front and rear boundary. The rear portion of the site presents a densely vegetated gully running along the length of the rear setback. |
| **Existing buildings and structures** |
| The site is occupied by three (3) face brick inter-war flat buildings with hipped tiled rooves. |
| **Surrounding Environment** |
| The surrounding development is characterised by a mix of 2 – 3 storey dwellings and multi-storey residential flat buildings (including inter-war flat buildings). |

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| Image 3 – Aerial view of the subject site  *Source: Woollahra Council GIS* |

1. RELEVANT PROPERTY HISTORY

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| **Current use** |
| Residential flat buildings. |
| **Relevant Application History** |
| N/A |
| **Relevant Compliance History** |
| N/A |
| **Pre-DA** |
| N/A |
| **Requests for Additional Information and Relevant Assessment History** |
| A Stop the Clock letter dated 01/08/2024 was issued to the applicant which identified deficiencies and/or requested additional information pertaining to:   * Acquisition of inter-allotment drainage easement * Revised stormwater management plans * Infiltration test report * Revised architectural plans * Demolition report * Mechanical ventilation exhaust and air-conditioning units * Owners consent * Details of the A/C condenser unit plant on the roof   A response this request was submitted on 02/09/2024.  A request for information from Water NSW was made on 15/08/2024 and was issued to the applicant, who responded on 03/09/2024.  A request for information was issued to the applicant on 20/08/2024 which identified deficiencies and/or requested additional information pertaining to:   * A noise and vibration assessment report, prepared by a qualified acoustic consultant (AAAC), in accordance with the relevant noise guidelines, State Environmental Planning Policies and Woollahra Municipal Council Development Control Plan.   A response to this request was submitted on 02/09/2024.  The SECPP briefing meeting was held on 10/10/2024.  A request for information and modifications was issued to the applicant on 30/10/2024 which identified deficiencies and/or requested additional information pertaining to:   * Deep soil, tree canopy and landscaping * Building bulk * Boundary encroachments * Solar access and shadow diagrams * Site analysis * View loss * Survey plan * Architectural plans * Operational waste management plan * Façade treatments * Materials and finishes * Development engineering matters * Arboricultural impact assessment report and tree protection plan * Landscape plan * Geotechnical report * Flora and fauna assessment   A response to this request was submitted on 20/12/2024 providing additional information and/or amended documentation.  A request for information and modifications was issued to the applicant on 10/03/2025 which identified deficiencies and/or requested additional information pertaining to:   * Height of buildings and Clause 4.6 variation request * Floor space ratio compliance * Urban design * Crime risk assessment and crime prevention through environmental design assessment * Traffic management plan * Security plan * Provision of CCTV * Piling plan * Arboricultural impact Assessment report * Landscape plan * Civil engineering plans * Architectural plans   A response to this request was submitted on 14/04/2025 and 17/04/2025 providing additional information and/or amended documentation.   * Floor space ratio compliance and calculation of gross floor area   Minor design modifications to address gross floor area discrepancies were made with and plans submitted on 09/05/2025. |
| **Land and Environment Court Appeal(s)** |
| N/A |

1. REFERRALS
   1. Internal Referrals

| **Referral Body** | **Summary of Referral Response** |
| --- | --- |
| Development Engineering | Satisfactory, subject to Conditions. |
| Trees and Landscaping | Satisfactory, subject to Conditions. |
| Heritage | Satisfactory, subject to Conditions. |
| Traffic | Satisfactory, subject to Conditions. |
| Drainage | Satisfactory, subject to Conditions. |
| Fire Safety | Satisfactory, subject to Conditions. |
| Urban Design | The proposal was not supported, and several recommendations were made. The applicant has provided a response to these recommendations. Having considered the issues raised by this referral and response from the applicant, the assessment officer deems that on balance, the proposal be satisfactory and is supported in this regard. |
| Environmental Health | Satisfactory, subject to Conditions. |
| Environment and Sustainability | Satisfactory. No Conditions Recommended. |

* 1. External Agencies

| **Agency** | **Summary of Referral Response** |
| --- | --- |
| Water NSW | Satisfactory, subject to general terms of Approval. |
| Transport for NSW | Request for consideration was returned as there are no classified roads in the vicinity of this site. |

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:
9. Environmental impacts on the natural and built environments
10. Social and economic impacts
11. The suitability of the site
12. Any submissions
13. The public interest
14. ADVERTISING AND NOTIFICATION
    1. Submissions

The application was advertised and notified from 07/08/2024 to 06/09/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.

Upon receipt of neighbour complaints in relation to the location of the notification sign and following Council’s visit to the subject site, the application was re-advertised and re-notified from 25/09/2024 to 25/10/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.

Submissions were received from:

1. L Regan, Councillor
2. M Zipkis (address not noted)
3. J Demetriou (address not noted)
4. J Hirshorn and G Jacobs of No.112 Balfour Road BELLEVUE HILL
5. R and M Levy of No.72a Drumalbyn Road BELLEVUE HILL
6. R and M Levy of No.72a Drumalbyn Road BELLEVUE HILL (subsequent submission)
7. J Rose of No.66 Drumalbyn Road BELLEVUE HILL
8. M Rapaport of No.67 Drumalbyn Road BELLEVUE HILL
9. P Binetter of No.69 Drumalbyn Road BELLEVUE HILL
10. D and A Willis of No.59 Latimer Road BELLEVUE HILL
11. M Cummings of No.65 Latimer Road BELLEVUE HILL
12. A Morgan on behalf of the owners of No.69 Latimer Road BELLEVUE HILL
13. A Boskovitz on behalf of the owners of Nos. 67, 71 and 73 Latimer Road BELLEVUE HILL
14. A Boskovitz on behalf of the owners of Nos. 67, 71 and 73 Latimer Road BELLEVUE HILL (subsequent submission)
15. A Boskovitz on behalf of the owners of Nos. 67, 71 and 73 Latimer Road BELLEVUE HILL (subsequent submission)
16. A Boskovitz on behalf of the owners of Nos. 67, 71 and 73 Latimer Road BELLEVUE HILL (subsequent submission)
17. A Marks on behalf of the owners of No.86 Drumalbyn Road BELLEVUE HILL
18. C Brown of 4/90 Drumalbyn Road BELLEVUE HILL
19. R Whittome of 4/90 Drumalbyn Road BELLEVUE HILL
20. A Marks on behalf of the owners of No.86 Drumalbyn Road BELLEVUE HILL (subsequent submission)
21. Irwin Strous - 71 Latimer Road, Bellevue Hill

The issues raised in the received submissions are summarised and addressed in Section 5.3 of this assessment report.

* 1. Replacement Application/Additional Information

The additional information noted in Section 7 was made available on Council’s DA Tracker and was 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.

* 1. Statutory Declaration

The applicant has completed the statutory declaration dated 01/11/2024 declaring that the site notice for DA240/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

1. 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 has a capital investment value of greater than $30million. In this case it is estimated at $30,764,585.00.

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.

1. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021
   1. Chapter 2 Coastal Management

The provisions of this chapter 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 would not have any significant adverse environmental impact upon the harbour coastal locality and is therefore satisfactory with regard to the relevant provisions of the planning instrument. This would be reinforced by conditions of consent.

* 1. 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.

As the site has a long history of residential use, it is considered that the land does not require further consideration under Clause 4.6(1) (b) and (c) of SEPP (Resilience and Hazards) 2021. The proposal is therefore acceptable with regard to SEPP (Resilience and Hazards) 2021.

1. State environmental planning policy (Biodiversity and Conservation) 2021
   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. Furthermore, the application has been reviewed by Council’s Environmental Sustainability Officer and no objections were raised. The proposal is considered to be acceptable having regard to Chapter 2 of the SEPP.

* 1. 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 impact on the Sydney Harbour Catchment, subject to standard conditions.

1. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

This policy generally applies to all residential developments (excluding alterations and additions less than $50,000) and all non-residential developments, except those excluded in Chapter 3.1 of the policy.

* 1. Chapter 2 Standards for residential development—BASIX

Chapter 2 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The development application was accompanied by a BASIX Certificate demonstrating compliance with the SEPP. These requirements are imposed by standard conditions.

1. STATE ENVIRONMENTAL PLANNING POLICY (Housing) 2021

Chapter 4 of the SEPP applies to all new residential flat buildings (or substantial redevelopment) where it comprises three or more storeys and four or more self-contained dwellings. In this instance, the proposed residential flat building comprises 8 storeys and 26 self-contained dwellings.

Clause 142: Aims and Objectives

The aim of the SEPP is to improve the design quality of residential apartment development:

*(a)  to ensure residential apartment development contributes to the sustainable development of New South Wales by—*

*(i)  providing socially and environmentally sustainable housing, and*

*(ii)  being a long-term asset to the neighbourhood, and*

*(iii)  achieving the urban planning policies for local and regional areas,*

*(b)  to achieve better built form and aesthetics of buildings, streetscapes and public spaces,*

*(c)  to maximise the amenity, safety and security of the residents of residential apartment development and the community,*

*(d)  to better satisfy the increasing demand for residential apartment development, considering—*

*(i)  the changing social and demographic profile of the community, and*

*(ii)  the needs of a wide range of people, including persons with disability, children and seniors,*

*(e)  to contribute to the provision of a variety of dwelling types to meet population growth,*

*(f)  to support housing affordability,*

*(g)  to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions,*

*(h)  to facilitate the timely and efficient assessment of development applications to which this chapter applies.*

For the reasons detailed throughout Section 13 of this assessment report, the proposal is acceptable with regard to the above stated aims.

Design Quality Principles

Clause 147(1)(a) of the SEPP requires the assessment of the application against the design quality principles in Schedule 9. A design verification statement has been submitted by the applicant and prepared by registered architects MHNDUnion. A comment from Council’s Urban Design referral response is copied below along with a comment from Council’s Assessment Officer.

### Principle 1: Context and Neighbourhood Character

*(1)  Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions.*

*(2)  Responding to context involves identifying the desirable elements of an area’s existing or future character.*

*(3)  Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*

*(4)  Consideration of local context is important for all sites, including sites in the following areas—*

*(a)  established areas,*

*(b)  areas undergoing change,*

*(c)  areas identified for change.*

Urban design comment

*The proposed development is located in a precinct zoned for medium density residential development. It enjoys convenient access to a range of facilities at Bondi Junction.*

*Neighbourhood character is defined by essentially three eras: when the suburb was established post 1900, the 1930s inter war period; and the current era of contemporary infill development where opportunities exist.*

*The site, being located on a sloping lot, presents opportunities for site planning that are capitalised upon. The close proximity of the neighbouring apartment buildings to the side boundaries have been considered in site planning and architectural design.*

Assessing officer comment

The proposed development is considered to offer a positive response to the surrounding built form context and broader locality noting that the subject site is zoned R3 Medium Density Residential in accordance with the Woollahra LEP 2014.

The proposal offers a reasonable response to the sloping topography of the site with its overall character, form and siting having a positive response to surrounding development. The site is also deemed to be well serviced by proximate amenities including but not limited to public open spaces public transport and Bondi Junction.

### Principle 2: Built Form and Scale

*(1)  Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*

*(2)  Good design also achieves an appropriate built form for a site and the building’s purpose in terms of the following—*

*(a)  building alignments and proportions,*

*(b)  building type,*

*(c)  building articulation,*

*(d)  the manipulation of building elements.*

*(3)  Appropriate built form—*

*(a)  defines the public domain, and*

*(b)  contributes to the character of streetscapes and parks, including their views and vistas, and*

*(c)  provides internal amenity and outlook.*

Urban design comment

*The proposed development sits slightly higher in the site than the existing development and its building envelope scale, bulk and height are greater than the existing buildings.*

*While the building envelope height is generally consistent with those of surrounding buildings, I have a concern with the bulk and scale established by the proposed height when viewed from the rear (east).*

*The building provides an appropriate address and contribution to the public domain within the confines of its infill siting.*

*The approach to the architectural design is an appropriate response to the historic streetscape character of the road. Configuration of living areas provides good internal amenity and outlook.*

Assessing officer comment

The bulk, scale and form of the proposed development is deemed to have a contextually positive response to the immediate locality and subject site.

The primary façade is appropriately setback from the street.

The proposed development will be suitably articulated with the overall massing and scale having been well considered. The built form incorporates recesses in its elevations to both the rear and the street which assist to break down the overall massing into a series of smaller distinctive forms. As it presents to the street, this more so mimics a series of terraces or a multi dwelling housing development and to the rear it would appear as a series of visually separate vertical forms. This not only creates a visual interest but works to mitigate visual impacts associated with an otherwise monotonous form.

The proposal has pulled back a number of splay walls along with roof gardens from the eastern facade which assists to reduce the extent of bulk along the eastern portions of the building whilst also reducing volume of height breach at this portion of the development. The proposed built form will be separated from properties to the east by communal open spaces and landscaping with the rear façade also being well articulated with physical indentations and recesses assisting to break down the overall massing whilst providing a visual interest.

The issue of building height is addressed further within this assessment report, and it should be noted that the variation and submitted Clause 4.6 variation request are supported.

### Principle 3: Density

*(1)  Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.*

*(2)  Appropriate densities are consistent with the area’s existing or projected population.*

*(3)  Appropriate densities are sustained by the following—*

*(a)  existing or proposed infrastructure,*

*(b)  public transport,*

*(c)  access to jobs,*

*(d)  community facilities,*

*(e)  the environment.*

Urban design comment

*The site is accessible to services and facilities.*

*The proposed density is consistent with that in the locality.*

*The level of amenity for the proposed apartments is good. Most apartments are dual aspect, enjoy good solar access and ventilation and have generous balcony sizes.*

*The proposed FSR may exceed the maximum standards in the WLEP. This is discussed in Part 3.3 below.*

Assessing officer comment

The assessing officer generally concurs with the urban design commentary. As it pertains to floor space ratio, the proposal does not seek a variation to the statutory floor space ratio standard. Compliance is achieved.

### Principle 4: Sustainability

*(1)  Good design combines positive environmental, social and economic outcomes.*

*(2)  Good sustainable design includes—*

*(a)  use of natural cross ventilation and sunlight for the amenity and liveability of residents, and*

*(b)  passive thermal design for ventilation, heating and cooling, which reduces reliance on technology and operation costs.*

*(3)  Good sustainable design also includes the following—*

*(a)  recycling and reuse of materials and waste,*

*(b)  use of sustainable materials,*

*(c)  deep soil zones for groundwater recharge and vegetation.*

Urban design comment

*The proposal adopts a number of measures that facilitate a good response to the need for sustainability.*

*Apartments enjoy good solar access and cross ventilation. Facilities for rainwater reuse and provision for roof top solar are proposed.*

*Potential conflicts may exist between the deep soil zone and stormwater infrastructure. This requires clarification.*

Assessing officer comment

The assessing officer generally concurs with the urban design commentary. The proposal provides for suitable deep soil landscape planting throughout the site which is supported.

### Principle 5: Landscape

*(1)  Good design recognises that landscape and buildings operate together as an integrated and sustainable system, resulting in development with good amenity.*

*(2)  A positive image and contextual fit of well designed development is achieved by contributing to the landscape character of the streetscape and neighbourhood.*

*(3)  Good landscape design enhances the development’s environmental performance by retaining positive natural features that contribute to the following—*

*(a)  the local context,*

*(b)  co-ordinating water and soil management,*

*(c)  solar access,*

*(d)  micro-climate,*

*(e)  tree canopy,*

*(f)  habitat values,*

*(g)  preserving green networks.*

*(4)  Good landscape design optimises the following—*

*(a)  usability,*

*(b)  privacy and opportunities for social interaction,*

*(c)  equitable access,*

*(d)  respect for neighbours’ amenity.*

*(5)  Good landscape design provides for practical establishment and long term management.*

Urban design comment

*The Landscape Plan proposes an appropriate approach to site landscaping.*

*There is a sufficient provision of landscaping, with sufficient dimensions.*

*However, the proposed species of trees offer little by way of the establishment of a green canopy*

*within the site, particularly as it is proposed to remove a number of canopy trees.*

Assessing officer comment

This assessment agrees that the proposal provides for a suitable approach to site landscaping.

A compliant degree of deep soil landscaped area as required by the ADG is proposed and notably, the proposal will comply with Council’s tree canopy requirement for the site stipulated by the Woollahra DCP 2015.

Council’s Tree and Landscaping Officer has indicated that the proposal is satisfactory subject to the recommended conditions of consent.

### Principle 6: Amenity

*(1)  Good design positively influences internal and external amenity for residents and neighbours.*

*(2)  Good amenity contributes to positive living environments and resident well-being.*

*(3)  Good amenity combines the following—*

*(a)  appropriate room dimensions and shapes,*

*(b)  access to sunlight,*

*(c)  natural ventilation,*

*(d)  outlook,*

*(e)  visual and acoustic privacy,*

*(f)  storage,*

*(g)  indoor and outdoor space,*

*(h)  efficient layouts and service areas,*

*(i)  ease of access for all age groups and degrees of mobility.*

Urban design comment

*The design of each floor plan and building siting contributes to a development that offers a good standard of amenity. A majority of apartments are dual (corner) aspect and all enjoy direct access to an easterly or westerly aspect.*

*There is provision of communal open space.*

*Offsetting of windows addressing the northern and southern side boundaries ensure that appropriate levels of internal visual privacy will be achieved.*

*Pedestrian access to the development is convenient and accessible.*

Assessing officer comment

The proposed units will offer a high level of residential amenity for future occupants, noting the overall internal and external sizes, dimensions and layouts of floor areas, along with private open spaces. Compliant floor to ceiling heights are also proposed. Apartments have been designed to encourage solar access and natural cross ventilation to internal layouts. The proposed orientation of units will promote desirable outlooks.

Units will also be provided with well-designed private open spaces and will have access to communal open space within the site.

The are no access impediments in the proposed design.

Units will accommodate a suitable amount of in-unit and basement storage whilst having acceptable visual and acoustic privacy relationships from within the development.

### Principle 7: Safety

*(1)  Good design optimises safety and security within the development and the public domain.*

*(2)  Good design provides for quality public and private spaces that are clearly defined and fit for the intended purpose.*

*(3)  Opportunities to maximise passive surveillance of public and communal areas promote safety.*

*(4)  A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.*

Urban design comment

*The proposed development effectively addresses the public domain.*

*Pedestrian and vehicle entrances enjoy good exposure, are legible and will be comfortable to use.*

Assessing officer’s comment

The assessing officer concurs with the urban design commentary. The proposal would offer a suitable degree of passive surveillance to the street and incorporates clearly defined access points.

### Principle 8: Housing diversity and social interaction

*(1)  Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.*

*(2)  Well designed residential apartment development responds to social context by providing housing and facilities to suit the existing and future social mix.*

*(3)  Good design involves practical and flexible features, including—*

*(a)  different types of communal spaces for a broad range of people, and*

*(b)  opportunities for social interaction among residents.*

Urban design comment

*The proposed development offers a good variety of apartment sizes.*

Assessing officer comment

The assessing officer concurs with the urban design commentary.

### Principle 9: Aesthetics

*(1)  Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.*

*(2)  Good design uses a variety of materials, colours and textures.*

*(3)  The visual appearance of well designed residential apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.*

Urban design comment

*The subdued modern architectural style displays a suitable aesthetic.*

Assessing officer comment

The assessing officer concurs with the urban design commentary. Furthermore, the proposal does not seek to compete with the predominant inter war style of buildings found within the streetscape and proximity of the site, rather will compliment this type of development. The proposed materials and finishes are sympathetic to the areas character and will offer a harmonious response in this regard.

Apartment Design Guide

### Part 3A: Site Analysis

The proposal complies with the requirements of the Site Analysis Checklist, as outlined in Appendix 1.

### Part 3B: Orientation

*Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west*

*Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access.*

*Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%*

*If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.*

The proposed building has been appropriately designed, with it prioritising solar access to and outlooks for apartments to the east.

With regard to surrounding properties, the proposal would impact upon the north facing windows and private open space at No. 86 Drumalbyn Road Bellevue Hill which is situated directly to the south of the site.

The applicant has submitted a detailed shadow analysis which demonstrates the impacts associated with the existing development, a compliant building envelope and the proposed envelope.

It is evident that beyond a compliant building envelope, the additional shadows are not significant, and majority of impacts are associated with a compliant building envelope at the subject site. Therefore, the shadowing impacts upon this property are reasonable as they are in keeping with a compliant form at the subject site and what would be reasonably expected in terms of an outcome. The communal open area at the rear will maintain suitable solar access between 9am-11am which is appropriate.

Furthermore, No. 86 is located directly to the south of the site with this orientation inherently increasing its susceptibility to overshadowing impacts. The associated non-compliances have no unreasonable impacts.

Properties to the east will maintain suitable solar access as a consequence of the development between 9am – 1pm which is deemed acceptable.

The proposal satisfies the relevant design objectives prescribed by this Part.

### Part 3C: Public Domain Interface

The proposal satisfies the relevant design objectives prescribed by this Part.

### Part 3D: Communal and Public Open Space

| **Site Area: 2,696.9m2** | **Proposed** | **Design criteria** | **Meets** |
| --- | --- | --- | --- |
| Minimum Communal Open Space | 24% of the Site  (648m2) | 25% of the Site  (674.2m2) | **NO** |
| Minimum Solar Access to the Principal Useable Portion of Communal Space | Achieved | 50% for 2 Hours Between 9am and 3pm on June 21 | **YES** |

It is noted that an additional area of 70m2 has been proposed as indoor communal space.

Although the proposal does not satisfy Design Criteria 1 as detailed in the compliance table above, the proposal is acceptable in this regard as generous areas of private open space have been provided for each unit with a sufficient amenity. This is considered an acceptable solution in accordance with the design guidance under this Part.

### Part 3E: Deep Soil Zones

| **Site Area: 2,696.9m2** | **Proposed** | **Design criteria** | **Meets** |
| --- | --- | --- | --- |
| Minimum Deep Soil Zone | 7.8% of the Site  (approximately 212m2) | 7% of the Site  (188.8m2) | **YES** |
| Minimum Dimensions of Deep Soil Zone | 6m | 6m | **YES** |

It should be acknowledged that the proposal provides for a total deep soil landscaped area of 951m2 or 35.2% of the subject site, however, the compliance table above only accounts for areas which meet the minimum 6m dimension requirement per this Part.

The proposal satisfies the relevant design criteria and objectives prescribed by this Part.

### Part 3F: Visual Privacy

|  | **Proposed** | **Control** | **Meets** |
| --- | --- | --- | --- |
| Minimum Separation From Buildings up to 12m Habitable Rooms and Balconies.  Habitable Rooms and Balconies  Non-habitable rooms  Blank walls | Min. 9.78m to raised planter  Min 13.1m to raised balconies  Min 12.55m to ground floor facade  Min 7.24m to communal terrace  3.5m side facades | 6m  3m  Nil | **No** |
| Minimum Separation From Buildings up to 25m Habitable Rooms and Balconies.  Habitable Rooms and Balconies  Non-habitable rooms  Blank walls | Min 13.1m to raised balconies  Min 12.55m to ground floor facade  3.5m side facades | 9m  4.5m  Nil | **No** |

The proposal is in part non-compliant with Part 3F: Visual Privacy of the Apartment Design Guide (DC 1).

Further to the separation distances noted above, apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1 when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping. The site adjoins an R2 Low Density residential zone.

The proposal is generally considered to have acceptable privacy relationships with surrounding properties. For openings facing the side boundaries (north and south), sufficient distances or splayed/angled windows been designed to promote privacy.

Regarding the rear setbacks, majority of the built form complies with these requirements. Where the various occur, these are contained to the lower levels where the potential for impacts are reduced given the underlying topography and restricted view lines. As it pertains to private open spaces to side boundaries additional privacy screening has been recommended by **Condition D.1** to overcome overlooking impacts.

To provide for additional separation would result in a compressed built form which would likely be out of character with the area. The proposal on balance suitably manages amenity impacts upon surrounding properties while providing a high architectural quality and design.

### Part 3G: Pedestrian Access and Entries

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

### Part 3H: Vehicle Access

The proposal satisfies the relevant objectives or design criteria prescribed by this Part. Council’s Development Engineer and Traffic Engineer are supportive of the application subject to the recommended conditions of consent.

### Part 3J: Bicycle and Car Parking

|  | **Proposed** | **Control** | **Meets** |
| --- | --- | --- | --- |
| Motorcycle/Scooter Parking | Six | Sufficient Provision | **Considered satisfactory by Council’s Traffic Engineer** |
| Bicycle Parking | Twenty-nine | Required, Undercover and Accessible | **Considered satisfactory by Council’s Traffic Engineer** |

Council’s Traffic Engineer is supportive of the application subject to the recommended conditions of consent.

### Part 4A: Solar and Daylight Access

|  | **Proposed** | **Design criteria** | **Meets** |
| --- | --- | --- | --- |
| Sunlight to Living Rooms and Private Open Spaces of At Least 2 Hours Between 9am and 3pm on June 21 | 58% | Minimum 70% of Apartments | **NO** |
| No Sunlight to Apartments Between 9am and 3pm on June 21 | Nil | Maximum 15% of Apartments | **YES** |

The proposal is non-compliant as only 58% of the total unit yield will achieve suitable solar access to living rooms and private open spaces between 9am and 3pm mid-winter. For reference when these hours are extended to 8:30am 70% will achieve the required degree of solar access.

Despite the non-compliance, this Part acknowledges that:

*Achieving the design criteria may not be possible on some sites. This includes:*

*• where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source*

*• on south facing sloping sites*

*• where significant views are oriented away from the desired aspect for direct sunlight*

*Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective.*

In this regard, the proposal has been designed and orientated to capture the outlooks which are available to the east, north and north-east. Overall, the proposed units will achieve a satisfactory amenity which is not compromised as a consequence of the buildings contextually appropriate orientation.

### Part 4B: Natural Ventilation

|  | **Proposed** | **Design criteria** | **Meets** |
| --- | --- | --- | --- |
| Minimum Cross Ventilation | 100% | 60% of Apartments | **YES** |
| Maximum Building Depth | 23m for Unit 3.1 and  <18m for remaining  cross through units | 18m for cross through or cross over apartments | **NO** |

Although unit 3.1 is non-compliant with O4B-3 design criteria 2, the unit will provide a positive residential amenity and promotes natural airflow/ventilation which is achieved through the extent of glazing and openings on the western and eastern elevations, an open corridor which runs the depth of the unit, open planned living/kitchen/dining area and compliant floor to ceiling heights. This satisfies the relevant design guidance.

Overall, the proposal provides suitable natural ventilation and achieves the objectives of this Part.

### Part 4C: Ceiling Heights

|  | **Proposed** | **Control** | **Meets** |
| --- | --- | --- | --- |
| Minimum Ceiling Height –  Habitable Rooms | At least 2.7m | 2.7m | **YES** |
| Minimum Ceiling Height –  Non-Habitable Rooms | At least 2.4m | 2.4m | **YES** |

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

### Part 4D: Apartment Size and Layout

|  | **Proposed** | **Design criteria** | **Meets** |
| --- | --- | --- | --- |
| Minimum Apartment Layout | All units proposed over the minimum sizes | Minimum 70m2 for 2 bed  Minimum 90m2 for 3 bed  Minimum 102m2 for 4 bed  And additional 5m2 for additional bathrooms.  And additional 12m2 for 4th or more bedrooms | **YES** |

|  | **Proposed** | **Design criteria** | **Meets** |
| --- | --- | --- | --- |
| Maximum Depth of Open Plan Layouts from Window | Some units achieve compliance whilst others are >8m | 8m | **NO** |

|  | **Proposed** | **Design criteria** | **Meets** |
| --- | --- | --- | --- |
| Minimum Bedroom Size (Excluding Wardrobes) | Achieved | 10m2 (master bedrooms) 9m2 (other bedrooms) | **YES** |
| Minimum Bedroom Dimension (Excluding Wardrobes) | Achieved | 3m | **YES** |
| Minimum Width of Living Rooms | Achieved | 4m | **YES** |

Objective 4D-2 design criteria 2 of the Apartment Design Guide requires that in open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window. Some of the proposed units have a depth that is greater than 8m.

Despite the numerical non-compliances, the proposed development will offer a high level of internal amenity for these units. The proposed unit layouts are deemed rational and functional which will offer a high standard of living for future residents. The architectural plans demonstrate that internal areas can be easily furnished and provide flexibility in their potential adaptability and function. Also, units will have positive outlooks with majority having been designed with a dual aspect.

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

### Part 4E: Private Open Space and Balconies

|  | **Proposed** | **Design criteria** | **Meets** |
| --- | --- | --- | --- |
| Private Open Space  (Ground Floor Unit)  Minimum Area  Minimum Depth | Achieved | 15m2  3m | **YES** |
| Balcony to 2 Bedroom Apartments  Minimum Area  Minimum Depth | Achieved | 10m2  2m | **YES** |
| Balcony to 3 Bedroom Apartments  Minimum Area  Minimum Depth | Achieved | 12m2  2.4m | **YES** |

The proposal satisfies the relevant objectives prescribed by this Part.

### Part 4F: Common Circulation and Spaces

|  | **Proposed** | **Design criteria** | **Meets** |
| --- | --- | --- | --- |
| Maximum Number of Units in a Corridor | Maximum Six (6) | Eight (8) | **YES** |

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

### Part 4G: Storage

|  | **Proposed** | **Control** | **Meets** |
| --- | --- | --- | --- |
| Minimum Storage Requirement | Achieved | 8m3 (2 bedroom)  10m3 (3+ bedroom) | **YES** |

\* At least 50% located within apartment

Council’s Urban Design referral response notes that “*Storage for apartments is proposed internally within units. However, no locations are shown beyond suggestions that lounge room and kitchen cupboards and laundries will suffice”.*

In this regard, the applicant provided storage calculations and diagrams indicating that the storage considered excludes kitchen cupboards, bathroom and bedroom storage, which accords with the design criteria.

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

### Part 4H: Acoustic Privacy

A condition of consent is recommended which addresses noise from mechanical plant and equipment where 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.

The subject site is not located within proximity to any high external noise sources and therefore the acoustic amenity of the future residents would not be compromised.

The proposed use as a residential flat building is not deemed to generate any unreasonably adverse or unexpected noise impacts in the locality and would be in keeping with the setting of the area.

Given the internal design along with apartment sizes, the separation between apartments is

high and there are minimal common walls which would assist in maintaining a suitable acoustic amenity for future residents at the site.

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

### Part 4J: Noise and Pollution

The proposal satisfies the relevant objectives or design criteria prescribed by this Part, subject to conditions recommended by Council’s Environment Health Officer.

### Part 4K: Apartment Mix

The proposal satisfies the objectives prescribed by this Part as a mix of sizes and variety is proposed.

### Part 4L: Ground Floor Apartments

Given the underlying topography of the subject site, the proposed units at street level appropriately address the public domain. The proposal satisfies the objectives prescribed by this Part.

### Part 4M: Facades

The proposal satisfies the objectives prescribed by this Part.

### Part 4N: Roof Design

The proposed flat roof form is not uncharacteristic and presents opportunities to locate site facilities (lift overrun, condenser units and solar panels), these structures will unlikely be perceived from the streetscape and are suitably integrated into the overall design of the development.

The proposal satisfies the objectives prescribed by this Part.

### Part 4O: Landscape Design

Council’s Tree and Landscaping Officer has indicated that the proposal is satisfactory subject to the recommended conditions of consent.

### Part 4P: Planting on Structures

The submitted landscape design statement dated 03 December 2024 notes “*The rooftop plantings are designed to include low-water usage succulents as well as mass-planted native grasses to deal with the highly exposed conditions such as full sun and wind. To future-proof the maintenance strategy, spill over plantings have been specified in strategic locations of facades to best provide greenery and soften the built form where needed*.”

Council’s Tree and Landscape Officer poses no issues in this regard.

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

### Part 4Q: Universal Design

The proposal satisfies the objectives prescribed by this Part.

### Part 4R: Adaptive Reuse

### Part 4S: Mixed Use

### Part 4T: Awning and Signage

These parts are not relevant due to the scope of the proposed development.

### Part 4U: Energy Efficiency

The proposal was accompanied by a BASIX Certificate detailing that the proposal is compliant with the energy efficiency requirements of the Sustainable Buildings SEPP 2021 and generally satisfies the relevant objectives and design guidelines prescribed by this Part of the ADG.

### Part 4V: Water Management and Conservation

The proposal was accompanied by a BASIX Certificate detailing compliance with the water savings requirements of the Sustainable Buildings SEPP 2021.

In terms of the proposed stormwater management, Council’s Development Engineer has raised no issues in this regard subject to the recommended conditions.

### Part 4W: Waste Management

The proposal accommodates appropriate waste areas as shown in the design. The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

### Part 4X: Building maintenance

Council’s Urban Design referral response notes “*While no information has been provided with regards to the building maintenance, I consider the proposed materials selected, will not require excessive maintenance. No roof hatch access to the roof is shown. However it can be provided.”*

The issue has been addressed in the amended architectural plans with a roof hatch now provided

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

**Conclusion**

The proposal is deemed to have satisfied the relevant criteria of the Apartment Design Guide as detailed above.

1. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014
   1. Part 1.2: Aims of Plan

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

* 1. Land Use Table

The proposal is defined as Residential flat building and is permitted in the R3 Medium Density Residential zone. The proposal is consistent with the objectives of the R3 Medium Density Residential zone.

* 1. Part 4.1A: Minimum Lot Sizes for a Dual Occupancies, Multi Dwelling Housing and Residential Flat Building

Part 4.1A(2) specifies a minimum lot size of 700m2.

| **Site Area: 2,494.9m2** | **Proposed** | **Development Standard** | **Complies** |
| --- | --- | --- | --- |
| Minimum Lot Size –  Multi-Unit/Residential Flat Building | 2,696.9m2 | 700m2 | **YES** |

The proposal complies with 4.1A(2) and objectives in Part 4.1A(1) of Woollahra LEP 2014.

* 1. Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 16.5m. Furthermore, the subject site is identified partially as Area B (No.84) and partially as Area D (Nos.82 and 80), which in accordance with Part 4.3A, requires that the height of the building at the highest part of the land must not exceed the height of 4m (for Area B) and 7.5m (Area D).

|  | **Proposed** | **Development Standard** | **Complies** |
| --- | --- | --- | --- |
| Maximum Building Height (Cl 4.4) | 19.29m | 16.5m | **NO** |
| Maximum Building Height (Cl 4.4E) | Area B = 4.18m  Area D = 6.76m | Area B = 4m  Area D = 7.5m | **NO** |

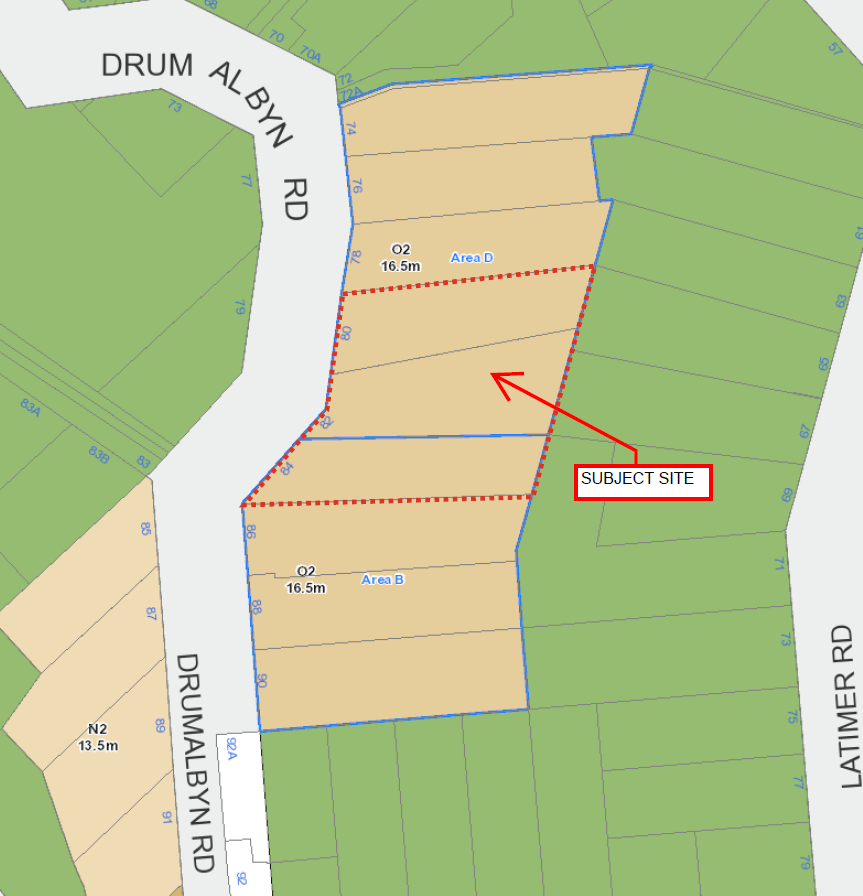


Image 4 – Woollahra LEP 2014 height of buildings map

The proposal does not comply with Part 4.3 and 4.4E of Woollahra LEP 2014 as detailed and assessed in Section 14.6 of the report.

* 1. Part 4.4: Floor Space Ratio

Part 4.4 limits development to a maximum floor space ratio of 1.4:1.

| **Site Area: 2,696.9m2** | **Proposed** | **Development Standard** | **Complies** |
| --- | --- | --- | --- |
| Floor Space Ratio | 1.399:1  (3,773m2) | 1.4:1  (3,775.6m2) | **YES** |

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

* 1. Part 4.6: Exceptions to Development Standards

**Departure**

The proposal involves a non-compliance with the height of buildings statutory development standard under Part 4.3 of the Woollahra LEP 2014. The variation equals 2.79m which is a 16.9% departure from the development standard.

Additionally, the proposal involves a non-compliance with the the exceptions to building heights (Areas A-H) development standard under Part 4.3A of the Woollahra LEP 2014.

The subject site is identified partially as Area B (No.84) and partially as Area D (Nos.82 and 80), which in accordance with Part 4.3A, requires that the height of the building at the highest part of the land must not exceed the height of 4m (for Area B) and 7.5m (Area D).

The proposal complies with the 7.5m development standard for Area D, however, is non-compliant with Area B with the proposal equalling 4.18m being a 0.18m or 4.5% departure from the development standard.

**Purpose**

Section 4.6 allows for the contravention of a development standard (provided that the standard is not expressly excluded from the section), with the objectives of the section being:

1. to provide an appropriate degree of flexibility in applying certain development standards to particular development,
2. to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

**Justification Requirements**

Section 4.6(3) states that:

Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

1. compliance with the development standard is unreasonable or unnecessary in the circumstances, and
2. there are sufficient environmental planning grounds to justify the contravention of the development standard.

Section 4.6(3) does not require the applicant to demonstrate those matters solely in the written request.

**Applicant’s Written** **Request**

Section 35B of the *Environmental Planning and Assessment Regulation 2021* requires a development application for development that proposes to contravene a development standard to be accompanied by a document [the written request] setting out the grounds on which the applicant seeks to demonstrate the matters in section 4.6(3) paragraphs (a) and (b).

The applicant has provided a written request in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021*.

**Council’s Assessment**

Section 4.6(3) requires Council to be satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention.

Council is required to undertake a critical review of the written request, and any other material that the Applicant has provided seeking to demonstrate the matters in section 4.6(3). This is set out below.

**Step 1: Are the planning instrument, development standard and proposed variation identified in the written request accurate?**

In determining whether the information contained within the written request is accurate, the following questions have been considered:

*Is the provision proposed to be varied a development standard?*

Yes, Clause 4.3 and Clause 4.3E of the Woollahra LEP 2014 are development standards.

*Is the development standard proposed to be varied one that can be varied, and not excluded from the operation of section 4.6 by section 4.6(8)?*

Yes, the development standards pertaining to height of buildings may be varied and are not excluded from the operation of Clause 4.6 by Clause 4.6(8).

*Is the correct LEP or SEPP section (and objectives if relevant) referenced?*

Yes, the correct sections of the Woollahra LEP 2014 (including objectives) have been referenced.

*Is the extent of the variation correctly identified?*

Yes, they have been correctly identified.

**Step 2: Section 4.6(3)(a): Is compliance unreasonable or unnecessary?**

In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (**Wehbe**), Preston CJ established five potential tests (the Wehbe test) for determining whether a development standard could be considered unreasonable or unnecessary:

* The first is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.
* The second is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
* The third is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.
* The fourth is to establish that the development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
* The fifth is to establish that “the zoning of particular land” was “unreasonable or inappropriate” so that “a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary.

However, the five tests set out in Wehbe above are not the only ways that an applicant can demonstrate that compliance with a development standard is unreasonable or unnecessary. In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (**Initial Action**), Preston CJ stated at paragraph 22:

*These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

Assessment:

To determine whether the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, the following questions have been considered:

*Has the applicant adopted one or more of the Wehbe tests to demonstrate that compliance is unreasonable or unnecessary in the circumstances?*

The Applicant has relied on Test 1 established in *Wehbe* to demonstrate that compliance with the development standards is unreasonable and unnecessary in this circumstance.

*Has the applicant used another method to justify that the variation is unreasonable or unnecessary?*

No.

*Are the arguments put forward by the applicant, to demonstrate compliance is unreasonable or unnecessary in the circumstances, supported and why?*

Yes, consideration has been given the underlying objectives of the height of buildings development standards. An assessment against these objectives is provided below.

**The objectives underlying Clause 4.3 – Height of Buildings**

1. *to establish building heights that are consistent with the desired future character of the neighbourhood,*

The proposal is in keeping with the scale and form of development in the surrounding locality and would contribute to the eclectic mix of permissible development including multi storey residential flat buildings. The proposal has been designed to respond to the sites steep sloping topography whereby it will present as a complying development to the streetscape and would offer a compatible response. Notably, the proposal will appear lower than two of the existing buildings across the subject site when viewed from the streetscape. The areas of non-compliance will not be readily perceived from the public domain and would therefore not be discerned by the casual observer. The non-compliance occurs due to the underlying steep sloping topography of the site which slopes from Drumalbyn Road to the east (rear).

A visual benefit will be created through the proposed high quality and contemporary building which will be visually perceived as compliant (noting the non-compliance would not be readily perceived). Overall, this is considered to offer a positive response to the emerging character of the locality and will not appear out of character when viewed in its context.

1. *to establish a transition in scale between zones to protect local amenity,*

The proposed development will step down the site and is considered to offer an appropriate transition between adjoining land zones. It should be noted that the development to the east is sited at a much lower level than Drumalbyn Road and in this case, the proposal is found to offer a positive response to the underlying topography whilst protecting the amenity of development in different zones.

1. *to minimise the loss of solar access to existing buildings and open space,*

The proposal would not generate any unacceptable overshadowing impacts upon neighbouring properties and is deemed acceptable.

1. *to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*

The proposal will be suitably integrated in the context of the site and streetscape. Impacts associated with visual intrusion and visual amenity are mitigated by the sympathetic design response and extent of visual interest that is created through the building’s articulation, siting in the streetscape, response to the underlying topography and overall architectural design.

The proposal would not generate any unacceptable view sharing or overshadowing impacts upon neighbouring properties and is deemed acceptable.

As conditioned, the proposal will not generate any adverse privacy concerns.

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

The proposal would not affect any public views of the harbour and surrounding areas.

**The objectives underlying Clause 4.3A – Exceptions to Building Heights (Areas A-H)**

*(a)  to ensure new development is consistent with the desired future character of the neighbourhood,*

The comments made under (a) above are echoed here and applicable. The proposal is in keeping with the scale and form of development in the surrounding locality and would offer a positive response to the desired future character the neighbourhood.

*(b)  to ensure new development is consistent with the surrounding buildings and the streetscape,*

The proposal would present as between 2-3 storeys from Drumalbyn Road, and the extent of height non-compliance would not be visible from the streetscape. The proposal occurs due to the steep underlying topography of the site as it falls away from the streetscape to the east (rear). The proposal comprises a well-designed and articulated residential flat building with a visual interest that will positively contribute to the evolving character of the locality. The proposed bulk and scale are considered to be in keeping with this character.

*(c)  to protect views and vistas that are in the public domain.*

The proposal would not affect any views or vistas that are in the public domain.

**Step 3: Section 4.6(3)(b) Are there sufficient environmental planning grounds to justify the contravention?**

In *Initial Action* Preston CJ provided the following guidance (at paragraphs 23 and 24) concerning whether there will be sufficient environmental planning grounds to justify a contravention of the development standard:

*23 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.*

*24 The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. … the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole:* see Four2Five Pty Ltd v Ashfield Council *[2015] NSWCA 248* *at [15].*

Section 1.3 of the EPA Act reads as follows:

*1.3 Objects of Act*

*The objects of this Act are as follows:*

1. *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,*
2. *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
3. *to promote the orderly and economic use and development of land,*
4. *to promote the delivery and maintenance of affordable housing,*
5. *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
6. *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
7. *to promote good design and amenity of the built environment,*
8. *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
9. *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
10. *to provide increased opportunity for community participation in environmental planning and assessment.*

Assessment:

To determine whether the applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of the development standard, the following questions have been considered:

*What environmental planning grounds have been put forward to justify the variation?*

As it pertains to height of buildings, the nominated environmental planning grounds are:

* Function of typography. Due to underlying topography and historical excavation, the extent of variation would essentially be masked from the streetscape. The height exceedances are limited to the steepest part of the site.
* Consistency with the desired future character. The proposal would maintain the character of the locality and is of similar height and scale to existing and approved buildings and developments in the area without adversely affecting the amenity of surrounding properties.
* Good design and amenity. The development as proposed would have a superior planning outcome as it promotes a good architectural and planning design whilst positively contributing to the amenity of the built environment. The proposed variation would facilitate rejuvenation of the subject site whilst offering a positive residential amenity for future residents without any unreasonably adverse impacts upon surrounding development.
* Orderly and economic use and development of land. The proposal will support the orderly and economic development of the site through the provision of a new contemporary building which demonstrates design excellence. The proposal will renew older housing stock and deliver residential accommodation to the meet the needs of the community. High quality infill housing is proposed in a well serviced area.
* Urban design benefits. The proposal will provide for a high level and quality of design which seeks to minimise potential impacts upon surrounding properties whilst minimising the perceived bulk and scale of the built form. The proposal would be highly articulated which creates a visual interest whilst mitigating a monotonous visual appearance. The proposal will appear as compliant from the street and will also comprise a mix of high-quality materials and finishes which elevates its streetscape appearance. Despite the variations the proposal will be compatible with the existing and emerging development context and ultimately the desired future character. The proposal will provide for quality residential accommodation in the locality whilst mitigating unreasonably adverse impacts upon surrounding development.

*Are the environmental planning grounds specific to the proposed variation?*

Yes, the nominated environmental planning grounds are specific to the proposed variations.

*Are there sufficient environmental planning grounds to justify the proposed variation to the development standard?*

This assessment has had regard to the written Clause 4.6 variation request and is satisfied that there are sufficient environmental planning grounds to justify the proposed variations as considered above.

**Conclusion**

Council is satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in this circumstance, and that there are sufficient environmental planning grounds to justify the contraventions.

* 1. Part 5.10: Heritage Conservation

The subject site is not located within a heritage conservation area and is not identified as a heritage item.

Council’s Heritage Officer is supportive of the proposal along with the proposed demolition of the existing inter-war residential flat buildings. It was found that neither of the three subject buildings to be demolished would individually or as a group merit heritage listing. A salvage of building fabric and recording of buildings condition have been recommended so that a record of any potential significant fabric can be documented and where practicable significant fabric can be reused on the project or transferred to an established second building material dealer for recycling.

The site is not identified as an archaeological site or a place of Aboriginal heritage significance. The potential for Aboriginal heritage has been considered in the assessment of the proposal and found to be low but possible. Conditions pertaining to Aboriginal archaeology and management have been incorporated in the recommendation.

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

It is acceptable with regard to the objectives in Part 5.10 of the Woollahra LEP 2014.

* 1. Part 5.21: Flood Planning

Part of the subject site (nos. 82 and 84) is located within a flood planning area. The proposal was reviewed by Council’s Drainage Engineer and no issues were raised, subject to a recommended flood protection condition. It is therefore acceptable with regard to Part 5.21 of Woollahra LEP 2014.

* 1. Part 6.1: Acid Sulfate Soils

Part 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 within a Class 5 area as specified in the Acid Sulfate Soils Map. The subject works are not below 5.0m AHD and will not likely lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2, 3 and 4 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1 of the Woollahra LEP 2014.

* 1. Part 6.2: Earthworks

In accordance with the submitted geotechnical report, the proposal involves excavation with a maximum depth of approximately 10m from the existing ground surface levels.

The submitted Geotechnical Report identified the following subsurface conditions:

1. *Fill comprising silty sand to a depth of 0.25m, 1m, 0.4m, 0.4m, 0.25m and 0.1m in BH1, BH2, BH3, BH4, BH5 and BH6 respectively.*
2. *Depth of natural sand with various density from a depth beneath the fill to a termination depth of 2m.*
3. *Sandstone bedrock was inferred beneath the natural sand via DCP test at depths ranging between 2.7m to 5m.*
4. *Signs of groundwater was observed during the investigation at depths of 2.1m and 1.7m.*

Furthermore, the report submitted made comments and recommendations on the following:

* *Shoring and support,*
* *Vibration Monitoring,*
* *Excavation method,*
* *Further Geotechnical input.*

The extent of excavation has been considered by Council’s Development Engineer who raises no concerns about this aspect of the proposal subject to the recommended conditions of consent. Any potentially adverse impacts arising as a consequence of the proposed excavation works are considered to be suitably managed by conditions of consent.

The proposal is therefore acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

* 1. Part 6.9: Tree canopy cover in Zones R2 and R3

Part 6.9 aims to conserve and enhance tree canopy cover in the R2 Low Density Residential zone and R3 Medium Density Residential zone.

Part 6.9(3) requires Council to consider whether the development incorporates planning and design measures to enable the retention and planting of trees to minimise the urban heat island effect, and will avoid, minimise or mitigate adverse impacts on the existing tree canopy.

The proposal will provide for a compliant tree canopy and is therefore acceptable with regard to Part 6.9 of Woollahra LEP 2014.

1. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

As per Clause 149(1) of SEPP(Housing) 2021, any controls for residential apartment developments specified in the Woollahra DCP 2015 that relates to the matters listed below are overridden by requirements, standards or controls in the Apartment Design Guide:

*(a) visual privacy,*

*(b) solar and daylight access,*

*(c) common circulation and spaces,*

*(d) apartment size and layout,*

*(e) ceiling heights,*

*(f) private open space and balconies,*

*(g) natural ventilation,*

*(h) storage.*

* 1. Chapter B1: Bellevue Hill North Residential Precinct

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Bellevue Hill North Residential precinct, as noted in Part B1.8.2 of the Woollahra DCP 2015.

* 1. Chapter B3: General Development Controls

### Part B3.2: Building Envelope

|  | **Proposed** | **Control** | **Complies** |
| --- | --- | --- | --- |
| Part B3.2.2  Front Setback | Min. 5m above ground and 1m below ground. | 10.85m | **NO** |
| Part B3.2.2  Maximum Unarticulated Width to Street Frontage | >6m | 6m | **NO** |
| Part B3.2.3  Side Setback | 3.5m except for  part of basement level, window  pop-outs and landscaped lightwells | 3.5m | **NO** |
| Part B3.2.3  Maximum Unarticulated Wall Length to Side Elevation | >12m | 12m | **NO** |
| Part B3.2.4  Rear Setback | Min. 9.78m to raised planter  Min 13.1m to raised balconies  Min 12.55m to ground floor facade  Min 7.24m to communal terrace | 15.2m | **NO** |

Part B3.2.2: Front Setback

As detailed in the compliance table above, a 10.35m front setback is required. The development is partially compliant with the control noting that non-compliances across the various levels are proposed. In this regard the minimum setback above ground level is 5m and 1m to subterranean/excavated areas. The setback then varies between this minimum to approximately 9.1m measured to balconies/terraces.

The proposal also comprises continuous wall lengths which are greater than 6m which is non-compliant with this Part.

Despite the non-compliances, the proposal would satisfy the underlying objectives as detailed below.

*O1 To reinforce the existing streetscape and character of the location.*

*O2 To provide consistent front setbacks in each street.*

*O3 To provide for landscaped area and deep soil planting forward of the building.*

*O4 To ensure that buildings are well articulated and positively contribute to the streetscape.*

* The front setback and associated non-compliances are considered to be contextually acceptable and they are not of an extent that would disrupt the existing streetscape or character location in the site’s context. O1 is upheld.
* The built form has been appropriately sited in its context noting that the variations across some levels will also assist to articulate the built form.

There is a degree of inconsistency amongst front setbacks along Drumalbyn Road and the proposal is considered to provide an acceptable response to development further to the north versus the south. This is considered more appropriate noting the bend in the road near the south-western corner of the site provides a point of delineation from properties immediately to the south which provide for greater setbacks. It is considered that aligning with these would have an inconsistent response. Therefore, generally aligning with development to the north is deemed to be the more appropriate response.

The non-compliances at the lower levels would not be discerned from the streetscape or surrounds and would therefore not compromise a consistent streetscape pattern. O2 is upheld.

* The proposal will provide for a contextually suitable landscaped front setback which is keeping with the character of the streetscape. O3 is satisfied.
* Although continuous expanses of the front façade are greater than 6m in length, the proposal does incorporate a variety of materials and finishes along this front elevation which would assist to articulate the front façade and break down the overall perceived building length. Furthermore, the front façade has been articulated with vertical and horizontal stepping to break down the overall bulk and scale of the proposal and enhance articulation. O4 is upheld.

Part B3.2.3: Side Setbacks

C2 requires a minimum side setback of 3.5m which also includes setbacks for basements. Majority of the proposed development is compliant with the variations being quite limited and contained to part of the basement at level 1 (setback 3m), window pop outs at various levels (typically setback 2.7m-2.8m) and the landscaped lightwells along the northern and southern elevations (setback 1m and 1.5m).

C5 states that the building is to have a maximum unarticulated wall length of 12m to the side elevation. The proposal will result in non-compliances with the continuous building length equalling a maximum of 30m.

Despite the non-compliances, the proposal would satisfy the underlying objectives as detailed below.

*O1 To avoid an unreasonable sense of enclosure and to facilitate an appropriate separation between buildings.*

*O2 To ensure the side elevation of buildings are well articulated.*

*O3 To protect the acoustic and visual privacy of residents on neighbouring properties.*

*O4 To facilitate solar access to habitable windows of neighbouring properties.*

*O5 To facilitate views between buildings.*

*O6 To provide opportunities for screen planting.*

*O7 To allow external access between the front and rear of the site.*

* The extent of non-compliances are fairly contained and do not span the entire length of the side elevation. As viewed in its entirety, the proposal would maintain appropriate separation whilst mitigating an unreasonably adverse sense of enclosure upon adjoining properties. O1 is upheld.
* Overall, side elevations have been suitably articulated with the use of a variety materials and finishes palate along with interspersed glazing which assists to break down the perceived length of the non-compliant elevations. Window pop-outs will also create a degree of visual interest and sense of depth to the facades. Furthermore, some of the subterranean and lower-level wall lengths would not be perceived from the street or surrounds and therefore a lack of articulation in these areas is deemed acceptable as they would not be read. O2 is upheld.
* The extent of variation would not create any adverse privacy impacts noting that some of the variation is contained to part of the car parking area and lightwell. The window popouts have been angled to orientate view lines away from neighbouring properties to mitigate direct overlooking concerns. O3 is upheld.
* The proposal will have acceptable overshadowing relationships with surrounding properties. Additionally, the variations at the lower level and subterranean areas are not considered to generate unreasonable overshadowing impacts given their location and alignment with neighbouring buildings. O4 is upheld.
* The extent of variations would not compromise view sharing from the public or private domain which satisfies O5.
* It is not considered that opportunities for screen planting would be compromised as a consequence of the non-compliances which satisfies O6.
* Suitable opportunities for external access would be facilitated in the context of the sites sloping topography which satisfies O7.

Suitability of the non-compliant excavation setbacks are addressed further below in this assessment report where Part B3.4 of the Woollahra DCP 2015 is discussed.

Part B3.2.4: Rear Setback

C1 requires a minimum rear setback of 25% of the average of the two side boundary dimensions, measured perpendicular to the rear boundary which generates a requirement of 15.2m. The proposal involves several non-compliance as detailed in the table above. Notably there are elements of the building which do achieve compliance.

Despite the non-compliances, the proposal would satisfy the underlying objectives as detailed below.

*O1 To provide private open space and landscaped areas at the rear of buildings.*

*O2 To provide acoustic and visual privacy to adjoining and adjacent buildings.*

*O3 To avoid an unreasonable sense of enclosure.*

*O4 To provide separation between buildings to facilitate solar access to private open space.*

*O5 To protect vegetation of landscape value and provide for landscaped area and deep soil planting.*

*O6 To contribute to a consolidated open space network with adjoining properties to improve natural drainage and support local habitat.*

* An acceptable degree of private open space and landscaped area is provided throughout the site inclusive of the rear setback. This is consistent with the prevailing context. O1 is upheld.
* The proposal will result in acceptable visual privacy relationships with adjoining properties to the rear. O2 is upheld.
* The reduced setbacks would not result in an adverse sense of enclosure upon surrounding development. Despite the variations, the rear facade has been modulated and articulated which provides visual relief when viewed from the rear. This will mitigate the impacts associated with an otherwise monotonous building façade whilst creating a visual interest. Notably, not all of the built form is non-compliant with the variations largely contained to areas of private open space. It is considered that some degree of variation is also attributable to the angled rear boundary and the increased amenity which is achieved through unit layouts addressing the rear perpendicular to this angle. An unreasonable sense of enclosure is deemed to be satisfactorily mitigated. O3 is upheld.
* The proposal will provide for acceptable solar access relationships to neighbouring properties. O4 is upheld.
* The proposal will provide an appropriate landscape amenity whilst mitigating tree management impacts. O5 is upheld.
* The proposal will contribute to a consolidated open space network to the rear of the site that is generally in keeping with adjoining properties. The proposal provides for landscaping in the rear setback to improve natural drainage and opportunities to support habitats. O6 is upheld.

Part B3.2 Conclusion

The proposal is acceptable with regard to the building envelope controls in Part B3.2 of the Woollahra DCP 2015.

### Part B3.4: Excavation

| **Site Area: 2,696.9m2** | **Proposed** | **Control** | **Complies** |
| --- | --- | --- | --- |
| Maximum Volume of Excavation | 6,482m3 | 2,697m3 | **NO** |
| Excavation, Piling and Subsurface Wall Setback | 1m | 1.5m | **NO** |
| Excavation Below 2m or Within 1,5m from the Boundaries Geotechnical Report | Provided | Geotechnical Report Required | **YES** |

The proposed excavation volume (excluding the excavation for the swimming pool) is 6,080m3 resulting in a numerical non-compliance with C1.

C4 states that a variation to the volume shown in Figures 13A and 13B will be considered for residential flat buildings only, however, the maximum volume of excavation permitted will only be the amount needed to accommodate car parking to comply with the maximum rates in Part E1 of this DCP and any reasonable access thereto and storage at a rate of 8m³ (cubic metres) per dwelling.

In this case, the applicant nominates that 3,409m3 is required for car parking and 378m3 is required for the car lift (a total of 3,787m3). If this is correct and is applied as an exemption the proposal would technically comply with C1. However, it is unclear whether any other ancillary areas i.e. waste rooms, bin areas are accounted for in the calculation. On this basis and despite the inconsistency, this assessment has had regard to the relevant objectives of the control which are nevertheless satisfied, and the volume of excavation is supported.

Furthermore, the proposal breaches the allowable basement front setback by 0.5m, resulting in a non-compliance with C9.

Despite the non-compliances, the proposal would satisfy the underlying objective as detailed below.

*O1 To set maximum acceptable volumes of excavation which:*

1. *require buildings to be designed and sited to relate to the existing topography of the site;*
2. *ensure excavation, including the cumulative impacts of excavation, does not adversely impact land stabilisation, ground water flows and vegetation;*
3. *avoid structural risks to surrounding structures;*
4. *ensure noise, vibration, dust and other amenity impacts to surrounding properties during construction are reasonable;*
5. *enable deep soil planting in required setbacks;*
6. *ensure traffic impacts and impacts on local infrastructure arising from the transfer of excavated material from the development site by heavy vehicles are reasonable; and*
7. *satisfy the principles of ecologically sustainable development (including the energy expended in excavation and transport of material and the relative energy intensity of subterranean areas in dwellings).*

* The proposed excavation volume will accommodate majority of the required car parking spaces along with areas which accommodates motorcycle parking, bicycle storage, general storage and vehicle access thereto. This includes car lifts and circulation spaces to allow for manoeuvrability within parking areas.

Given the site’s context and that of surrounding properties, the proposed basement and car parking solution is considered to provide a consistent streetscape response, and one which visibility masks these areas from the street and surrounds. The proposed excavation volume will allow for a reasonable development outcome at the subject site.

The remaining excavation works will accommodate the proposed lower-level units which is largely a consequence of the sites steep sloping topography toward the rear. These units will be primarily located above the current ground level and therefore as viewed from the rear the change in topography (primarily to the west of the site) would not be discernible with it largely being masked by the proposed built form.

Permitting the proposed excavation volume would minimise bulk and scale impacts of services which would otherwise be located above existing ground level. This is deemed to offer an acceptable visual impact.

The proposal is deemed to provide a contextually acceptable response to the sloping nature of the site whilst providing for acceptable visual response to the public and private domains. O1(a) is satisfied in the circumstances of this case.

* Impacts associated with excavation as detailed in O1(b), (c), and (d) would be suitably managed by conditions of consent.
* The proposed excavation would allow for sufficient deep soil areas along with tree canopy across the site. O1(e) is upheld.
* It is considered that the traffic impacts associated with heavy vehicles carrying excavated material would be suitably addressed by the requirements of a construction traffic management plan as conditioned. O1(f) is deemed to be upheld.
* The proposed excavation will allow the development to provide a contextually suitable response through the masking of service and car parking areas from the streetscape and surrounds. In its context it would not be unreasonable and therefore the principles of ecologically sustainable development would not be compromised. O1(g) is upheld.

Part B3.4 Conclusion

The proposal is acceptable with regard to the excavation controls in Part B3.4 of the Woollahra DCP 2015.

### Part B3.5: Built Form and Context

Part B3.5.1: Streetscape and Local Character

The proposal would have an acceptable visual impact, relationship and presentation to the streetscape and is considered to be satisfactory with regard to the provisions of Part B3.5.1 of Woollahra DCP 2015.

Part B3.5.2: Overshadowing

C1(a) stipulates that sunlight is provided to at least 50% (or 35m2 with a minimum dimension of 2.5m whichever is the lesser) of the main ground level private open space to adjoining properties for a minimum of two hours between 9am and 3pm on June 21.

Beyond a compliant building envelope, the proposal will have impacts upon the private open space to the second from the top level of No. 86 Drumalbyn Road at 11am. This area will be unaffected before this time which complies with C1(a). The rear setback of No 86 Drumalbyn Road will receive additional impacts between 9am and 2pm, noting this is already overshadowed at 3pm. Despite these impacts the rear section of this adjoining property is heavily landscaped and does not provide for any wide expanses of useable open space. Contextually the impacts are deemed acceptable with regards to C1(a).

C1(b) states that north facing windows to upper-level habitable rooms of adjacent dwellings receive at least 3 hours of sun during the same period over a portion of their surface.

At 9am, 10am, 11am and 12pm the existing north facing windows of No. 86 Drumalbyn Road immediately to the south will be overshadowed by the proposal. However, it is acknowledged that this impact is within a compliant building envelope. Some of the upper most windows along this facade will retain a degree of solar access. Between 1pm and 3pm similarly the impacts are within a compliant building envelope. Given the impacts are contained within the scope of a complying building envelope at the subject site, the impacts are deemed reasonable especially noting the neighbour’s orientation being immediately to the south. The proposal is acceptable with regard to C1(b).

Part B3.5.3: Public and Private Views

*C1 To protect and enhance existing views and vistas from the public domain.*

*C3 Development on the low side of the street preserves district, iconic and harbour views from the street by:*

1. *Providing substantial breaks between buildings, front fences, car parking and other structures; and*
2. *Incorporating fences with transparent or open end panels at each side boundary to provide for views.*

There are no views or vistas from the public domain that would be adversely impacted, and the proposal is acceptable with regard to the relevant controls C1 and C3.

*C9 The location and species of new tree planting frames and preserves public and private views. Planting must not be used to block views.*

The proposed species are not considered to have any view sharing impacts.

*C5 Development is sited and designed to enable a sharing of views with surrounding private properties, particularly from the habitable rooms.*

Objections on the basis of view loss were received from Unit 8/86 Drumalbyn Road, Bellevue Hill.

In assessing the reasonableness or otherwise of the degree of view loss, this report has had regard to the case law established by *Tenacity Consulting v Warringah (2004) NSWLEC 140* which has established a four-step assessment of view sharing. The steps are as follows:

1. The assessment of the views affected

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

A aerial view of a neighborhood

AI-generated content may be incorrect.

Image 5: Aerial map indicating the orientation of views from affected properties towards the subject site highlighted in red

**No. 8/86 Drumalbyn Road, Bellevue Hill**

Of concern is the interruption of whole views to the north and north-east where the interface of land and water is apparent over the subject property. The existing view is filtered through landscaping.

**Table 1 – Views currently obtained from No. 8/86 Drumalbyn Road Bellevue Hill towards the subject site**

|  |
| --- |
| *A balcony with trees and buildings  AI-generated content may be incorrect.*  Image 1: Standing view across the site from balcony |
| Image 2: Standing view across the site from balcony |

1. Consideration from what part of the property the views are obtained

*The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

**No. 8/86 Drumalbyn Road Bellevue**

The views over the subject site identified in Table 1 are obtained from a private open space area which is accessible via a kitchen and bedroom. These views are obtained across a side boundary and are available from both a standing and sitting position.

1. The extent of the impact

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating*.

**No. 8/86 Drumalbyn Road Bellevue**

At present the whole view available from the subject unit is filtered through landscaping. Majority of this view would be lost as a consequence of the proposal. As will be demonstrated in the images below, the northern portion of the land and water interface would be lost by a compliant envelope. A greater degree of the whole view would be available to the northeast if a complaint envelope were proposed, however, for the reasons below the extent of view loss is satisfactory.

The overall extent of view impact can be qualitatively described as minor for the following reasons:

* The impacted views comprise whole views where the interface of land and water is apparent.
* Views are filtered through existing landscaping.
* No iconic views would be impacted.
* The views from a standing and sitting position would be lost.
* Views are obtained across a side boundary which the planning principle identifies as being difficult and often unrealistic to protect.
* Majority of the impacts are associated with a compliant building envelope.

**Table 2 – Extent of View Loss from No. 8/86 Drumalbyn Road Bellevue Hill**

|  |
| --- |
| A balcony with plants and trees  AI-generated content may be incorrect.  Image 1: Extent of view loss. Compliant envelope indicated by dark blue line and proposal in light blue |
| A balcony with trees and plants  AI-generated content may be incorrect.  Image 2: Extent of view loss. Compliant envelope indicated by dark blue line and proposal in light blue |

1. The reasonableness of the proposal that is causing the impact

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable*.

The Court poses two questions in *Tenacity Consulting vs Warringah (2004) NSWLEC 140*. The first step is to determine whether a non-compliance with one or more planning controls results in view loss.

In response to this, it is considered that the non-compliances with the rear setback control have a direct correlation to the associated view impacts to the north-east. Despite the non-compliance, the proposal will still retain a degree of whole view from the affected unit. Even if strict compliance were achieved, it is unlikely that there would be substantial view gain noting the presence of distant landscaping which currently obstructs the view corridor.

Enforcing strict compliance would essentially require significant reduction or removal of private open spaces from rear facing units which is not deemed to be a skilful design and would reduce the amenity of the proposal. The affected views are importantly across a side boundary which are recognised by the planning principle as being difficult to protect. In the case of the proposal while majority of the view would be lost, a degree of whole view will indeed be protected to the northeast.

Overall, the view impacts from surrounding properties are considered to be minor when assessed holistically. In accordance with the assessment made above, the relevant objectives and controls contained within Part B3.5.3 of the Woollahra DCP 2015 along with the four-step assessment established by the relevant planning principle are satisfied.

Part B3.5.4: Acoustic and Visual Privacy

With regards to acoustic and visual privacy impacts associated with the proposal, this is addressed in this report where Part 3F and 4H of the Apartment Design Guide is discussed.

Part B3.5.5: Internal Amenity

All residential units will have an acceptable residential amenity as required by the Apartment Design Guide and therefore the proposal is deemed to satisfy the relevant controls and objectives under this Part.

Part B3.5 Conclusion

The proposal is acceptable with regard to the built form and context controls in Part B3.5 of the Woollahra DCP 2015.

### Part B3.6: On-Site Parking

| **Site Frontage: 54.7m** | **Proposed** | **Control** | **Complies** |
| --- | --- | --- | --- |
| Location of Parking | Partially Outside Buildable Area | Within the Buildable Area | **NO** |
| Width of Parking Structure | 7.5m | 6m | **NO** |
| Basement Parking | Basement Parking Proposed | Required for 3 or More Dwellings | **YES** |
| Max Height of Car Parking Structures in Front Setback | 2.97m | 2.7m | **NO** |
| Maximum Number of Driveways | One | One | **YES** |

Part of the proposed basement parking level and car lifts will extend beyond the permitted setbacks and are therefore situated outside of the buildable area which is non-compliant with C1.

C1 states that car parking is to be provided in a location that is within the envelope, does not dominate the street frontage and where it preserved trees and landscaping of landscaped value.

Despite C1, C2(c) states that parking outside of the building envelope may be permitted where the existing streetscape in the immediate vicinity of the site is characterised by parking structures forward of the building line, and for separate structures, the roof form materials and details are to complement the principal building and so too are garage doors along with any other important character elements in the street.

The proposal satisfies C2(c) noting there are several examples of garages/parking structures along the Drumalbyn Road streetscape forward of the primary building line. In this regard car parking outside of the buildable area is an acceptable and consistent streetscape response. Notably, although car parking areas at the lower levels would also encroach into the front setback, these are sited below street level and would not be readily perceived.

Notably, C2(b) also notes that parking within the front setback may be considered on steep sloping sites which is the case of the subject site.

In this case, the maximum area of the car parking structure limited to 40m2. Only 11m2 of the car lift encroaches into the front setback which complies. As already mentioned, the basement areas are located below street level and would have no streetscape impact which is acceptable in this case.

C3 states that parking structures outside of the building envelope are only permitted when the minimum deep soil landscaped area and private open space requirements are met along with solar access and privacy requirements within the site, and to the neighbouring properties.

In this regard, the proposed garage is sited above an excavated area below street level and majority of the front setback would technically not satisfy the definition of deep soil landscaping given the presence of structures below. Nevertheless, the proposal as conditioned will provide for an acceptable landscape outcome for the site. As already detailed throughout this report, the proposed solar access and privacy relationships are acceptable.

C4 states that for car parking structures facing the street frontage the maximum car parking structures width is no greater than 40% of the site frontage width or 6m, whichever is the lesser. In this case the 6m control applies with the proposed width equalling 7.5m which is non-compliant.

C7 states that for car parking structures located in the front setback, the maximum height of the structure is 2.7m above the footpath level. With 2.97m proposed this is non-compliant.

Despite the numerical non-compliances including those with regard to height and width of the garage structure discussed above, the underlying objectives have been considered as follows:

*O1 To minimise the visual impact of garages, car parking structures and driveways on the streetscape.*

*O2 To ensure that on-site parking does not detract from the streetscape character and amenity.*

*O3 To allow, in certain circumstances, parking structures outside the building envelope.*

*O4 To minimise loss of on-street parking.*

*O5 To retain trees and vegetation of landscape value.*

*O6 To facilitate on-site parking on steeply sloping sites.*

*O7 To ensure that on-site parking is designed and integrated with the principal building on the site. O8 To ensure that on-site parking does not detract from the streetscape character and amenity.*

* The proposed garage presentation and impacts upon the streetscape are considered acceptable and the parking area has been well integrated into the overall design of the proposed residential flat building. O1 and O2 are upheld.
* The provision of parking structures in the front setback is contextually acceptable, thereby satisfying O3.
* Neither Council’s Traffic Engineer or Development Engineer have raised concern with regard to the driveway width or the loss of on-street parking it is therefore acceptable with O4.
* Subject to conditions of consent, Council’s Tree and Landscaping Officer is supportive of the proposal which satisfies O5.
* The proposal will provide for an acceptable outcome noting the sites sloping topography, thereby satisfying O6.
* The proposal parking configuration is contextually suitable, noting that the proposed design and materiality would complement the primary building. O7 is upheld.
* Per the comments regarding O1, the proposal parking outcome would not detract from the streetscape, nor would it compromise its character and amenity. O8 is satisfied.

Part B3.6 Conclusion

The proposal is acceptable with regard to the relevant and applicable controls in Part B3.6 of the Woollahra DCP 2015.

### Part B3.7: External Areas

| **Site Area: 2,696.9m2** | **Proposed** | **Control** | **Complies** |
| --- | --- | --- | --- |
| Part B3.7.1  Deep Soil Landscaping | 35.2%  (951m2) | 35%  (943.6m2) | **YES** |
| Part B3.7.1  Deep Soil Landscaping to  Front Setback | 26.1%  (154m2) | 40%  (235m2) | **NO** |
| Part B3.7.3  Lockable Mailboxes | Incorporated into the design within a secure location | Provided Close to Street and Integrated with Front Fences or Building Entrance | **YES** |
| Part B3.7.3  Plant Equipment to Roof | Suitably incorporated onto the roof level to reduce visibility | May be Permitted if Not Visible from Public Domain and Cannot Reasonably Located Elsewhere | **YES** |
| Part B3.7.3  Screening to Plant Equipment | Suitably integrated into the design while mitigating amenity impacts | May be Permitted if Integrated in the Building Design, Will Not Result in Overshadowing and Will Not Have Impact on Views | **YES** |
| Part B3.7.4  Setback of Swimming Pool | Min 6.2m | 1.8m Measured from Water Edge | **YES** |
| Part B3.7.4  Level of Swimming Pool Above or Below Ground Level | 2m | Maximum 1.2m | **NO** |
| Part B3.7.4  Maximum Depth of Swimming Pool | <2m | 2.0m | **YES** |

Part B3.7.1: Landscaped Areas and Private Open Space

C1 requires that 30% of the site area is to comprise tree canopy area. The proposal achieves a minimum tree canopy cover of 30% which complies with the control.

C3 requires at least 40% of the front setback area is to comprise deep soil landscaping. As detailed in the compliance table above, the proposal is non-compliant with the control.

C7 permits excavation or fill of up to 1.2m for the purposes of achieving a compliant gradient to the primary open space. Level changes of greater than 1.2m are required to facilitate some private open space areas which does not comply.

Despite the non-compliances, the underlying objective shave been satisfied in the following manner:

*O1 To ensure that the areas outside the building contribute to the desired future character of the location.*

*O2 To provide sufficient deep soil landscaped area to encourage urban greening and maintain and enhance tree canopy cover which in turn contributes positively to the existing and desired future character of the locality.*

*O3 To provide for on-site stormwater absorption.*

*O4 To ensure the adequate provision of accessible and useable primary open space.*

* The proposed landscaping outcome will be consistent with what is exhibited along the streetscape and would not compromise the desired future character of the location. This is also reinforced by a compliant deep soil area across the site and suitable provision for tree canopy. O1 is upheld.
* A suitable tree canopy will be provided noting the compliant degree of deep soil areas that are achieved for the site as a whole. Contextually, the extent of deep soil within the front setback would be in keeping with the prevailing character. O2 is upheld.
* Opportunities for stormwater absorption are provided with no objections raised by Council’s Engineers in this regard. O3 is upheld.
* The proposed level changes will allow for accessible and usable private open spaces for a positive amenity. O4 is upheld.

Part B3.7.2 Fences

C1 requires fencing that protects occupants but with surveillance of the street. Compliance is achieved.

C2 requires delineation of the public, common and private spaces and C3 requires fences to define the front entrance. Compliance is achieved.

C4 limits fencing to 1.2m if solid, or 1.5m if 50% transparent or open. On the high side of the street, C6 allows fences to a height of 1.2m above the high side. The front fence height to Drumalbyn Road will equals 0.6m which complies.

C9 and C10 stipulate that side and rear boundary fences are no higher than 1.8m. Compliance is achieved.

Part B3.7.3: Site Facilities

Having regard to C7, C8, C9, C12 and C13, the proposed service areas have been incorporated into the overall design of the residential flat building so as not to create any unreasonable or discernible visual impacts. In terms of acoustic impacts these would be suitably managed by the recommended conditions of consent. The proposal successfully integrates service areas into the overall design so as to mitigate any adverse visual impacts.

Part B3.7.4: Ancillary Development – Swimming Pools, Tennis Courts and Outbuildings

C4 states that swimming pool surrounds are to be no more than 1.2m above or below ground level. The proposal is non-compliant in this regard as the maximum height of the swimming pools will rise 2m above the existing ground level. Despite the non-compliance the underlying objectives have been upheld as follows:

*O1 To provide for recreational opportunities for swimming without compromising the amenity of the neighbouring properties.*

*O2 To limit excavation.*

*O3 To retain trees and vegetation of landscape value.*

* The proposal will diversify recreational opportunities for future residents and noting the compliant setbacks from the property boundaries there are no unreasonably adverse amenity impacts that would arise. O1 is upheld.
* Limited excavation is required for the proposed pools noting these are situated above the existing ground level. Despite this the overall excavation volume proposed for the development is supported. O2 is upheld.
* The proposal as conditioned will have acceptable tree management impacts. O3 is upheld.

Part B3.7 Conclusion

The proposal is acceptable with regard to the external controls in Part B3.7 of the Woollahra DCP 2015.

### Part B3.8: Additional Controls for Development Other Than Dwelling Houses

B3.8.1: Minimum Lot Width

C1 requires a minimum lot width of 21m for a residential flat building containing 4 or more dwellings. The subject site provides for a width of approximately 54.7m and complies with C1.

B3.8.6: Residential Flat Buildings and Multi Dwelling Housing

The provisions under this Part of the Woollahra DCP 2015 align with those of the Apartment Design Guide which have been discussed under Section 13 of this assessment report.

B3.8.7 Inter-War Flat Buildings

The existing buildings do not meet the threshold for heritage listing and their demolition is therefore acceptable in this case. This is supported by the assessment which has been made by Council’s Heritage Officer. Overall, the proposal is deemed acceptable having regard to the considerations under Part B3.8.7 of the Woollahra DCP 2015.

Part B3.8 Conclusion

The proposal is acceptable with regard to the additional controls in Part B3.8 of the Woollahra DCP 2015.

* 1. Chapter E1: Parking and Access

Council’s Traffic Engineer has undertaken an assessment of the application and raises no issues subject to the recommended conditions of consent. With regards to the proposed car parking provision the following table has been copied from the Traffic referral response.

*Table 1: Car Parking Provision*

|  |  |  |  |
| --- | --- | --- | --- |
| **Residential Component** | **Quantity** | **DCP Maximum Requirement per Dwelling** | **DCP Maximum Permitted Parking** |
| 2 bedrooms | 9 | 1.5 | 13.5 (14) |
| 3 or more bedrooms | 17 | 2 | 34 |
| Visitors | 26 | 0.25 | 6.5 (7) |
| Total permitted |  | | 55 |
| Proposed provision |  | | 40 |

The proposal complies with the car parking requirements noting the rate is set as a maximum not a minimum.

It is also important to recognise that the site currently provides for 24 units with 5 onsite spaces. Therefore, the proposed provision is anticipated to improve the parking conditions. Conditions of consent will ensure that the accessible spaces are designed to comply with the relevant Australian Standards.

With regards to bicycle and motorcycle parking the following table has been copied from the Traffic referral response.

*Table 2: Bicycle and Motorbike Parking Provision*

|  |  |  |  |
| --- | --- | --- | --- |
| **BICYCLE** | | | |
|  | **Quantity** | **DCP Minimum Requirement** | **DCP**  **Minimum Required Parking** |
| Residential Residents | 26 dwellings | 1 per dwelling | 26 |
| Residential Visitors | 25 dwellings | 1 per 10 dwellings | 2.6 (3) |
| Total required |  |  | 29 |
| **MOTORBIKE** | | | |
|  | **Quantity** | **DCP Minimum Requirement** | **DCP**  **Minimum Required Parking** |
| Car Spaces | 55 | 1 per 10 car spaces | 5.5 (6) |
| Total required |  |  | 6 |

In response to the above, the proposal provides for 29 bicycle spaces and 6 motorbike spaces which complies.

In terms of traffic generation, the referral concludes that the additional traffic generated by the proposal would be minor and is unlikely to create unacceptable adverse impacts on the surrounding road network in terms of safety and efficiency.

As conditioned the proposed access driveway, queuing configuration and sight splays would be made acceptable

The proposal is acceptable with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015.

* 1. Chapter E2: Stormwater and Flood Risk Management

The proposal is acceptable with regard to Chapter E2 of the Woollahra DCP 2015.

* 1. Chapter E3: Tree Management

The proposal is acceptable with regard to Chapter E3 of the Woollahra DCP 2015.

* 1. Chapter E5: Waste Management

The requirements for a SWMMP are addressed by the recommended conditions of consent which are satisfactory.

**Part E5.2: Demolition and Construction Phase**

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 | 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 E5.5: Multi Dwelling Housing and Residential Flat Buildings**

The proposal provides for a bin storage area and bulky waste room which are considered appropriate for the proposed in the development. It is considered that these areas can be reasonably accessed by the future residents. Overall, the proposed arrangement is deemed acceptable in the context of the proposal.

* 1. Chapter E6: Sustainability

E6.3: Solar Energy Systems

Having regard to C1, the proposed solar energy system is not considered to impact the streetscape and scenic quality of the area. With the location of photovoltaic panels at the roof this would minimise visibility from the public domain including the street and surrounds. The amenity of adjoining properties is not considered to be impacted by their location and these elements would have no adverse view sharing impacts. The panels do not comprise mirrors or lenses that would otherwise reflect or concentrate sunlight.

With regard to C3,the proposed solar panels would not protrude 1m from the roof level and compliance is achieved.

Furthermore, the proposal was accompanied by a BASIX Certificate demonstrating suitable thermal comfort, water conservation and energy efficiency sustainability measures.

The proposal is acceptable with regard to Chapter E6 of the Woollahra DCP 2015.

* 1. Chapter E8: Adaptable Housing

Units 1.1, 2.1 and 4.2 have been nominated as accessible dwellings which is considered satisfactory, and the proposal is acceptable with regard to Chapter E8 of the Woollahra DCP 2015.

1. DRAFT AMENDMENTS TO POLICIES AND PLANS

None that are relevant.

1. CONTRIBUTION PLANS
   1. Section 7.12 Contributions Plan

A 1% levy applies with the monies being used for a variety of works as outlined in Schedule 1 of the Section 7.12 Contributions Plan 2023. Refer to **Condition D.5**.

* 1. Subdivision 4 Housing and Productivity Contributions

Section 7.24 of the Environmental Planning and Assessment Act 1979 identifies that the object of this subdivision is to facilitate the provision of regional infrastructure that supports and promotes housing and economic activity in a region by enabling a housing and productivity contribution to be required.

Division 1 of the Environmental Planning and Assessment (Housing and Productivity Contribution) Ministerial Order 2024 sets out the classes of development, which require a housing and productivity contribution.

The proposal does require a housing and productivity contribution, which is addressed by condition.

* 1. Application of Contributions

In this instance, Section 7.12 contributions have been applied.

1. APPLICABLE ACTS/REGULATIONS
   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 condition.

* 1. Swimming Pools Act 1992

The Swimming Pools Act 1992, requires s to be surrounded by a child-resistant barrier, which separates the [swimming pool](http://www.austlii.edu.au/au/legis/nsw/consol_act/spa1992192/s3.html#swimming_pool) from any [residential building](http://www.austlii.edu.au/au/legis/nsw/consol_act/spa1992192/s3.html#residential_building). The barrier must be designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations.

Additional provisions relate to:

1. Swimming pool registration in accordance with Section 30B of the Swimming Pools Act 1992
2. A Certificate of Compliance pursuant to Section 22D of the Swimming Pools Act 1992
3. Water recirculation and filtration systems
4. Backwash discharge to the sewer

These requirements are imposed by standard conditions.

1. 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.

1. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

1. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

1. CONCLUSION

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

1. 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.

1. 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 satisfied 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 and 4.3Aof Woollahra LEP 2014has 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. 240/2024/1 for *Demolition of the existing three (3) residential flat buildings and associated structures on the sites and the construction of a new residential flat building comprising 26 units, two swimming pools & landscaping with the sites consolidated* on land at 80, 82 and 84 Drumalbyn Road BELLEVUE HILL, subject to the following conditions:

**ALL DEVELOPMENT TYPES**

1. GENERAL CONDITIONS
   1. Conditions

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

**Notes:**

Failure to comply with this development consent and any condition of this consent is a criminal offence. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

a) Issue Penalty Infringement Notices (On-the-spot fines);

b) Issue notices and orders;

c) Prosecute any person breaching this consent; and/or

d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Maximum penalties under NSW environmental laws include fines up to $1.1 Million and/or custodial sentences for serious offences.

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council’s policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the Crimes (Sentencing Procedure) Act 1999, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious.

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

* 1. Definitions

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

***Applicant*** means the applicant for this consent.

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

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

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

***PC*** means the Principal Certifierunder the *Act*.

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

***Professional engineer*** has the same meaning as in the BCA*.*

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

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

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

***Site*** means the land being developed subject to this consent.

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

***Woollahra LEP*** means *Woollahra Local Environmental Plan 2014*

***Woollahra DCP*** *means Woollahra Development Control Plan 2015*

***Work*** for the purposes of this consent means:

the use of land in connection with development,

the subdivision of land,

the erection of a building,

the carrying out of any work,

the use of any site crane, machine, article, material, or thing,

the storage of waste, materials, site crane, machine, article, material, or thing,

the demolition of a building,

the piling, piering, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,

the delivery to or removal from the site of any machine, article, material, or thing, or

the occupation of the site by any person unless authorised by an occupation certificate.

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

* 1. Approved Plans and Supporting Documents

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

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Reference** | **Description** | **Author** | **Date** |
| DA1002  (Rev 04) | Site & Roof Plan | MHNDU | 27/03/2025 |
| DA1100  (Rev 01) | Demolition Plan | MHNDU | 01/07/2024 |
| DA2000  (Rev 04) | Level 6 Floor Plan | MHNDU | 09/05/2025 |
| DA2001  (Rev 05) | Level 5 Floor Plan | MHNDU | 09/05/2025 |
| DA2002  (Rev 04) | Level 4 Floor Plan | MHNDU | 09/05/2025 |
| DA2003  (Rev 04) | Level 3 Floor Plan | MHNDU | 27/03/2025 |
| DA2004  (Rev 04) | Level 2 Floor Plan | MHNDU | 27/03/2025 |
| DA2005  (Rev 05) | Level 1 Floor Plan | MHNDU | 27/03/2025 |
| DA2006  (Rev 03) | Ground Floor Plan | MHNDU | 27/03/2025 |
| DA2007  (Rev 03) | Lower Ground Floor Plan | MHNDU | 19/12/2024 |
| DA3000  (Rev 03) | Elevation North | MHNDU | 19/12/2024 |
| DA3001  (Rev 04) | Elevation South | MHNDU | 27/03/2025 |
| DA3002  (Rev 04) | Elevation East | MHNDU | 27/03/2025 |
| DA3003  (Rev 05) | Elevation West | MHNDU | 09/05/2025 |
| DA3004  (Rev 02) | Street Elevation | MHNDU | 09/05/2025 |
| DA3100  (Rev 02) | Section A | MHNDU | 19/12/2024 |
| DA3101  (Rev 03) | Section B | MHNDU | 19/12/2024 |
| DA3102  (Rev 03) | Section C | MHNDU | 19/12/2024 |
| DA600  (Rev 01) | External Finishes | MHNDU | 01/07/2024 |
| DA9300  (Rev 01) | Post Adaptable | MHNDU | 01/07/2024 |
| DA9306  (Rev 01) | Security Plan | MHNDU | 27/03/2025 |
| DA9320  (Rev 01 | Detail Sections | MHNDU | 27/03/2025 |
| 1753742M | BASIX Certificate | NSW Department of Planning and Environment | 01 July 2024 |
| Report No.240536-80-84 Drumalbyn Rd Bellevue Hill-Noise Impact Assessment-R0-27 August 2024 | Acoustic Report | Pulse White Noise Acoustics Pty Ltd | 27 August 2024 |
| 7520-R1 | Geotechnical Report | AssetGeoEnviro | 05/06/2024 |
| SYD2933  CE000-Rev B  CE100-Rev A  CE101-Rev A  CE104-Rev B  CE106-Rev C  CE200-Rev C  CE250-Rev B | Stormwater Management Plans | ADP Consulting Engineering | 03/12/2024  19/06/2024  19/06/2024  03/12/2024  03/12/2024  03/12/2024  03/12/2024 |
| 7520-1-R1 | Infiltration Report | AssetGeoEnviro | 13/08/2024 |
| 7520-1-R1 Rev1 | Extended Geotechnical Investigation Report | AssetGeoEnviro | 12/12/2024 |
| Plan No.s DA 01-D3624 issue 01 Revision F, DA 02-D3624 issue 01 Revision F, DA 03-D3624 issue 01 Revision F, DA 04-D3624 issue 01 Revision F, DA 05-D3624 issue 01 Revision F, DA 06-D3624 issue 01 Revision F, DA 07-D3624 issue 01 Revision F, DA 08-D3624 issue 01 Revision F | Landscape Plan | Dangar Barin Smith | 26/03/2025 |
| Pages 1 and 2 | Shoring General Arrangement Plan | Dunnings Consulting Engineers | 19/03/2025 |
| 24.063r01v02 | Traffic Impact Statement | Traffix | 26 June 2024 |
|  | Demolition and Construction Waste Management Plan | Waste Audit & Consultancy Services (Aust) Pty Ltd | June 2024 |

**Notes:**

Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.

These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.

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

* 1. Development Consent is Not Granted in Relation to these Matters

This approval does not give consent to:

* Any works outside of the site boundaries.

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

* 1. Ancillary Aspects of Development (section 4.17(2) of the Act)

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

**Notes:**

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

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

* 1. No Underpinning works

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

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

* 1. General Terms of Approval – Water Management Act 2000 (WaterNSW)

The following general terms of approval have been imposed by WaterNSW for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000:

**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.

GT0116-00001 – Before any construction certificate is issued for any excavation under the

development consent, the applicant must: 1. apply to WaterNSW 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 2. notify WaterNSW of the

programme for the dewatering activity to include the commencement and

proposed completion date of the dewatering activity Advisory Note: 3. An

approval under the Water Management Act 2000 is required to construct and/or

install the water supply works. For the avoidance of doubt, these General Terms

of Approval do not represent any authorisation for the take of groundwater, nor do

they constitute the grant or the indication of an intention to grant, any required

Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML

of water per water year as part of the dewatering activity. 4. A water use approval

may also be required, unless the use of the water is for a purpose for which a

development consent is in force.

GT0117-00001 – 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. Advisory Notes: 1. This approval is not a water access

licence. 2. A water year commences on 1 July each year. 3. This approval may

contain an extraction limit which may also restrict the ability to take more than 3ML

per water year without further information being provided to WaterNSW.

4. Note that certain water sources may be exempted from this requirement - see

paragraph17A, Schedule 4 of the Water Management (General) Regulation 2018.

GT0118-00001 – If no water access licence is obtained for the first 3ML / 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 on WAL exemption form located on

WaterNSW website "Record of groundwater take under exemption", and (d) keep

the record for a period of 5 years, and (e) give the record to WaterNSW either via

email to Customer.Helpdesk@waternsw.com.au or post completed forms to -

PO Box 398 Parramatta NSW 2124 (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 WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.

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.

GT0121-00001 – Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless

otherwise agreed by WaterNSW. b) The location and number of proposed

monitoring bores must be submitted for approval, to WaterNSW with the water

supply work application. c) The monitoring bores must be installed and

maintained as required by the water supply work approval. d) The monitoring

bores must be protected from construction damage.

GT0122-00001 – Construction Phase Monitoring programme and content: a) A monitoring

programme must be submitted, for approval, to WaterNSW with the water supply

work application. The monitoring programme must, unless agreed otherwise in

writing by WaterNSW, include matters set out in any Guide published by the NSW

Department of Planning Industry and Environment in relation to groundwater

investigations and monitoring. Where no Guide is current or published, the

monitoring programme must include the following (unless otherwise agreed in

writing by WaterNSW): i. Pre-application measurement requirements: 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 the approval to WaterNSW. ii. Field measurements: Include

provision for testing electrical conductivity; temperature; pH; redox potential and

standing water level of the groundwater; iii. Water quality: Include a programme

for water quality testing which includes testing for those analytes as required by

WaterNSW; iv. QA: Include details of quality assurance and control v. Lab

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 WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)

GT0123-00001 – (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

WaterNSW. (b) The completion report must, unless agreed otherwise in writing

by WaterNSW, 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

WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any

other information required on the WaterNSW completion report form as updated

from time to time on the WaterNSW website. c) The completion report must be

submitted using "Completion Report for Dewatering work form" located on

WaterNSW website www.waternsw.com.au/customer-service/waterlicensing/

dewatering

GT0150-00001 – 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 WaterNSW 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.

Advisory note: Any application to increase the extraction limit should include the

following: - Groundwater investigation report describing the groundwater

conditions beneath and around the site and subsurface conceptualisation -

Survey plan showing ground surface elevation across the site - Architectural

drawings showing basement dimensions - Environmental site assessment report

for any sites containing contaminated soil or groundwater (apart from acid

sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS -

If ASS, details of proposed management and treatment of soil and groundwater.

Testing and management should align with the NSW Acid Sulphate Soil Manual

GT0151-00001 – 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

WaterNSW (Term of the dewatering approval). Advisory note: an extension of

this approval may be applied for within 6 months of the expiry of Term.

GT0152-00001 – 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, in

condition GT0151-00001. Advisory note: an extension of this approval may be

applied for within 6 months of the expiry of Term.

GT0155-00001 The following construction phase monitoring requirements apply (Works

Approval): 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 WaterNSW. b. The applicant must comply with the

monitoring programme as amended by this approval (Approved Monitoring

Programme). c. The applicant must submit all results from the Approved

Monitoring Programme, to WaterNSW, as part of the Completion Report

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

* 1. Tree Preservation and Landscaping Works

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

1. The following trees must be retained:
   * Trees on private land:

|  |  |  |  |
| --- | --- | --- | --- |
| **Council Ref No** | **Species** | **Location** | **Dimension (metres)** |
| 17 | *Phoenix canariensis* (Canary Island Date palm) | Front south western corner of 84 Drumalbyn Road Bellevue Hill | 9 x 8 |
| 18 | *Eucalyptus scoparia* (Willow Gum) | Southern side boundary of 84 Drumalbyn Road Bellevue Hill | 16 x 16 |

* + Trees on Council land:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Council Ref No** | **Species** | **Location** | **Dimension (metres)** | **Tree value** |
| 1 | *Ficus microcarpa var. ‘Hillii’* (Hills Weeping Fig) | Council verge – southern side of 80 Drumalbyn Road Bellevue Hill frontage | 14 x 36 | $60,000.00 |
| 6 | *Ficus microcarpa var. ‘Hillii’* (Hills Weeping Fig) | Council verge – Northern side of 80 Drumalbyn Road Bellevue Hill frontage | 14 x 36 | $60,000.00 |
| 15 | *Koelreuteria paniculata (Golden Rain tree)* | Council verge – Southern side of 84 Drumalbyn Road Bellevue Hill frontage | 4 x 4 | $1,700.00 |

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

1. The following trees may be removed:

|  |  |  |  |
| --- | --- | --- | --- |
| **Council Ref No** | **Species** | **Location** | **Dimension (metres)** |
| 2 | *Callistemon viminalis.* (Weeping Bottle Brush) | Council verge north eastern side of existing driveway in front of 84 Drumalbyn Road Bellevue Hill | 6 x 5 |
| 3 | *Prunus* sp. | Front yard of 82 Drumalbyn Road Bellevue Hill | 4 x 5 |
| 4 | *Olea europea var. africana* (African Olive)\* | Front yard of 82 Drumalbyn Road Bellevue Hill | 5 x 8 |
| 5 | *Gleditsia triacanthos cvs* (Honey Locust) \* | Front yard of 82 Drumalbyn Road Bellevue Hill | 6 x 10 |
| 7 | *Phoenix canariensis* (Canary Island Date palm) | Southern side boundary of 82 Drumalbyn Road Bellevue Hill | 10 x 6 |
| 8 | *Robinia pseudoacacia* (Robinia) | Southern side boundary of 80 Drumalbyn Road Bellevue Hill | 14 x 10 |
| 9 | *Phoenix canariensis* (Canary Island Date palm) | Northern side of rear yard of 84 Drumalbyn Road Bellevue Hill | 12 x 10 |
| 9a | *Strelitzia nicolai* (Giant Bird of Paradise)\* | Adjacent T9 Northern side of rear yard of 84 Drumalbyn Road Bellevue Hill | 7 x 10 |
| 10 | *Erythrina x sykesii* (Coral tree)\* | Rear yard south eastern corner of 82 Drumalbyn Road Bellevue Hill | 14 x 12 |
| 10a | *Brachychiton acerifolius (Illawarra Flame tree)* | Rear yard north eastern corner of 84 Drumalbyn Road Bellevue Hill | 10 x 4 |
| 11 | *Erythrina x sykesii* (Coral tree)\* | Rear yard south eastern corner of 82 Drumalbyn Road Bellevue Hill | 14 x 12 |
| 12 | *Casuarina glauca* (Swamp She-oak) - dead | Rear yard of 82 Drumalbyn Road Bellevue Hill | 16 x 10 |
| 13 | *Casuarina glauca (Swamp She-oak) –* fallen at base | Rear yard of 82 Drumalbyn Road Bellevue Hill | 12 x 8 |
| 14 | *Catalpa bignonioides* (Indian Bean tree) | Rear yard of 82 Drumalbyn Road Bellevue Hill | 9 x 10 |
| 14a | *Jacaranda mimosifolia (Jacaranda)* | Rear yard of 82 Drumalbyn Road Bellevue Hill | 8 x 4 |
| 18a | *Ligustrum sinense* (Small-leaved Privet) | Growing adjacent the base of T18 on southern side boundary of 84 Drumalbyn Road Bellevue Hill | 5 x 5 |
| 19 | *Olea europea var. africana* (African Olive)\* | Southern side boundary of 84 Drumalbyn Road Bellevue Hill | 9 x 10 |
| 21 – 24 | *Murraya paniculata* (Mock Orange) | Southern side boundary of 84 Drumalbyn Road Bellevue Hill | 6 metres height |
| 25a | *Ligustrum sinense* (Small-leaved Privet) | Rear yard southern side boundary of 84 Drumalbyn Road Bellevue Hill | 5 x 4 |
| 26b | *Strelitzia nicolai* (Giant Bird of Paradise)\* | Rear yard of 84 Drumalbyn Road Bellevue Hill | 10 x 4 |
| 29 | *Eribotrya japonica (Loquat tree)* | Northern side boundary of 80 Drumalbyn Road Bellevue Hill | 4 x 4 |
| 29a | *Plumeria acutifolia* (Frangipani) | Northern side boundary of 80 Drumalbyn Road Bellevue Hill | 4 x 4 |
| 30 | *Eribotrya japonica (Loquat tree)* | Northern side boundary of 80 Drumalbyn Road Bellevue Hill | 4 x 4 |
| 31 | *Eribotrya japonica* (Loquat tree) | Northern side boundary of 80 Drumalbyn Road Bellevue Hill | 4 x 6 |

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

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

**DEMOLITION WORK**

1. BEFORE DEMOLITION WORK COMMENCES

B1 Construction Certificate Required Prior to Any Demolition

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

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

Before issue of a construction certificate

Before building work commences

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

**Note:**

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

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



B.2 Erosion and Sediment Controls – Installation

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

a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and

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

Where there is any conflict The Blue Book takes precedence.

**Notes:**

The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

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

* 1. Identification of Hazardous Material

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

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

all hazardous materials identified on the site,

the specific location of all hazardous materials identified,

whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and

safety measures to be put in place.

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

* 1. Public Road Assets Prior to Any Work/Demolition

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

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

road pavement,

street signage including street lights,

kerb and gutter,

footway including pedestrian crossings, footpath, and driveways,

retaining walls, or other significant structures,

Heritage Items, including street name inlays,

utility service items including historical utility covers, and

drainage structures/pits/pipes (CCTV footage).

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

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

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

* 1. Payment of Security and Fees

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Description** | **Amount** | **Indexed** | **Council**  **Fee Code** |
| **SECURITY**  under section 4.17(6) of the *Environmental Planning and Assessment Act 1979* | | | |
| **Tree Damage Security Deposit** – making good any damage caused to any public tree | $121,700.00 | No | T114 |
| **Property Damage Security Deposit** (S138) | $833,920.00 | No | T115 |
| INSPECTION FEES  under section 608 of the Local Government Act 1993 | | | |
| Public Tree Management Inspection Fee | $242.00 | No | T95 |
| Street Tree Planting and Maintenance Fee | $2,156.00 | No | T95 |
| Security Deposit Administration Fee | $235.00 | No | T16 |
| **TOTAL SECURITY AND FEES** | $958,253.00 | | |

**How must the payments be made?**

Payments must be made by:

cash deposit with Council,

credit card payment with Council, or

bank cheque made payable to Woollahra Municipal Council.

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

the guarantee is by an Australian bank for the amount of the total outstanding contribution,

the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],

the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,

the bank guarantee is lodged with the Council prior to any site works being undertaken, and

the bank’s obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

**Notes:**

An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act.

The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council’s requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council’s requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council’s satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

The Refund of Security Bond Application form can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

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

**B.6 Dilapidation Reports for Existing Buildings**

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

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

1. No. 78 Drumalbyn Road
2. No. 86 Drumalbyn Road
3. No. 63 Latimer Road
4. No. 65 Latimer Road
5. No. 67 Latimer Road
6. No. 71 Latimer Road

Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.

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

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

**Notes:**

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

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

**B.7 Dilapidation Reports for Public Infrastructure**

Before any site work commences, to clarify the existing state of public infrastructure prior to the commencement of the development (including prior to any demolition), a dilapidation report, prepared by a chartered professional engineer, on Council’s infrastructure within and near the development site must be prepared.

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

1. closed circuit television/video inspection (in DVD format) and report of the public stormwater drainage system fronting the site,
2. photographs showing any existing damage to the road pavement fronting the site,
3. photographs showing any existing damage to the kerb and gutter fronting the site,
4. photographs showing any existing damage to the footway including footpath pavement fronting the site,
5. photographs showing any existing damage to retaining walls within the footway or road,
6. photographs showing any existing damage to street signs, heritage name plates, and historical items,
7. the full name and signature of the Chartered Professional Engineer.

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

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

**Notes:**

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

**Condition Reason:** To establish and document the structural condition of public land for comparison as site work progresses and is completed and ensure Council is provided with the dilapidation report.

* 1. Adjoining Buildings Founded on Loose Foundation Materials

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

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

**Notes:**

If a dilapidation report is not submitted as required by this condition, and damage is occasioned to public assets, which adjoin the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure.

Nothing in this condition prevents Council making any claim against security held for this purpose.

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

**B.9 Piezometers for the Monitoring of Ground Water Levels**

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

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

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

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

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

* 1. Works (Construction) Zone – Approval and Implementation

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

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

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

**Notes:**

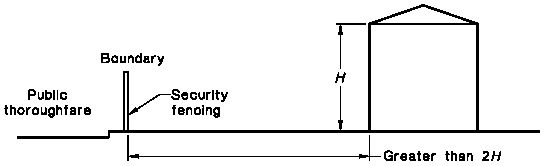
A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988.

The enforcement of the Works Zone is at the discretion of Council’s Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service.

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

* 1. Security Fencing, Hoarding (including ‘Creative Hoardings’) and Overhead Protection

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



**Type A Hoarding**

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



**Type B Hoarding**

Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

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

b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

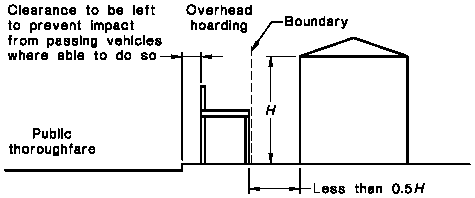
The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,

b) have a clear height above the footpath of not less than 2.1m,

c) terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and

d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



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

**All Hoardings**

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

**Hoardings on Public Land including ‘Creative Hoardings’**

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

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

**Notes:**

A minimum of two (2) weeks from the date of making a hoarding application to determination must be allowed. Any approval for a hoarding or overhead protection under the Roads Act 1993 will be subject to its own conditions and fees.

Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy:

a) Hoardings proposed on land zoned E1 Local Centre, or MU1 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more

OR

b) Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more

OR

c) Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:

1. the capital investment value of the work to which the hoarding relates is less than $1 million, or

2. the land is zoned R2 Low Density Residential, or

3. the land is zoned R3 Medium Density Residential and the hoarding is located in a lane or street that does not have through traffic (e.g. a cul-de-sac or no through road).

Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council’s form “Application for a permit to use a footpath for the erection of a hoarding/scaffolding”. The Creative Hoardings Policy can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

**Condition Reason:** To ensure public safety.

* 1. Site Signs

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

Clause 70 of the Regulation provides:

**Erection of signs**

For the purposes of section 4.17(11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.

A sign must be erected in a prominent position on any site on which building work, subdivision `work or demolition work is being carried out:

a) showing the name, address and telephone number of the principal certifier for the work, and

b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia.

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

**Signs on development sites**

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

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

**Notes:**

Clause 75 of the Development Certification and Fire Safety Regulations imposes a maximum penalty of 55 penalty units if these requirements are not complied with.

If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 70 of the Regulation and clause 75 of the Development Certification and Fire Safety Regulation.

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

* 1. Toilet Facilities

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

Each toilet provided:

a) must be a standard flushing toilet, and

b) must be connected to a public sewer, or

c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or

d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

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

**Notes:**

In this condition ‘sewage management facility’ and ‘public sewer’ are as defined by clause 25 of the Local Government (Approvals) Regulation 1999.

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

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

* 1. Establishment of Boundary Location, Building Location and Datum

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

a) set out the boundaries of the site by permanent marks (including permanent recovery points),

b) set out the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,

c) establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and

d) provide a copy of a survey report, prepared by the registered surveyor, detailing the title boundaries, pegs/profiles, recovery points and bench mark locations as established under this condition to the Principal Certifier.

**Notes:**

Where there is any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the site works must not proceed until the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.

On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks must be considered by the registered surveyor.

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

* 1. Compliance with Australian Standard for Demolition

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

**Condition Reason** To control the risks of demolition work.

* 1. Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

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

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

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

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

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

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

a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.

b) Floorplans of the internal layout and directional details of photographs taken.

c) Coloured photographs of:

each elevation,

each structure and landscape feature,

internal images of each room and significant architectural detailing, and

views to the subject property from each street and laneway or public space.

**Notes:**

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

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

* 1. Archaeological Features – Unexpected Findings

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

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

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

**Notes:**

Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity.

Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks.

During an archaeological excavation the term ‘feature’ may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).

**Condition Reason:** To protect archaeological features.

* 1. Skeletal Remains

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

a) NSW Police, and

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

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

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

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

* 1. Aboriginal Objects – Unexpected Findings

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

a) Not further disturb or move these objects or bones.

b) Immediately cease all work at the particular location.

c) In the case of suspected human remains, notify NSW Police.

d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.

e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.

f) Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

**Notes:**

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

**Condition Reason:** To protect Aboriginal objects

* 1. Aboriginal Heritage Due Diligence Responsibilities

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

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

**Condition Reason:** To protect Aboriginal heritage.

* 1. Aboriginal Heritage Induction

Prior to any site works:

a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974;

b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and

c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.

**Condition Reason:** To protect Aboriginal heritage.

* 1. Salvage

Brick masonry, sandstone, roof tiles, chimney pieces, timber joinery, internal decorative plaster ceilings, cornices, joinery, timber flooring, and any original decorative architectural elements to be demolished must be catalogued, labelled, salvaged and where practical reused on the project or transferred to an established second building material dealer for recycling. Documentation of the salvage methodology must be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of demolition.

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

* 1. Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)

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

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

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

1. Tree Protection Fencing:

|  |  |  |  |
| --- | --- | --- | --- |
| **Council Ref No** | **Species** | **Tree Location** | **Fence Radius from Centre of Trunk (Metres)\*** |
| 1 | *Ficus microcarpa var. ‘Hillii’* (Hills Weeping Fig) | Council verge – southern side of 80 Drumalbyn Road Bellevue Hill frontage | Verge area |
| 6 | *Ficus microcarpa var. ‘Hillii’* (Hills Weeping Fig) | Council verge – Northern side of 80 Drumalbyn Road Bellevue Hill frontage | Verge area |
| 15 | *Koelreuteria paniculata (Golden Rain tree)* | Council verge – Southern side of 84uu Drumalbyn Road Bellevue Hill frontage | 2 |
| 16 | *Camellia sasanqua* (Camellia) | Front north western corner of 86 Drumalbyn Road Bellevue Hill | 3 |
| 17 | *Phoenix canariensis* (Canary Island Date palm) | Front south western corner of 84 Drumalbyn Road Bellevue Hill | 6 |
| 18 | *Eucalyptus scoparia* (Willow Gum) | Southern side boundary of 84 Drumalbyn Road Bellevue Hill | 8 |
| 25 | *Radermachera sinica* (China Dolltree) | Northern side boundary of 86 Drumalbyn Road Bellevue Hill | 2 |
| 26 | *Erythrina x sykesii (Coral tree)* | Rear yard of 86 Drumalbyn Road Bellevue Hill | 5 |
| 26a | *Archontophoenix cunninghamiana* (Bangalow palm) | Rear yard northern side boundary of 86 Drumalbyn Road Bellevue Hill | 2 |
| 27 | *Celtis sinensis* (Chinese Nettle) | Rear yard of 86 Drumalbyn Road Bellevue Hill | 4.5 |

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

Where this condition relates to trees on private property, the radial distance of fencing must be positioned only within the subject property relating to the development consent.

1. Tree Protection Zones must be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence must be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence must be mulched and the mulch layer maintained to a depth of 75mm. The soil within the TPZ area must be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there must be no access within the TPZ area.
2. Trunk protection must be installed around the trunks of the following trees:

|  |  |
| --- | --- |
| **Council Ref No** | **Species** |
| 1 | *Ficus microcarpa var. ‘Hillii’* (Hills Weeping Fig) |
| 6 | *Ficus microcarpa var. ‘Hillii’* (Hills Weeping Fig) |
| 17 | *Phoenix canariensis* (Canary Island Date palm) |
| 18 | *Eucalyptus scoparia* (Willow Gum) |

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

1. Signs identifying the Tree Protection Zone area must be erected on each side of the protection fence indicating the existence of a TPZ area. Signage must be visible from within the development site.
2. 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.
3. Ground protection must be established within the specified radius from the trunks of the following trees.

|  |  |  |  |
| --- | --- | --- | --- |
| **Council Ref No** | **Species** | **Tree Location** | **Radius from Centre of Trunk (Metres)** |
| 16 | *Camellia sasanqua* (Camellia) | Front north western corner of 86 Drumalbyn Road Bellevue Hill | 3 |
| 17 | *Phoenix canariensis* (Canary Island Date palm) | Front south western corner of 84 Drumalbyn Road Bellevue Hill | 6 |
| 18 | *Eucalyptus scoparia* (Willow Gum) | Southern side boundary of 84 Drumalbyn Road Bellevue Hill | 8 |

Ground protection must consist of (geotextile fabric placed directly over the ground surface with 100mm mulch / aggregate / rumble boards strapped over mulch / steel plating over 10mm mulch layer / retention of existing surface. No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within the ground protection area unless specified in this consent.

1. Temporary access within the TPZ area for pedestrian and machinery movements must only be permitted with the approval of the site arborist or unless specified in this consent.
2. 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.
3. The project arborist must provide written certification of compliance to the Principal Certifier with the above conditions.

**Condition Reason:** To ensure the protection of existing trees

* 1. Construction Management Plan Arborist Review

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

The plan must address:

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

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

* 1. Arborists Documentation and Compliance Checklist

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

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

All compliance certification documents must be kept on site.

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

|  |  |
| --- | --- |
| **Stage of arboricultural inspection and supervision** | **Compliance documentation and photos must include** |
| Prior to any site works | * Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. * The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. |

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

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

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

* 1. Permissible work within Tree Protection Zones

Prior to any site works, the following works are permissible within the Tree Protection Zone:

|  |  |  |  |
| --- | --- | --- | --- |
| **Council Ref No** | **Species** | **Radius from Centre of Trunk (Metres)** | **Approved works** |
| 1 | *Ficus microcarpa var. ‘Hillii’* (Hills Weeping Fig) | 15 | Piling arrangement illustrated in the Shoring General Arrangement Plan, Pages 1 and 2, drawn by Dunnings Consulting Engineers, dated 19/03/2025.  The existing Sandstone retaining wall within this radius must be left in situ to protect roots behind the sandstone wall.  Proposed unit complex.  Proposed soft landscaping. |
| 6 | *Ficus microcarpa var. ‘Hillii’* (Hills Weeping Fig) | 15 | Piling arrangement illustrated in the Shoring General Arrangement Plan, Pages 1 and 2, drawn by Dunnings Consulting Engineers, dated 19/03/2025.  The existing Sandstone retaining wall within this radius must be left in situ to protect roots behind the sandstone wall.  Proposed unit complex.  Proposed soft landscaping. |
| 16 | *Camellia sasanqua* (Camellia) | 3 | Proposed soft landscaping. |
| 17 | *Phoenix canariensis* (Canary Island Date palm) | 6 | Demolition of existing garages. Proposed piers to support the proposed suspended driveway. Proposed lightweight metal wall not to be constructed into the existing ground.  Proposed soft landscaping. |
| 18 | *Eucalyptus scoparia* (Willow Gum) | 8 | Demolition of existing garages. Proposed piers to support the proposed suspended driveway. Proposed lightweight metal wall not to be constructed into the existing ground.  Proposed soft landscaping. |
| 25 | *Radermachera sinica* (China Dolltree) | 3 | Piling arrangement illustrated in the Shoring General Arrangement Plan, Pages 1 and 2, drawn by Dunnings Consulting Engineers, dated 19/03/2025.  Proposed soft landscaping. |
| 26 | *Erythrina x sykesii (Coral tree)* | 4 | Proposed soft landscaping. |
| 26a | *Archontophoenix cunninghamiana* (Bangalow palm) | 2 | Proposed soft landscaping. |
| 27 | *Celtis sinensis* (Chinese Nettle) | 4.5 | Proposed soft landscaping. |

The project arborist must provide written certification of compliance to the Principal Certifier with the above condition.

**Condition Reason** To establish the works which are permissible within the Tree Protection Zones.

* 1. Construction Traffic Management Plan

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

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

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

a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage.

b) Identify local traffic routes to be used by construction vehicles.

c) Identify ways to manage construction works to address impacts on local traffic routes.

d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.

e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.

f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access, or reversing manoeuvres onto a public road, and provide Traffic Guidance Schemes (TGSs) prepared by an accredited SafeWork NSW Control Work Training Card holder to manage these temporary changes.

g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.

h) Provide for the standing of vehicles during construction.

i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).

j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).

k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.

l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Guidance Schemes (TGSs) prepared by an approved SafeWork NSW Control Work Training Card holder.

m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.

n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)

o) Show the location of any proposed excavation and estimated volumes.

p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.

q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

**Notes:**

A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Traffic Management Plan is approved.

Failure to comply with this condition may result in fines and proceedings to stop work.

Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command.

If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.

Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on [eastsubtraffic@police.nsw.gov](mailto:eastsubtraffic@police.nsw.gov)

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

**REMEDIATION WORK**

1. ON COMPLETION OF REMEDIATION WORK

Nil.

**BUILDING WORK**

1. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE
2. 1. Modification of Details of the Development (section 4.17(1)(g) of the Act

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

1. Amended landscape plan, The submitted landscape plan must be amended to include one additional replacement tree and submitted to Council for approval prior to the issue of a Construction Certificate. The additional replacement tree must comprise the following:

* 1 x *Ficus rubiginosa* (Port Jackson Fig), growing in a 100 litre container at the time of planting to replace T2 *Callistemon viminalis.* (Weeping Bottle Brush). The replacement tree must be positioned no closer than 3 metres from the north eastern edge of the proposed driveway.

1. In order to provide for suitable visual privacy relationships with regard to Part 3F of the Apartment Design Guide, privacy screening must be provided along the entirety of the northern balcony edge of units 6.1, 5.2, 4.2, 3.1, 2.1, 1.1 and along the entirety of the southern balcony edge of units 6.2, 5.4, 4.5, 3.4, 2.4, 1.4.

Privacy screens must be 1.6m in height when measured from the finished floor level of each respective balcony.

**Notes:**

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

Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent.

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

* 1. Payment of Long Service Levy

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Description** | **Amount** | **Indexed** | **Council**  **Fee Code** |
| **LONG SERVICE LEVY**  under *Building and Construction Industry Long Service Payments Act 1986* | | | |
| **Long Service Levy**  [www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator](http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator) | Contact LSL  Corporation or use online calculator | No |  |

**Building and Construction Industry Long Service Payment**

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

**How must the payments be made?**

Payments must be made by:

* cash deposit with Council,
* credit card payment with Council, or
* bank cheque made payable to Woollahra Municipal Council.
  1. BASIX Commitments

Before the issue of any construction certificate, BASIX Certificate No. 1753742M must be submitted to the Principal Certifier with any application for a construction certificate.

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

**Notes:**

Where there is any proposed change in the BASIX commitments the Applicant must submit a new BASIX Certificate to the Principal Certifier and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 19 and 20 of the Development Certification and Fire Safety Regulation) the Applicant will be required to submit an amended development application to Council under section 4.55 of the Act.

Clause 19(1)(a) of the Development Certification and Fire Safety Regulation 2021 provides: a certifier must not issue a construction certificate for building work unless: the relevant building work plans and specifications include the matters required by a relevant BASIX certificate, if any.

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

* 1. Erosion and Sediment Control Plan – Submission and Approval

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

a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils; and

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

Where there is any conflict The Blue Book takes precedence.

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

**Notes:**

The International Erosion Control Association – Australasia [www.austieca.com.au](http://www.austieca.com.au) lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.

The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au, and The Blue Book is available at www.environment.nsw.gov.au

Under clause 73(2)(a)(v) of the Development Certification and Fire Safety Regulation an Accredited Certifier may be satisfied as to this matter.

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

* 1. Payment of S7.12 Contributions Levy

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

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

The cost estimate report must be in the form of:

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

A cost summary report, prepared by a suitably qualified person, at the applicant’s cost, where the cost of development is between $150,000 and $749,999; or

A quantity surveyor’s report, at the applicant’s cost, for development over $750,000.

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

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

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

**How must the payments be made?**

Payments must be made by:

Cash deposit with Council,

Credit card payment with Council, or

Bank cheque made payable to Woollahra Municipal Council.

**Deferred or periodic payment of section 7.12 levy**

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

the reasons given,

whether any prejudice will be caused to the community deriving benefit from the public facilities,

whether any prejudice will be caused to the efficacy and operation of the Plan, and

whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

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

the guarantee is by an Australian bank for the amount of the total outstanding contribution,

the bank unconditionally and irrevocably agrees to pay the guaranteed sum to the Council on written request by Council prior to the issue of an occupation certificate,

a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable,

the bank agrees to pay the guaranteed sum without recourse to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, and

the bank’s obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 2.12 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

**Do you need HELP indexing the levy?**

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

**Condition Reason:** To ensure any relevant contributions are paid.

* 1. Housing and Productivity Contribution Order 2024

1) The housing and productivity contribution (HPC) set out in the table below is required to be made:

|  |  |
| --- | --- |
| **Housing and productivity contribution** | **Amount** |
| Total housing and productivity contribution | $21,421.31 |

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

|  |  |
| --- | --- |
| **HPC component of development** | **Time by which HPC must be paid** |
| **Residential subdivision** | Before the issue of the first subdivision certificate for the residential subdivision.  **Note:** This is subject to clause 20 relating to staged subdivision |
| **Residential subdivision** and other **residential development, or commercial or industrial development**, that requires a construction certificate. | Before the issue of:   * the first subdivision certificate for the residential subdivision, or * the first construction certificate for the other residential development or the commercial or industrial development,   whichever is the earlier. |
| **Medium or high-density residential developmen**t for which a construction certificate is not required.  **Note:** Medium or high-density residential development may not require a construction certificate if the medium or high-density residential accommodation authorised by the consent will result from a change of use of existing building. | Before the issue of the first strata certificate for the medium or high density residential development. |
| **Residential subdivision and medium or high-density residential development** for which a construction certificate is not required. | Before the issue of:   * the first subdivision certificate for the residential subdivision, or * the first strata certificate (if any is required) for the medium or high density residential development,   whichever is the earlier. |
| Development for the purposes of **manufactured home estate** for which a construction certificate is not required | Before the installation of the first manufactured home on a dwelling site. |

3) In this condition, HPC Order means the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024.

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

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

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

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

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

**Notes:**

This condition is to be used for development consents (other than complying development certificates, concept DAs or staged residential subdivision).

This condition is based upon the Department of Planning and Environment’s standard HPC condition.

* 1. Professional Engineering Details

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

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

**Notes:**

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

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

* 1. Engineer Certification

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

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

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

**D.9 Geotechnical and Hydrogeological Design, Certification and Monitoring**

Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2 of Council’s DCP and Council’s document “Guidelines for Preparation of Geotechnical and Hydrogeological Reports”. The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.

b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).

c) Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.

d) Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council’s DCP.

e) Provide a Geotechnical and Hydrogeological Monitoring Program that:

* will detect any settlement associated with temporary and permanent works and structures,
* will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
* will detect vibration in accordance with AS 2187.2 Appendix J including acceptable velocity of vibration (peak particle velocity),
* will detect groundwater changes calibrated against natural groundwater variations,
* details the location and type of monitoring systems to be utilised,
* details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
* details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and details a contingency plan.

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

* 1. Ground Anchors

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

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

a) Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any ground anchors extending beyond the boundaries of the subject property.

b) The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council’s land may be permitted, in accordance with Council’s “Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

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

**Notes:**

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

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

Clause 17 of the Roads (General) Regulation 2018 prohibits excavation in the vicinity of roads as follows: “Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road.” Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

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

* 1. Parking Facilities

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

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

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

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

**D.12 Stormwater Management Plan**

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

1. General design in accordance with the stormwater management plans, referenced SYD2933-Rev C, prepared by ADP Consulting Engineering, dated 03/12/2024, other than amended by this and other conditions,
2. Subsoil drainage / seepage water must NOT be discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council’s DCP. Notation to this requirement must be clearly depicted on the drawings,
3. The installation of rainwater tank (RWT) with a minimum storage volume of 168m3 to comply with Chapter E2.2.9 of the Council’s DCP. Runoff from all roof areas must be collected and directed to the required RWT for non-potable uses such as toilet flushing, laundry devices and garden irrigation etc. Notation and details for the non-potable uses must be included in the drawings. Overflow from the RWT must be directed to the proposed absorption system by gravity,
4. Surface runoff from all paved areas and the rainwater tank overflow must be directed to the proposed absorption trench system. The system must be designed to have the storage capacity for the 5% AEP storm event based on the absorption rate and where the rainwater tank is to be assumed to be full and not included as part of the absorption storage,
5. Infiltration/absorption systems must not be located within building footprints or underneath any permanent structures such as decks or paved areas to facilitate maintenance and must be located a minimum of 3 metres from footings of buildings and property boundaries to minimise adverse impacts. The trench systems must be generally located parallel to contours,
6. The installation of rainwater tank (RWT) to comply with BASIX certificate,
7. The provision of stormwater treatment system including but not limited to 168m3 Rainwater Tank (RWT), 2 x OceanGuard and 1 x 690mm PSorb Stormfilter by Ocean Protect and a rain garden with minimum 18m2 area to meet the water quality targets stipulated in Chapter E2.2.3 of Council’s DCP. Stormwater runoff from min. 653m2 roof area must be directed to the 168m3 RWT for reuse purposes to comply with the MUSIC model,
8. Internal stormwater drainage including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans,
9. Dimensions of all drainage pits and access grates must comply with AS3500.3,
10. Compliance with the objectives and performance requirements of the BCA, and
11. General compliance with the Council’s Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

**Rainwater Tank (RWT) Requirements**

The minimum storage volume for the required rainwater tank (RWT) must be 168m3.

**Layout plan**

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

a) All pipe layouts, dimensions, grades, lengths and material specification.

b) Location of proposed rainwater tanks.

c) All invert levels reduced to Australian Height Datum (AHD).

d) Location and dimensions of all drainage pits.

e) Point and method of connection to Councils drainage infrastructure.

f) Overland flow paths over impervious areas.

**Rainwater Reuse System details:**

a) Any potential conflict between existing and proposed trees and vegetation.

b) Internal dimensions and volume of the proposed rainwater storage.

c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures.

d) Details of access and maintenance facilities.

e) Construction and structural details of all tanks and pits and/or manufacturer’s specifications for proprietary products.

f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks.

For Stormwater Drainage works on Council’s property, separate approval under Section 138 of the Roads Act 1993 must be obtained from Council for those works before the issue of any construction certificate.

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

**Notes:**

* The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 “Rainwater Tank Design and Installation Handbook”.

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

* 1. Stormwater Infiltration Systems

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

a) the soil permeability coefficient and estimate of mean water table level using field observations,

b) how the system will disperse a 1 in 20 years average recurrence interval storm,

c) how the system will cater for a 1 in 100 years average recurrence interval storm event by overland flow paths, and

d) general compliance with Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

* 1. Swimming and Spa Pools – Child Resistant Barriers

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

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

**Notes:**

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

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

* 1. Swimming and Spa Pools – Backwash

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

**Notes:**

The plans must show the location of Sydney Water’s sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2.

The discharge of backwash water to any stormwater system is water pollution and an offence under the Protection of the Environment Operations Act 1997. The connection of any backwash pipe to any stormwater system is an offence under the Protection of the Environment Operations Act 1997.

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

* 1. Electric vehicle circuitry and electric vehicle charging point requirements

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include an accurate electrical plan and specifications for all off-street car parking, 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 must 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 Principal Certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

**Notes:**

The minimum electric circuitry requirements for ‘Level 2’ electric vehicle charging points are:

- Privately available spaces including visitor spaces: ‘Level 2’ slow – single phase 7kW power; and

- Publicly available spaces: ‘Level 2’ fast – three-phase 11-22kW power.

**Condition Reason:** To ensure the provision of electric vehicle circuitry to enable the future installation of electric vehicle charging point(s), and electric charging points if 10 or more car parking spaces are provided.

* 1. Acoustic Certification of Mechanical Plant and Equipment

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

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

Where sound attenuation is required this must be detailed.

**Notes:**

Further information including lists of Acoustic Engineers can be obtained from:

- Australian Acoustical Society - professional society of noise-related professional www.acoustics.asn.au

- Association of Australian Acoustical Consultant - professional society of noise related professionals [www.aaac.org.au](http://www.aaac.org.au)

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

* 1. Flood Protection

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

Flood Warning:

1. A permanent flood risk management plan shall be installed in a prominent area of the basement carpark,

Fencing

1. All fences traversing the rear over land flow path shall be designed to be flow through,
2. The development shall be protected by a waterproof front wall designed to protect the development to the flood planning level

Below Ground Car parking

1. The driveway entry shall be protected by an automatic mechanical flood barrier with the threshold set to the flood planning level of 56.8 m AHD,
2. Permanent brass plaques shall be mounted adjacent to all automatic mechanical flood barriers explaining their purpose and operation,
3. Emergency self-powered lights, indicting the safe exit to a flood free area above the probable maximum flood (PMF) shall be installed in the car parking area,

Floor levels

1. The pedestrian entry shall be protected by an automatic mechanical flood barrier with the threshold set to the flood planning level of 55.3m AHD,
2. All habitable floor level entry points shall be a minimum of 300mm above the adjacent ground level,

Flood Proof Material

1. Flood compatible materials shall be used for all flood exposed construction,

Electricals

1. All flood exposed electrical wiring and equipment shall be waterproofed,

Overland Flow Paths

1. A permanent informative sign shall be mounted adjacent to the overland flow path indicting that the area is an overland flow path and must be keep clear and unobstructed at all times,

Certification

1. All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation,

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

**Notes:**

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

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

**Notes:**

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

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

* 1. Acoustics – Design and Construction

The recommendations provided in the approved acoustic report titled *Pulse White Noise Acoustics – Report No. 240536-80-84 Drumalbyn Rd Bellevue Hill-Noise Impact Assessment-R0 – 27 August 2024,* shall be incorporated into the design and construction of the development and be shown on plans accompanying the Construction Certificate application.

The construction methodology and plans accompanying the Construction Certificate application shall be assessed and certified in writing by a suitably qualified acoustic consultant, to verify conformance with the requirements of the aforementioned acoustic report. The written certification from the suitably qualified acoustic consultant shall be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

*Note: ‘Suitably qualified acoustic consultant’ means a consultant who possesses Australian Acoustical Society membership or are employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.*

**Condition Reason:** To ensure internal acoustic amenity is maintained for occupants of the building.

* 1. Acoustics – Mechanical Plant Services

Before the issue of any construction certificate, an Acoustic Report, prepared by a suitably qualified acoustic consultant, shall assess the environmental cumulative noise impacts associated with the operation of all **mechanical plant services**.

The Acoustic Report shall have regard to the *Woollahra Municipal Council – Woollahra DCP 2015* and *Table 7 Project Specific Noise Criteria* in the approved acoustic report titled, *Pulse White Noise Acoustics – Report No. 240536-80-84 Drumalbyn Rd Bellevue Hill-Noise Impact Assessment-R0 – 27 August 2024.*

Where necessary, noise amelioration treatments will be incorporated in the mechanical plant services design to ensure that cumulative noise levels comply with the noise emission criteria. Compliance noise testing is to be undertaken following the installation of the mechanical plant equipment.

Note 1: *Compliance with the Night-time (RBL) noise emission criteria will ensure compliance at all other times.*

Note 2: *Note: ‘Suitably qualified acoustic consultant’ means a consultant who possesses Australian Acoustical Society membership or are employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.*

**Condition Reason:** To protect the acoustic amenity of the surrounding environment.

* 1. Acoustics – Demolition and Construction

At the Construction Certificate stage, a *Construction Noise Management Plan (CNMP)* is to be prepared by a suitably qualified acoustic consultant. The construction noise will be assessed with consideration to *DECCW Interim Construction Noise Guidelines (ICNG) (2009)* to provide noise management levels for construction noise at residential and other potentially sensitive receivers**.** The management levels are to be calculated based on the adopted rating background level (RBL) at nearby locations.

The CNMP shall be a site specific plan developed to ensure that appropriate work practices are implemented during the demolition, excavation and construction to minimise noise and vibration impact. The CNMP shall include:

* Attended and unattended noise monitoring at locations indicative of noise sensitive receivers.
* Site description.
* Staging of construction.
* Establishment of project specific airborne noise construction goals based on monitored existing noise levels.
* Prediction of construction noise levels from proposed construction works.
* Recommendation of environmental noise control options/management practices.
* Complaints handling and community liaison procedures.

**Condition Reason:** To protect the acoustic amenity of the surrounding environment.

* 1. Light and Ventilation

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

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

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

**Notes:**

Clause 69 of the Regulation requires compliance with the BCA. Clause 19 of the Development Certification and Fire Safety Regulation prevents the issue of a construction certificate unless the Principal Certifier is satisfied that compliance has been achieved.

Part 3, Division 1 of the Development Certification and Fire Safety Regulation details what information must be submitted with any construction certificate. It is the Applicant's responsibility to demonstrate compliance through the construction certificate application process.

Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the Protection of the Environment Operations Act 1997 have overriding effect if offensive noise or odour arises from the use.

Applicants must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of AS 1668.2

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

* 1. Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

Before the issue of any construction certificate, the basement carpark in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Section 4 of Australian Standard 1668.2-2012. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The basement carpark must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the basement carpark and provide details to the Certifying Authority accordingly. Except as varied, the basement carpark shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-2012.

**Condition Reason:** To ensure the development is adequately ventilated.

* 1. Ventilation - Internal Sanitary Rooms

Before the issue of any construction certificate, all internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Minimum Exhaust Ventilation Flow Rates of AS 1668.2-2012*. Details of any proposed mechanical ventilation system(s) must be submitted with the Construction Certificate plans and specifications to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

**Condition Reason:** To ensure the development is adequately ventilated.

**D.25 Road and Public Domain Works**

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

1. The removal of all redundant vehicular crossings including layback and gutter and reinstatement into Council’s standard kerb and gutter and nature strip in accordance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council’s Assets Engineers,
2. The construction of a new 5.5 metre wide vehicular crossing including the removal of the existing vehicular crossing including layback and gutter in accordance with Council’s Crossing Specification and standard driveway drawing RF2\_D and to the satisfaction of Council’s Assets Engineers. The new vehicular crossing must be constructed at a right angle to the street kerb in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the parking slab must be submitted for assessment,
3. The removal and replacement of the existing 1.5 metre wide concrete footpath for the full frontage of the site in accordance with Council’s Specification, Council’s standard drawing RF3 and to the satisfaction of Council’s Assets Engineers. A maximum cross-fall of 3% must be provided for the footpath, graded from the property boundary towards the top of kerb. A design longitudinal surface profile (scale 1:100) and cross sections (scale 1:50) at 5 metre intervals must be submitted for assessment,
4. A bond of $43,270 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date,
5. Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council’s requirements,
6. The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements,
7. The reinstatement of all damaged footpath, kerb and gutter and road pavement to Council’s Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council’s Assets Engineers, and
8. 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.

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Description** | **Amount** | **Indexed** | **Council**  **Fee Code** |
| **SECURITY**  under section 4.17(6) of the *Environmental Planning and Assessment Act 1979* | | | |
| **Infrastructure Works Bond** - completing any public work required in connection with the consent. | $43,270 | No | T113 |
| **Infrastructure Works Bond** – remedying any defects in any public work that arise within 6 months after the work is completed | Nil | No | T113 |
| **INSPECTION FEES**  under section 608 of the *Local Government Act 1993* | | | |
| Public Road and Footpath Infrastructure Inspection Fee | $674 | Yes | T45 |
| **TOTAL SECURITY AND FEES** | $43,944 | | |

**How must the payments be made?**

Payments must be made by:

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

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

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

**Notes:**

* ***Road*** has the same meaning as in the Roads Act 1993.
* Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.
* Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the Roads Act 1993 and specifically:
  1. Construction of driveways and/or new or alterations to footpath paving
  2. Alteration and/or extension to Council drainage infrastructure
  3. Alteration and/or addition of retaining walls
  4. Pumping of water to Council’s below ground stormwater system
  5. Installation of soil/rock anchors under the roadway
  6. 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:
  1. Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). The connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
  2. Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.
* All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.
* The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council’s Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.
* Any adjustments required from the garage slab and the street levels are to be carried out internally on private property.
* Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
* Temporary ground anchors may be permitted, in accordance with Council’s “Rock Anchor Policy”.
* Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant must be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.
* All public domain works must comply with the latest version of Council’s “Specification for Roadworks, Drainage and Miscellaneous Works” unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).
* When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment.
* An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act.
* The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council’s requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council’s requirements.
* Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council’s satisfaction as the case may be.
* When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s.
* Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

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

* 1. Provision for Energy Supplies

Before the issue of any construction certificate:

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

b) The applicant is to obtain written approval from Ausgrid for the relocation, adjustment or installation of new services, or existing services affected by, or required for the development.

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

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

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

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

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

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

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

a) The substation shall be located or concealed so not visible from the street.

b) A setback not less than 3m from any side or rear site boundary (or fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility under clause 3.2.4 of AS2890.1 (See: Figures 3.2 and 3.3).

c) That vegetation does not overhang or encroach within the substation site.

d) That the substation is installed outside of the mature growth root zone of any trees to be retained, or proposed to be planted, to prevent root damage to underground cables. A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly under clause 5.6.3(c)(ii) of AS 2419.1, and

e) The Owner must dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable a substation to be established, if required. The size and location of thesubstation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.

**Notes:**

If the substation is not located within the building its location, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any construction certificate for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Principal Certifier prior to issue of the construction certificate. The Principal Certifier must be satisfied that the requirements of the energy authority have been met prior to issue of the construction certificate.

Where it is proposed to shield any booster connection or any building from any electricity pillar and/or substation under clause 5.6.3(c)(ii) of AS 2419.1 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent under clause 19 of the Development Certification and Fire Safety Regulation. The Applicant must lodge with Council details for any such construction under section 4.55 of the Act to allow assessment under section 4.15 of the Act.

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

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

* 1. Tree Protection Plan and Specification

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

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

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

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

* 1. Parking Facilities

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking, AS/NZS 2890.6: Parking Facilities – Off-Street for people with disabilities and AS2890.3: Parking Facilities - Bicycle Parking Facilities respectively.

The plans must satisfy the following requirement(s):

1. Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS2890.1:2004;
2. A 2m x 2.5m sight splay be provided, kept clear of any obstruction to visibility, along both side of the access driveway entirely within property boundary;
3. Signage and/or pavement marking be provided for visitor parking spaces;
4. Accessible parking spaces should be designed as per AS 2890.6. Bollard and line marking should be provided to the shared area adjacent to the parking space;
5. Traffic light system be incorporated to indicate the operation of the two car lifts to ensure priority is given to vehicles entering the car lift. Vehicles must not reverse onto the footpath to allow another vehicle to manoeuvre off the site.
6. Six (6) motorbike parking spaces be provided to comply with DCP’s minimum requirement.

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

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

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

1. BEFORE BUILDING WORK COMMENCES
2. 1. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

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

a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,

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

This condition does not apply:

a) to the extent to which an exemption is in force under the Home Building Regulation 2014, or

b) to the erection of a temporary building.

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

**Notes:**

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

All new guttering is to comply with the provisions of AS3500.

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

* 1. Erosion and Sediment Controls – Installation

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

a) The Soil and Water Management Plan if required under this consent;

b) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and

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

Where there is any conflict The Blue Book takes precedence.

**Notes:**

The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition.

Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au

A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being.

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

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

Building work must not commence, until:

a) A construction certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and

b) The person having the benefit of the development consent has:

appointed a Principal Certifier for the building work, and

notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and

c) The Principal Certifier has, no later than 2 days before the building work commences:

notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and

notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:

appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and

notified the Principal Certifier of any such appointment, and

unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

given at least 2 days’ notice to the Council of the person’s intention to commence the erection of the building.

**Notes:**

***Building*** has the same meaning as in section 1.4 of the Act and includes part of a building and any structure or part of a structure.

***New building*** has the same meaning as in section 6.1 of the Act and includes an altered portion of, or an extension to, an existing building.

The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the Act (including the need for a Construction Certificate) prior to any demolition work. See: Over our Dead Body Society Inc v Byron Bay Community Association Inc [2001] NSWLEC 125.

Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council’s website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

It is an offence for any person to carry out the erection of a building in breach of this condition and in breach of section 6.6(2) of the Act.

Under the Home Building Act 1989 any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of $12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.

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

1. DURING BUILDING WORK
2. 1. Compliance with BCA and Insurance Requirements under the Home Building Act 1989

While site work is being carried out:

a) work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),

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

This condition does not apply:

a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or

b) to the erection of a temporary building.

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

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

**Notes:**

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

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

* 1. Requirement to Notify about New Evidence

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

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

* 1. Critical Stage Inspections

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

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

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

**Notes:**

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

The Principal Certifier may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2G2 of the BCA in relation to any matter relevant to the development.

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

* 1. Hours of Work –Amenity of the Neighbourhood

While site work is being carried out:

a) No work must take place on any Sunday or public holiday.

b) No work must take place before 7am or after 5pm any weekday.

c) No work must take place before 7am or after 1pm any Saturday.

d) The following work must not take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:

- piling,

- piering,

- rock or concrete cutting, boring or drilling,

- rock breaking,

- rock sawing,

- jack hammering, or

- machine excavation.

e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.

f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.

g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute interval break within every hour.

**Notes:**

The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

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

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

Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the Protection of the Environment Operations Act 1997, the Protection of the Environment Operations (Noise Control) Regulation 2017.

NSW EPA Noise Guide is available at [www.epa.nsw.gov.au/noise/nglg.htm](http://www.epa.nsw.gov.au/noise/nglg.htm)

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

* 1. Public Footpaths – Safety, Access and Maintenance

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

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

b) Not use the road or footway for the storage of any article, material, matter, waste or thing.

c) Not use the road or footway for any work.

d) Keep the road and footway in good repair free of any trip hazard or obstruction.

e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council.

f) Not stand any plant and equipment upon the road or footway.

g) If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand.

h) Provide a clear safe pedestrian route a minimum of 1.5m wide.

i) Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development.

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

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

b) Australian Road Rules.

**Notes:**

Section 148B of the Road Transport Act 2013 allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.

Section 138 of the Roads Act 1993 provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or

- dig up or disturb the surface of a public road, or

- remove or interfere with a structure, work or tree on a public road, or

- pump water into a public road from any land adjoining the road, or

- connect a road (whether public or private) to a classified road,

- otherwise than with the consent of the appropriate roads authority.

Section 68 of the Local Government Act 1993 provides that a person may carry out certain activities only with the prior approval of the Council including:

- Part C Management of waste:

a) For fee or reward, transport waste over or under a public place

b) Place waste in a public place

c) Place a waste storage container in a public place.

- Part E Public roads:

a) Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway

b) Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.

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

* 1. Maintenance of Environmental Controls

While site work is being carried out, the following monitoring, measures and

controls must be maintained:

a) erosion and sediment controls,

b) dust controls,

c) dewatering discharges,

d) noise controls,

e) vibration monitoring and controls, and

f) ablutions.

* 1. Compliance with Geotechnical / Hydrogeological Monitoring Program

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

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

a) the location and type of monitoring systems to be utilised,

b) recommended hold points to allow for inspection and certification of geotechnical and

c) hydrogeological measures by the professional engineer, and

d) the contingency plan.

**Notes:**

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

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

* 1. Support of Adjoining Land and Buildings

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

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

**Notes:**

This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or

- an access order under the Access to Neighbouring Land Act 2000, or

- an easement under section 88K of the Conveyancing Act 1919, or

- an easement under section 40 of the Land and Environment Court Act 1979 as appropriate.

Section 177 of the Conveyancing Act 1919 creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Clause 17 of the Roads Regulation 2018 prohibits excavation in the vicinity of roads as follows: “Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road.” Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council’s care control or management, or any community or operational land as defined by the Local Government Act 1993.

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

* 1. Vibration Monitoring

While site work is being carried out, vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

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

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

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

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

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

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

**Notes:**

***Professional engineer*** has the same mean as in Schedule 1 of the BCA.

***Building*** has the same meaning as in section 1.4 of the Act i.e. “building includes part of a building and any structure or part of a structure….”

***Supported land*** has the same meaning as in the Conveyancing Act 1919.

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

* 1. Erosion and Sediment Controls – Maintenance

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

a) the Soil and Water Management Plan required under this consent,

b) “Do it Right On Site, Soil and Water Management for the Construction Industry” and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and

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

Where there is any conflict The Blue Book takes precedence.

**Notes:**

A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Section 257 of the Protection of the Environment Operations Act 1997 provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

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

* 1. Disposal of Site Water During Construction

While site work is being carried out:

a) Prior to pumping any water into the road or public stormwater system, approval must be obtained from Council under section 138(1)(d) of the Roads Act 1993.

b) Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water.

c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

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

* 1. Site Cranes

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

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

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

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

**Notes:**

Where it is proposed to swing a crane over a public place a separate application to Council must be made under section 68 of the Local Government Act 1993 and obtain activity approval from Council prior to swinging or hoisting over the public place.

Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, an access order under the Access to Neighbouring Land Act 2000 or easement under section 88K of the Conveyancing Act 1919 or section 40 of the Land and Environment Court Act 1979 as appropriate must be obtained. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

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

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

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

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

a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level.

b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey.

c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof.

d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.

e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.

f) Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works.

g) Flood protection measures are in place confirming location, height and capacity.

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

* 1. Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

While site work is being carried out, all work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the development to which this consent relates must comply with Council’s Specification for Roadworks, Drainage and Miscellaneous Works (2012).

The person with the benefit of this consent must meet all costs associated with such works.

This condition does not set aside the need to obtain relevant approvals under the Roads Act 1993 or Local Government Act 1993 for works within roads and other public places.

**Notes:**

A copy of Council’s Specification for Roadworks, Drainage and Miscellaneous Works can be downloaded from Council’s website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

**Condition Reason:** To ensure that any road, drainage, or miscellaneous works comply with Council’s specifications.

* 1. Replacement of Sandstone Kerb or Gutter

While site work is being carried out, where existing sandstone kerb or gutter is to be replaced in concrete, the sandstone remains the property of Council. The stones are to be removed and handled in such a manner so as not to cause any damage to the sandstone.

The stones must be delivered on pallets between 7am to 4pm, Monday to Friday to Woollahra Council’s Works Depot. Prior to delivery contact Civil Operations on 9391 7981.

**Condition Reason:** To ensure that any removed sandstone kerbs remain the property of Council.

* 1. Shoring and Adequacy of Adjoining Property

While site work is being carried out, the person having the benefit of the development consent must, at the person’s own expense:

a) protect and support the adjoining premises from possible damage from the excavation.

For the purposes of section 4.17(11) of the Act, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.

**Notes:**

* This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

**Condition Reason:** To protect and support the adjoining premises from possible damage from the excavation.

* 1. Placement and Use of Skip Bins

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

a) Activity Approval has been issued by Council under section 68 of the Local Government Act 1993 to place the waste storage container in a public place; and

b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

**Notes:**

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

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

* 1. Prohibition of Burning

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

**Notes:**

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

**Condition Reason:** To ensure no burning of waste occurs.

* 1. Dust Mitigation

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

This generally requires:

a) Dust screens to all hoardings and site fences.

b) All stockpiles or loose materials to be covered when not being used.

c) All equipment, where capable, being fitted with dust catchers.

d) All loose materials being placed bags before placing into waste or skip bins.

e) All waste and skip bins being kept covered when not being filled or emptied.

f) The surface of excavation work being kept wet to minimise dust.

g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

**Notes:**

“Dust Control - Do it right on site” and the accompanying factsheets can be downloaded from Council’s website www.woollahra.nsw.gov.au

Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

**Condition Reason:** To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.

* 1. Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters

While site work is being carried out, temporary child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and Building Code of Australia where any swimming pool or spa pool, as defined by the Swimming Pools Act 1992, contains more than 300mm in depth of water at any time.

Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia as soon as practical.

Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the Swimming Pools Act 1992 must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.

**Notes:**

This condition does not prevent Council from issuing an order under section 23 of the Swimming Pool Act 1992 or taking such further action as necessary for a breach of this condition or the Swimming Pools Act 1992.

**Condition Reason:** To ensure access to swimming pools is effectively restricted to maintain child safety.

* 1. Site Waste Minimisation and Management – Demolition

While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:

a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,

b) an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements),

c) separate collection bins and/or areas for the storage of residual waste are to be provided,

d) the purpose and content of the bins and/or storage areas are to be clearly ‘signposted’,

e) measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and

f) site disturbance must be minimised, and unnecessary excavation limited.

When implementing the SWMMP the Applicant must ensure:

a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,

b) any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997,

c) waste is only transported to a place that can lawfully be used as a waste facility,

d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and

e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

**Notes:**

Materials that have an existing reuse or recycling market must not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

**Condition Reason:** To maximise resource recovery and minimise residual waste from demolition activities.

* 1. Site Waste Minimisation and Management – Construction

While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:

a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,

b) deliveries of materials must be arranged so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage,

c) consideration must be given to returning excess materials to the supplier or manufacturer,

d) an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),

e) the purpose and content of the storage areas must be clearly ‘signposted’,

f) contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste,

g) separate collection bins or areas for the storage of residual waste must be promoted,

h) measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented,

i) site disturbance must be minimised and unnecessary excavation limited,

j) all waste must be transported to a place that can lawfully be used as a waste facility, and

k) records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

**Condition Reason:** To maximise resource recovery and minimise residual waste from construction activities.

* 1. Asbestos Removal

While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.

Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

a) Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal.

b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.

c) No asbestos products may be reused on the site.

d) No asbestos laden skip or bins must be left in any public place.

**Notes:**

Before starting work, a work site-specific permit approving each asbestos project must be obtained from SafeWork NSW. A permit will not be granted without a current SafeWork licence.

All removal, repair or disturbance of or to asbestos material must comply with:

- Work Health and Safety Act 2011,

- Work Health and Safety Regulation 2017,

- SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and

- SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016).

For more information go to the SafeWork NSW website on asbestos www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and [www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice or call 131 050](http://www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice%20or%20call%20131%20050)

**Condition Reason:** To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public

* 1. Classification of Hazardous Waste

While site work is being carried out, and prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part1: Classifying Waste, 2014.

**Condition Reason:** To ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.

* 1. Disposal of Asbestos and Hazardous Waste

While site work is being carried out, asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

**Condition Reason:** To ensure that asbestos and other hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant NSW EPA requirements.

* 1. Asbestos Removal Signage

While site work is being carried out and when asbestos is being removed, standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site.

**Condition Reason:** To ensure awareness of any hazard to the health and safety of persons working on the site and public.

* 1. Notification of Asbestos Removal

While site work is being carried out, in addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW, all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

**Condition Reason:** To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.

* 1. Tree Preservation

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

General Protection Requirements:

1. The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent.
2. 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.
3. 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.

If an approval to prune a tree has been issued the tree/s must be pruned in accordance with Australian Standard AS 4373 “Pruning of Amenity Trees” and WorkCover NSW Code of Practice Amenity Tree Industry.

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

* 1. Arborists Documentation and Compliance Checklist

While site work is being carried out, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:

1. a record of the condition of trees to be retained prior to and throughout development,
2. recommended actions to improve site conditions and rectification of non-compliance, and
3. recommendations for future works which may impact the trees.

All compliance certification documents must be kept on site by the site Supervisor.

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

|  |  |
| --- | --- |
| **Stage of arboricultural inspection and supervision** | **Compliance documentation and photos must include** |
| While site work is carried out | * The project arborist must supervise all demolition and excavation works within the Tree Protection Zones and specified distances of nominated trees listed in this consent. * The project arborist must supervise the positioning of the piling rig expected to be used to install piling within the Tree Protection Zones of T1 andT6 tying back branches where necessary. No consent for pruning the tree has been granted at this stage. * The project arborist must ensure pier holes within the Tree Protection Zones or specified distances of nominated trees listed in this consent are positioned to avoid the severance of and damage to roots greater than 50mm diameter. * The project arborist must ensure no level changes occur within the Tree Protection Zones or specified distances of nominated trees listed in this consent. |

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

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

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

* 1. Replacement/Supplementary trees which must be planted

While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The following replacement tree/s must 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)** | **Minimum Dimensions at Maturity (metres)** |
| 1 x *Angophora costata* (Sydney Pink Gum) | In accordance with Landscape Plan No.s DA 01-D3624 issue 01 Revision F, DA 02-D3624 issue 01 Revision F, DA 03-D3624 issue 01 Revision F, DA 04-D3624 issue 01 Revision F, DA 05-D3624 issue 01 Revision F, DA 06-D3624 issue 01 Revision F, DA 07-D3624 issue 01 Revision F, DA 08-D3624 issue 01 Revision F, designed by Dangar Barin Smith, dated 26/03/2025 | 200 litre | 15 x 10 |
| 4 x *Banksia integrifolia* (Coastal Banksia) | 200 litres each | 9 x 6 each |
| 8 x *Chamaerops humilis* (European Fan palm) | 400mm each | 5 x 3 each |
| 4 x *Cupaniopsis anacardioides* (Tuckeroo) | 200 litres each | 8 x 10 each |
| 15 x *Cyathea cooperi* (Scaly tree fern) | Minimum trunk length of 1 metre at the time of planting for each | 6 x 3 each |
| 23 x *Howea forsteriana* (Kentia palm) | Minimum trunk length of 2 metres at the time of planting for each | 7 x 3 each |
| 7 x *Livistona australis* (Cabbage Tree palm) | Minimum trunk length of 3 metres at the time of planting for each | 10 x 4 each |
| 14 x *Tristaniopsis laurina* (Water gum) | 200 litres each | 7 x 8 each |
| 8 x *Waterhousia floribunda* (Weeping Lillypilly) | 300mm each | 10 x 10 each |

The project arborist must document compliance with the above condition.

**Condition Reason:** To ensure the provision of appropriate replacement planting.

* 1. Street tree planting

While site work is being carried out, the street tree/s as indicated in the table below must be planted prior to the completion of works.

The fees outlined in the table below associated with the planting/s and 12 months maintenance must be paid by the applicant to Council in full prior to the issue of a construction certificate, subdivision certificate or occupation certificate, as applicable, in accordance with the Street Tree Planting and Maintenance scheduled fee. Council’s Arboricultural Technical Officer (9391-7980) must be contacted a minimum of 2 months prior to the completion of works to procure tree stock and schedule the planting works.

The cost as indicated in the table below includes:

1. Species selection (by Council) in line with the Woollahra Council Street Tree Master Plan (2014).
2. Tree stock procured by Council compliant with Australian Standard 2303: Tree stock for landscape use.
3. Installation by Council or a Council-approved contractor in a location determined by Council.
4. Twelve months maintenance by Council or a Council approved contractor.

|  |  |  |  |
| --- | --- | --- | --- |
| **Species/Type** | **Planting Location** | **Container Size/Size of Tree (at planting)** | **Cost/Fees** |
| 1 x *Ficus rubiginosa* (Port Jackson Fig) | Council verge, positioned approximately 3 metres from the north eastern edge of the proposed driveway in front of 84 Drumalbyn Road Bellevue Hill. | 100 litre | $2,156.00 |

**Condition Reason:** To ensure the provision of appropriate street tree planting.

* 1. Level changes in the vicinity of trees

While site work is being carried out, no level changes must occur within the specified radius from the trunks of the following trees.

|  |  |  |  |
| --- | --- | --- | --- |
| **Council Ref No** | **Species** | **Tree Location** | **Fence Radius from Centre of Trunk (Metres)\*** |
| 1 | *Ficus microcarpa var. ‘Hillii’* (Hills Weeping Fig) | Council verge – southern side of 80 Drumalbyn Road Bellevue Hill frontage | Verge area up to the front boundaries of the subject properties |
| 6 | *Ficus microcarpa var. ‘Hillii’* (Hills Weeping Fig) | Council verge – Northern side of 80 Drumalbyn Road Bellevue Hill frontage | Verge area up to the front boundaries of the subject properties |
| 15 | *Koelreuteria paniculata (Golden Rain tree)* | Council verge – Southern side of 84uu Drumalbyn Road Bellevue Hill frontage | 2 |
| 16 | *Camellia sasanqua* (Camellia) | Front north western corner of 86 Drumalbyn Road Bellevue Hill | 3 |
| 17 | *Phoenix canariensis* (Canary Island Date palm) | Front south western corner of 84 Drumalbyn Road Bellevue Hill | 6 |
| 18 | *Eucalyptus scoparia* (Willow Gum) | Southern side boundary of 84 Drumalbyn Road Bellevue Hill | 8 |
| 25 | *Radermachera sinica* (China Dolltree) | Northern side boundary of 86 Drumalbyn Road Bellevue Hill | 2 |
| 26 | *Erythrina x sykesii (Coral tree)* | Rear yard of 86 Drumalbyn Road Bellevue Hill | 5 |
| 26a | *Archontophoenix cunninghamiana* (Bangalow palm) | Rear yard northern side boundary of 86 Drumalbyn Road Bellevue Hill | 2 |
| 27 | *Celtis sinensis* (Chinese Nettle) | Rear yard of 86 Drumalbyn Road Bellevue Hill | 4.5 |

The project arborist must document compliance with the above condition.

**Condition Reason:** To ensure level changes would not adversely impact upon the health of existing trees.

* 1. Demolition of structures within vicinity of trees

While site work is being carried out, demolition of the existing garage at 84 Drumalbyn Road Bellevue Hill must be accrued out by hand within the specified radius from the trunks of the following trees:

|  |  |  |  |
| --- | --- | --- | --- |
| **Council Ref No** | **Species** | **Location** | **Radius from centre of trunk (metres)** |
| 17 | *Phoenix canariensis* (Canary Island Date palm) | Front south western corner of 84 Drumalbyn Road Bellevue Hill | 3 |
| 18 | *Eucalyptus scoparia* (Willow Gum) | Southern side boundary of 84 Drumalbyn Road Bellevue Hill | 4 |

Small hand tools such as sledge hammers, concrete saws and jack hammers only must be used. Trunk protection and ground protection must be installed prior to any demolition work being carried out within the vicinity of these trees.

Mechanical excavation for demolition is permitted beyond the specified radius.

The project arborist must document compliance with the above condition.

**Condition Reason:** To ensure demolition and excavation works would not adversely impact upon the health of existing trees.

* 1. Piers in the vicinity of trees

While site work is being carried out, piers for the proposed driveway within the specified radius from the trunks of the following trees must be located so that no tree root with a diameter equal to or in excess of 50mm is severed or damaged..

|  |  |  |  |
| --- | --- | --- | --- |
| **Council Ref No** | **Species** | **Location** | **Radius from centre of trunk (metres)** |
| 17 | *Phoenix canariensis* (Canary Island Date palm) | Front south western corner of 84 Drumalbyn Road Bellevue Hill | 6 |
| 18 | *Eucalyptus scoparia* (Willow Gum) | Southern side boundary of 84 Drumalbyn Road Bellevue Hill | 8 |

The smallest possible area must be excavated which allows construction of the pier. In consultation with the project engineer the piers must be offset a minimum 100mm from any root equal to or in excess of 50mm to accommodate future growth.

The project arborist must document compliance with the above condition.

**Condition Reason:** To ensure the proposed footings would not adversely impact upon the health of existing trees.

* 1. Installation of piling and retention of existing sandstone retaining wall in the vicinity of trees

In relation to existing trees to be retained the installation of proposed piling must be positioned as indicated in the Shoring General Arrangement Plan, Pages 1 and 2, drawn by Dunnings Consulting Engineers, dated 19/03/2025.

To ensure the ongoing protection of the existing root system of Trees 1 and 6 *Ficus microcarpa var. ‘Hillii’* (Hills Weeping Fig) the existing sandstone retaining wall located along the front boundaries of 80, 82 and 84 Drumalbyn Road Bellevue Hill must be left in situ.

Any roots equal to or greater than 50mm diameter uncovered for the installation of the piling must be cut cleanly with sharp tools such as a chainsaw of secateurs.

The project arborist must document compliance with the above condition.

**Condition Reason:** To ensure the installation of the stormwater works would not adversely impact upon the health of existing trees.

* 1. Compliance with Construction Traffic Management Plan

While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times. A copy of the CTMP must be kept on-site at all times and made available to the Principal Certifier on request.

**Notes:**

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

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

1. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE
2. 1. Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an occupation certificate has been issued in relation to the building or part.

**Notes:**

New building includes an altered portion of, or an extension to, an existing building.

**Condition Reason:** To ensure the building is suitable to occupy.

* 1. Amenity Landscaping

Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.

**Condition Reason:** To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.

* 1. Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

Before the issue of any occupation certificate, and prior to filling any swimming pool, as defined by the Swimming Pools Act 1992:

a) Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia.

b) The swimming pool must be registered in accordance with section 30B of the Swimming Pools Act 1992 on the NSW Government Swimming Pool Register.

c) The Principal Contractor or Owner must either obtain a certificate of compliance issued under section 22D of the Swimming Pools Act 1992 or an appropriate occupation certificate authorising use of the swimming pool.

d) Public pools must comply with the NSW Health Public Swimming Pool and Spa Pool Guidelines in force at that time and private pools are encouraged to comply with the same standards as applicable.

e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3: Swimming pool safety - Water recirculation systems.

Backwash must be discharged to the sewer in compliance with AS/NZS 3500.

Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate before 8 am or after 8 pm on any Sunday or public holiday, or before 7 am or after 8 pm on any other day.

**Notes:**

NSW Health guidelines and fact sheets are available at [www.health.nsw.gov.au](http://www.health.nsw.gov.au)

**Condition Reason:** To ensure that the swimming pool maintains public safety and to manage the amenity impacts of swimming pools.

* 1. Swimming Pool Fencing

Before the issue of any occupation certificate, swimming pool fencing is to be constructed in accordance with AS1926: Australian Standard Swimming Pool Safety Part 1 – Safety Barriers for Swimming Pools.

**Notes:**

Pools commenced or completed after May 2013 must meet the BCA and AS1926.

**Condition Reason:** To ensure swimming pool safety.

* 1. Certification of Electric Vehicle Charging System

Before the issue of any occupation certificate, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by **Condition D.16**. must be submitted to the satisfaction of the Principal Certifier.

**Condition Reason:** To ensure the certification of the electric vehicle charging system.

* 1. Fulfilment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation

Before the issue of any occupation certificate, all BASIX commitments must be effected in accordance with the BASIX certificate No. 1753742M.

**Notes:**

Clause 44 of the Development Certification and Fire Safety Regulation applies to an occupation certificate if a relevant BASIX certificate requires a certifier to monitor fulfilment of a commitment listed in the certificate in relation to a building. The certifier must not issue an occupation certificate for the building unless the commitment has been fulfilled.

**Condition Reason:** To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.

* 1. Landscaping

Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.

**Condition Reason:** To ensure that all landscaping work is completed prior to occupation.

* 1. Removal of Ancillary Works and Structures

Before the issue of any occupation certificate for the whole of the building, the following articles must be removed from the land and any adjoining public place:

a) the site sign,

b) ablutions,

c) hoarding,

d) scaffolding, and

e) waste materials, matter, article or thing.

**Condition Reason:** To ensure that all ancillary matter is removed prior to occupation.

* 1. Fire Safety Certificates

Before the issue of any occupation certificate to authorise a person:

a) to commence occupation or use of a new building, or

b) to commence a change of building use for an existing building, the Principal Certifier must be satisfied that a final fire safety certificate has been issued for the building.

**Notes:**

In this condition:

***interim fire safety certificate*** has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation.

***final fire safety certificate*** has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation.

***new building*** has the same meaning as it has in section 6.1 of the Act.

**Condition Reason:** To ensure that a final fire safety certificate is issued prior to occupation.

* 1. Commissioning and Certification of Systems and Works

Before the issue of any occupation certificate, works-as-executed (WAE) plans prepared by a registered surveyor, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards must be submitted to the satisfaction of the Principal Certifier.

Works-as-executed plans, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA must include, but may not be limited to:

a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.

b) All flood protection measures.

c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: Off-Street car parking.

d) All stormwater drainage and storage systems.

e) All mechanical ventilation systems.

f) All hydraulic systems.

g) All structural work.

h) All acoustic attenuation work.

i) All waterproofing.

j) Such further matters as the Principal Certifier may require.

**Notes:**

The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the Act, Regulation, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

The PC must submit to Council, with any occupation certificate, copies of WAE plans, compliance certificates and evidence of suitability in accordance with Part A5G1 of the BCA upon which the PC has relied in issuing any occupation certificate.

**Condition Reason:** To ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, and this consent, and to ensure a public record of works as executed is maintained.

**G.11 Commissioning and Certification of Public Infrastructure Works**

Before the issue of any occupation certificate, certification from a professional engineer that all public infrastructure works have been executed in compliance with this consent and with Council’s Specification for Roadworks, Drainage and Miscellaneous Works (2012) must be submitted to the satisfaction of Council, and the Principal Certifier must be provided with correspondence from Council to this effect.

The certification must be supported by works-as-executed engineering plans and a survey report detailing all finished reduced levels.

**Condition Reason:** To ensure that any road, drainage, or miscellaneous works have been completed in accordance with Council’s specifications to the satisfaction of Council.

* 1. Works within Public Land (including Council, State or Federal owned land or property)

Before the issue of any occupation certificate, the following works within public land, whether new/existing/renewed must be completed to the satisfaction of Council, in compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works (2012) unless expressly provided otherwise by these conditions at the person with the benefit of this consents expense:

a) stormwater pipes, pits, structures and connections to public stormwater systems within the road,

b) driveways and vehicular crossings,

c) renew/new retaining structures,

d) overhang structures,

e) encroachments or occupation or alienation of public land or property,

f) removal of redundant driveways and any other structure,

g) new footpaths, pathways, walkways, or dunny lanes,

h) relocation of existing power/light pole, if applicable,

i) relocation/provision of street signs, if applicable,

j) new or replacement street trees, if applicable,

k) verge landscape items, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,

l) new or reinstated kerb and guttering within the road, and

m) new or reinstated road surface pavement within the road.

**Notes:**

When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s.

Security held by Council under section 4.17(6) of the Act will not be released until compliance has been achieved with this condition. An application for the refund of security must be submitted with the occupation certificate to Council. This form can be downloaded from Council’s website www.woollahra.nsw.gov.au or obtained from Council’s customer service centre.

**Condition Reason:** To ensure road, drainage and miscellaneous works are completed to the satisfaction of Council prior to occupation.

**G.13 Dilapidation Report for Public Infrastructure Works**

Before the issue of an occupation certificate for the whole of the building, a follow up dilapidation report, prepared by a chartered professional engineer, on Council’s infrastructure within and near the development site upon completion of the work must be submitted to Council.

The dilapidation report must include:

1. closed circuit television/video inspection (in DVD format) and report of the public stormwater drainage system fronting the site,
2. photographs showing any existing damage to the road pavement fronting the site,
3. photographs showing any existing damage to the kerb and gutter fronting the site,
4. photographs showing any existing damage to the footway including footpath pavement fronting the site,
5. photographs showing any existing damage to retaining walls within the footway or road,
6. photographs showing any existing damage to street signs, heritage name plates, and historical items,
7. the full name and signature of the Chartered Professional Engineer.

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

Before the issue of an occupation certificate for the whole building, written correspondence must be obtained from Council attesting to this condition being appropriately satisfied, and be provided to the Principal Certifier.

**Notes:**

* If the dilapidation report required by this condition is not provided 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.

**Condition Reason:** To ensure that any damage to public infrastructure is identified and rectified prior to the occupation of the whole building.

**G.14 Positive Covenant & Works-As-Executed Certification of Stormwater Systems**

Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:

1. compliance with conditions of development consent relating to stormwater,
2. the structural adequacy of the rainwater tank,
3. that subsoil drainage / seepage water is NOT discharged to the kerb and gutter,
4. that a rainwater tank with minimum storage volume of 168m3 has been constructed in accordance with the approved stormwater plans,
5. that the as-built rainwater retention and reuse system has been plumbed for non-potable uses such as toilet flushing, laundry devices and garden irrigation etc,
6. that any required stormwater treatment systems have been constructed in accordance with the approved construction stormwater plans and that the system meets the water quality targets stipulated in the Council’s DCP,
7. that infiltration/absorption systems are not located within building footprints or underneath any permanent structures such as decks or paved areas and are located a minimum of 3 metres from footings of buildings and property boundaries. The trench systems must be located generally parallel to contours,
8. that the absorption system has been designed to have the storage capacity for the 5% AEP storm event based on the absorption rate and where the rainwater tank is to be assumed to be full and not included as part of the absorption storage,
9. that all mechanical flood barriers have been installed in accordance with the approved flood management plans,
10. that the works have been constructed in accordance with the approved design and will provide the retention storage volume in accordance with the submitted calculations/approved drawings,
11. pipe invert levels and surface levels to Australian Height Datum, and
12. 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 under section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the on-going maintenance of the rainwater retention and reuse system, absorption system, stormwater treatment system and mechanical flood barriers. 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. The person with the benefit of this consent must reimburse Council’s reasonable expenses incurred in the drafting, negotiation and registration of the covenant.

**Notes:**

* 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 Works As Executed plans to Council together with the occupation certificate.
* The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.

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

* 1. Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building

Before the issue of any occupation certificate for the whole of the building, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:

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

All compliance certification documents must be kept on site.

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

|  |  |
| --- | --- |
| **Stage of arboricultural inspection and supervision** | **Compliance documentation and photos must include** |
| Before the issue of any occupation certificate for the whole of the building | * The project arborist must supervise the dismantling of tree protection measures. * After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation. |

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

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

**Condition Reason:** To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.

1. OCCUPATION AND ONGOING USE
2. 1. Maintenance of BASIX Commitments

During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1753742M.

This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

**Condition Reason:** To ensure the approved environmental sustainability measures are maintained for the life of development.

* 1. Maintenance of Landscaping

During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

**Notes:**

This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality.

Owners must have regard to the amenity impact of trees upon the site and neighbouring land.

**Condition Reason:** To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

* 1. Swimming and Spa Pools – Maintenance

During the occupation and ongoing use, swimming and spa pools must be maintained:

a) in compliance with the Swimming Pools Act 1992 and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs,

b) in compliance with the NSW Health “Public Swimming Pools and Spa Pools Advisory Document” in force at that time. Private pools are encouraged to comply with the same standards as applicable,

c) in compliance with AS 1926 Swimming pool safety - Water recirculation and filtration systems,

d) with backwash being discharged to the sewer in compliance with AS/NZS 3500, and

e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

before 8 am or after 8 pm on any Sunday or public holiday, or

before 7 am or after 8 pm on any other day.

**Notes:**

Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

The NSW Health public swimming pools and spa pools guidelines are available at [www.health.nsw.gov.au](http://www.health.nsw.gov.au)

**Condition Reason:** To ensure public health and safety.

* 1. Outdoor Lighting – Residential

During the occupation and ongoing use, outdoor lighting must comply with AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282.

**Condition Reason:** To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.

* 1. Noise Control

During the occupation and ongoing use, the use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997.

**Notes:**

Council will generally enforce this condition in accordance with the Noise Guide for Local Government (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the NSW Industrial Noise Policy (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links:

* Community Justice Centres—free mediation service provided by the NSW Government www.cjc.nsw.gov.au.
* NSW Environment Protection Authority— see “noise” section www.environment.nsw.gov.au/noise.
* NSW Government legislation- access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2017 is available at www.legislation.nsw.gov.au.
* Australian Acoustical Society—professional society of noise related professionals www.acoustics.asn.au.
* Association of Australian Acoustical Consultants—professional society of noise related professionals www.aaac.org.au.
* Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.

**Condition Reason:** To protect the amenity of the neighbourhood.

* 1. Noise from Mechanical Plant and Equipment

During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.

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

**Notes:**

Words in this condition have the same meaning as in the Noise Policy for Industry (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)](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](http://www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government)

**Condition Reason:** To protect the amenity of the neighbourhood.

* 1. Noise Control - Swimming pool/spa pool pumps and associated equipment

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

1. Before 8am of after 8pm during Saturdays, Sundays and public holidays;

Before 7am or after 8pm on any other day.

**Condition Reason:** To protect the amenity of the neighbourhood.

* 1. Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

During the occupation and ongoing use, each year, an annual fire safety statement must be provided to Council and the Commissioner of Fire and Rescue NSW. The annual fire safety statement must be prominently displayed in the building.

**Notes:**

***essential fire safety measure*** has the same meaning as in Schedule 2 of the Development Certification and Fire Safety Regulation.

***annual fire safety statement*** has the same meaning as in clause 88 of the Development Certification and Fire Safety Regulation.

Visit Council’s website for additional information in relation to fire safety [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).

**Condition Reason:** To ensure public safety.

**H.9 Ongoing Maintenance of the Rainwater Retention and Reuse System, Stormwater Treatment System, Mechanical Flood Barriers and Absorption System**

During the occupation and ongoing use, in accordance with this condition and any positive covenant, the person with the benefit of this consent must:

a) Permit stormwater to be temporarily detained/retained and reused by the System.

b) Keep the system clean and free of silt rubbish and debris,

c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner.

d) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense.

e) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.

f) 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.

g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice.

h) Where the Owner fails to comply with the Owner’s obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner’s cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The owner:

a) Indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner’s obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and

b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner’s obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default.

**Notes:**

* This condition is supplementary to the owner(s) obligations and Council’s rights under any positive covenant.

**Condition Reason:** To ensure that owners are aware of maintenance requirements for their stormwater systems.

* 1. Provision of Off-street Public and Visitor Parking

During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking and AS2890.3: Parking Facilities - Bicycle Parking Facilities, unimpeded public access to off-street parking must be maintained as follows:

|  |  |
| --- | --- |
| **Use** | **Number of spaces** |
| Car Parking (resident parking) | 36 (including 3 accessible parking spaces) |
| Car Parking (visitor parking) | 4 |
| Bicycle Parking | 29 |
| Motorbike Parking | 6 |

**Notes:**

Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993.

Further information can be obtained from Council’s Compliance Team by calling 9391 7000 or from the Office of Local Government at www.olg.nsw.gov.au or call 4428 4100.

**Condition Reason:** To ensure adequate on-site parking is maintained.

* 1. Parking Permits

During the occupation and ongoing use, future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

**Condition Reason:** To minimise the impact of the development upon on street car parking.

**SUBDIVISION WORK**

1. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE
2. 1. Electricity Substations – Dedication as Road and/or Easements for Access

Before the issue of any subdivision certificate, if an electricity pillar and/or substation is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity pillar and/or substation to be established. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road (footway or road pavement).

Documentary evidence of compliance, including correspondence from the network authority is to be provided to the Principal Certifier prior to issue of the construction certificate detailing energy authority requirements.

The Accredited Certifier must be satisfied that the requirements of the energy authority have been met prior to issue of the construction certificate.

Where an electricity substation is provided on the site adjoining the road boundary, the area within which the substation is located must be dedicated as public road. Where access is required across the site to access an electricity pillar and/or substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any statutory corporation requiring access to the electricity pillar and/or substation.

**Condition Reason:** To ensure that the energy authority is provided with access to electricity pillars and/or substations.

1. BEFORE SUBDIVISION WORK COMMENCES

Nil.

1. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Nil.

**LAND SUBDIVISION**

1. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Nil.

**STRATA SUBDIVISION**

1. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.