

MEMO

To: Chair, Sydney North Planning Panel
From: Consultant Planner, Peter Wells
Date: 18 December 2024
Address: 54 56 Anderson Street Chatswood
Ref/File No.: PPSSNH-396- Willoughby - Public meeting DA-2023/152
Subject: Post SNPP meeting – Draft conditions

This memo is provided to assist the Panel in its determination.

A. Applicant's response to conditions

On 17 December 2024 (late evening) the applicant responded to the draft conditions (see Appendix 1). Council responds as follows to the applicant's requests regarding conditions:

- Condition 2 relates exclusively to Sydney Trains conditions, verbatim. Council cannot alter these conditions without collaboration with Sydney Trains.
- Condition 3 relates exclusively to Sydney Metro conditions, verbatim. Council cannot alter these conditions without collaboration with Sydney Metro.
- Condition 7 – NSW Police conditions. The draft conditions use the language "... need to be considered" so are not considered so onerous on the applicant as to warrant amendment of the conditions. The purpose of the condition, Crime prevention, warrants genuine consideration of the requirements.
- Condition 10 (Submit the Following Information to Willoughby City Council) – Council has reviewed this condition and does not support any change of this wording.
- Condition 21 (Waste Chute Design) - Council has reviewed this condition and does not support any change of this wording as the waste chute design can affect the floor plate.
- Condition 25 (Building Sustainability – Green star) - Council has reviewed this condition and does not support any change of this wording as the Green star should be confirmed as attainable as part of the design prior to CC.
- Condition 26 (Access, Mobility and Adaptable Housing) - Council has reviewed this condition and does not support any change of this wording as compliance with the Premises Standard needs to be confirmed prior to CC.
- Condition 28 (Services and Fire Hydrant Enclosure) - Council has reviewed this condition and does not support any change of this wording as compliance with this should occur prior to CC.
- Condition 31 (Fibre-Ready Facilities and Telecoms Infrastructure) - Council has reviewed this condition and does not support any change of this wording as compliance with this should occur prior to CC.
- Condition 37 (Noise Mechanical Services) - Council has reviewed this condition and does not support any change of this wording as demonstration of acoustic attenuation should occur prior to CC.



- Condition 41 (Building Sustainability – NABERS) - Council has reviewed this condition and does not support any change of this wording as demonstration of Building Sustainability should occur prior to CC.
- Condition 47 (Amended Landscape Plan) – Council agrees to change “a” to “the” Construction Certificate. Note: Council’s Landscape Architect has also added to condition 47(d) regarding the width landscaping opposite pillars – which was a matter discussed during the Panel meeting.
- Condition 48 (Tree Protection Plan) – Council agrees to change “prior to issue of Construction Certificate” to “prior to commencement of demolition”.
- Condition 49 (Tree Offset Planting Scheme) - Council has reviewed this condition and does not support any change of this wording as the need to enter a Deed for the off-site planting of 11 trees should occur prior to CC.
- Condition 97 – agreed with applicant. The word “At” is added as shown in red in the working copy of the conditions.
- Conditions 144 and 159 – agreed this is a repeated condition so condition 159 deleted.

B. Updates to conditions

Some housekeeping changes as well as the insertion of conditions that were inadvertently omitted from the draft conditions in the Council assessment report, is shown below and incorporated into the draft consent. These changes have been forwarded to the applicant however at the time of writing this memo no response had been received and attempts to contact the applicant have been unsuccessful. The changes (including engineering conditions 43A to 43K inclusive) are identified in red as below. Note: The clean copy rennumbers the conditions.

12. Agreement to Transfer Affordable Housing Dwellings

The applicant must enter into a Deed with the Council providing for the transfer of title of the affordable housing dwellings to the Council, free of charge. The Deed is to be generally in accordance with the Housing Transfer Deed template available at Council and is to be submitted to the Council and executed prior to the issue of the Construction Certificate.

The Affordable housing units to be nominated are:

Affordable housing Units

0405 (123.7m2)

0505 (123.7m2)

0605 (123.7m2)

Total = 371.1m2

Each affordable dwelling shall have an appurtenant car space. The terms of this agreement must be to the satisfaction of the Council and must include a provision to the effect that the transfer of the dwellings is to be completed within two months of the registration of any subdivision of the development creating the areas to be dedicated and within 6 months of the issue of an Occupation Certificate. The applicant must agree to pay the Council’s reasonable legal costs in satisfying itself that the agreement is appropriate, and a provision to this effect is to be included in the agreement.

The construction certificate plans should demonstrate that the physical requirements specified in the Housing Transfer Deed are satisfied.
(Reason: Ensure compliance)

30. **Adaptable Units**

Adaptable residential units for disabled persons are to be provided at a rate of 50% of the units (Total 24 **42** units to be adaptable) consistent with the plans approved under this consent.
(Reason: Amenity)

43. **Damage Deposit**

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of ~~\$190,800~~ **\$195,800** (GST Exempt) to Council against possible damage to Council's assets and any infrastructure within the road reserve/footway during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of ~~\$250~~ **\$260** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

Total Payable = ~~\$190,800 + \$250 = \$191,050~~ $\$195,800 + \$260 = \$196,060$

(Reason: Protection of public asset)

43A. Temporary Ground Anchors

Obtain written permission from all private property owners affected by any encroachment either below ground or the air space above as a result of any proposed temporary ground anchors prior to issue of the Construction Certificate. Permits are to be obtained from Council for any temporary ground anchors to be installed within the road reserve. Copies of the permission shall be sent to Council. A Temporary Ground Anchor Permit is to be obtained from Council for any ground anchors proposed to be installed in Council's Road Reserve. All works associated with the drilling and stressing of the ground anchors shall be installed in accordance with approved drawings.

(Reason: Encroachment of works)

43B. Stormwater Conveyed to Street Drainage

Stormwater runoff from the site shall be collected and conveyed to the street drainage system in accordance with Council's specifications. A grated drainage pit of minimum 600mm x 600mm shall be provided within the property and adjacent to the boundary prior to discharging to the Council's drainage system. All drainage works shall comply with the requirements described in Part I of Council's DCP, Technical Standards and AS 3500.3. In this regard, full design and construction details showing the method of disposal of surface and roof water from the site shall be shown on the Construction Certificate plans.

(Reason: Stormwater control)

43C. Analysis of Outlet Condition

The capacity of the outlet pipe to the Council system shall be hydraulically evaluated using the Hydraulic Grade Line method to ensure that the outlet from the OSD system is above the downstream water level for the 1%AEP storm event. Full engineering details of the hydraulic evaluations prepared and signed by a practising Civil Engineer shall be submitted to Council for consideration prior to the issue of any Construction Certificate other than for demolition or excavation.

(Reason: Prevent property damage)

43D. Detailed Stormwater Management Plan (SWMP)

Prior to the issue of any Construction Certificate other than for demolition or excavation, submit to the Certifier for approval, detailed stormwater management plans in relation to the on-site stormwater management and disposal system for the development. The construction drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer. All drawings shall comply with Part I of Council's Development Control Plan and Technical Standard 1, AS/NSZ3500.3 – Plumbing and Drainage Code and National Construction Code. The plans shall include:

- An on-site stormwater detention system with a minimum volume of 80m³.
- A water quality improvement system
- Catchment plan to confirm areas draining to the OSD system and water quality improvement system.
- Details to confirm that the permitted site discharge is achieved for the site in the 1%AEP event. In the event of areas bypassing the OSD tank, calculations are to confirm that the outflow from the tank has been reduced. If the area of bypass exceeds 5% of the total site area, a Drains (or equivalent) analysis is to be undertaken to confirm the volume required.
- Longitudinal section to confirm that the outlet of the OSD tank is above the downstream water level in the 1%AEP storm event. The adopted downstream water level at the connection point to the Council pit shall be the grate level on the pit.

(Reason: Ensure compliance)

43E. Basement Pumpout Drainage System

Prior to the issue of any Construction Certificate other than for demolition or excavation, the applicant shall submit, for approval by the Certifier, detailed stormwater management plans in relation to the pump-out drainage system. The construction drawings and specifications shall be generally in accordance with the approved stormwater management plans with the following requirements:

- (a) The pumpout drainage system shall comprise with two (2) submersible type pumps. The two pumps shall be designed to work on an alternative basis to ensure both pumps receive equal use and neither remains continuously idle.
- (b) Each pump shall have a minimum capacity of 10L/s or shall be based on the flow rate generated from the 1% Annual Exceedance Probability storm event 5-minutes duration of the area draining into the system, whichever is greater.
- (c) An alarm warning device (including signage and flashing strobe light) shall be provided for the pump-out system to advise the occupant of pump failure. The location of the signage and flashing strobe light shall be shown on the

stormwater management plans.

- (d) The volume of the pump-out tank shall be designed with a minimum storage capacity equivalent to the runoff volume generated from of the area draining into the tank for the 1% Annual Exceedance Probability storm event for 2-hours duration.

All drawings shall be prepared by a suitably qualified and experienced civil engineer and shall comply with Part I of Council's Development Control Plan, Technical Standard 1, AS/NZS 3500.3 – Plumbing and Drainage Code and the National Construction Code.
(Reason: Prevent nuisance flooding)

43F. Construction Management Plan (CMP)

Prior to the issue of any Construction Certificate, submit, for approval by the Certifier, detailed Construction Management Plan (CMP). The CMP shall address:

- (a) Construction vehicles access to and egress from the site
- (b) Parking for construction vehicles
- (c) Locations of site office, accommodation and the storage of major materials related to the project
- (d) Protection of adjoining properties, pedestrians, vehicles and public assets
- (e) Location and extent of proposed builder's hoarding and Work Zones
- (f) Tree protection management measures for all protected and retained trees.

(Reason: Compliance)

43G. Design of Works in Public Road (Roads Act Approval)

Prior to issue of any Construction Certificate other than for demolition or excavation, the applicant must submit, for approval by Council as a road authority, full design engineering plans and specifications prepared by a suitably qualified and experienced civil engineer for the following infrastructure works:

- (a) Construction of 1.5 metres wide footpath (max. 2.5% crossfall) towards the kerb for the full frontage of the development site in Anderson Street, O'Brien Street and Wilson Street in accordance with Council's specification and Standard Drawings SD105 and SD100. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided.
- (b) Reconstruction of existing kerb and gutter for the full frontage of the development site in Anderson Street, O'Brien Street and Wilson Street in accordance with Council's specifications and Standard Drawing SD105.
- (c) Reconstruction of the existing road pavement 3.5m wide for the full frontage of the development site in Anderson Street in accordance with Council's specifications.
- (d) Reconstruction of the existing road pavement for half road width for the full frontage of the development site in Wilson and O'Brien Street in accordance

with Council's specifications.

- (e) Construction of a 7.5 metres wide vehicular crossing in O'Brien Street in accordance with Council's specification and Standard Drawings SD105.

The required plans must be designed in accordance with Council's specifications (AUS-SPEC). A minimum of three (3) weeks will be required for Council to assess the Roads Act submissions. Early submission is recommended to avoid delays in obtaining a Construction Certificate. For the purpose of inspections carried out by Council Engineers, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council prior to issue of the approved plans.

Approval must be obtained from Willoughby City Council as the road authority under the Roads Act 1993 for any proposed works in the public road prior to the issue of any Construction Certificate other than for demolition or excavation.
(Reason: Ensure compliance)

43H. Driveway Longsection

Prior to issue of any Construction Certificate other than for demolition or excavation and in order to assess the susceptibility of vehicles to scraping as they pass over the proposed access driveway the applicant shall submit longitudinal sections for approval by Council along each side of the proposed vehicular access path drawn at 1:20 Scale. The longitudinal sections shall include the following: -

- (a) Horizontal distance from the centreline of the road to the proposed parking slab, including provision of Council's standard layback as per Council's standard drawing SD105 which is available from Council's website. Council's standard layback is 500mm wide and back of layback is 100mm above the gutter invert.
- (b) Both existing and proposed levels (in AHD) and gradients represented in percentage (%) of the vehicular crossing and driveway.
- (c) Crossfall on road pavement shall be shown on long sections.

The design shall be prepared by a suitably qualified civil engineer using Council's standard vehicle profile (SD100). All driveway grades and transitions shall comply with AS/NZS 2890.1 -2004 and Council's specifications.

The new crossing is to be 7.5 metres wide, unless agreed with Council that a wider crossing is required to contain the service vehicle within the crossing and be constructed at right angle to street kerb. The footpath/footpath zone which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb. For the design levels of the vehicular crossing at the property boundary, the following shall be complied with, unless written approval is gained from Council for alternate levels:

- (a) At back of layback – 100 mm above and parallel to the gutter invert.
- (b) At property boundary – 120mm above and parallel to the gutter invert.

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.
(Reason: Safe vehicular access)

43I. OSD/Rainwater Tank Design

The design of all rainwater/OSD tanks shall comply with the requirements of the NSW Work Health and Safety Regulation 2017, to minimise risks associated with confined spaces. The design shall also consider “Safety in Design” requirements. Prior to issue of any Construction Certificate other than for demolition or excavation, a suitably qualified person shall certify that the design meets these requirements.
(Reason: Safe access to tanks)

43J. Vehicle Access and Manoeuvring – Engineer’s Certification

Prior to the issue of any Construction Certificate other than for demolition or excavation, the Applicant shall submit, for approval by the Principal Certifier, certification from a suitably qualified and experienced Traffic Engineer relating to the design of vehicular access and manoeuvring for the development. This certification must be based on the architectural drawings and the structural drawings, and must make specific reference to the following:

- (a) That finished driveway gradients and transitions comply with AS/NZS 2890.1 and AS 2890.2 and will not result in scraping to the underside of cars.
- (b) That a maximum gradient of 5% is provided for the first 6 metres from the property’s front boundary to the basement. All driveway grades shall comply AS/NZS 2890.1 and AS 2890.2.
- (c) That the proposed vehicular path and parking arrangements comply in full with AS/NZS 2890.1, AS 2890.2 and AS 2890.6 in terms of minimum dimensions provided and grades on parking spaces.
- (d) That the headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Section 5.3.1 of AS/NZS 2890.1 and Section 2.7 of AS 2890.6.
- (e) That the headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Section 2.7 of AS 2890.6.
- (f) That a shared area with minimum dimensions of 2.4 x 5.4m is provided adjacent to all disabled parking spaces and a shared area with minimum dimensions of 2.4m x 2.4m is provided at the end of all disabled parking spaces to comply with AS 2890.6. A bollard shall be located in the shared zone in accordance with Section 2.4 of AS 2890.6.
- (g) That the headroom clearance required in AS 2890.2 for the largest vehicle using the site has been provided for the loading area and the path to and from the loading area. Minimum headroom to be 4.5m, as required for Council’s waste vehicle.
- (h) Simultaneous manoeuvring of B99 and B85 vehicles at all circulation aisles, ramps and ramp ends including the clearance lines for each vehicle, in accordance with AS2890.1, is complied with.
- (i) Simultaneous manoeuvrability of a MRV and a passenger vehicle including clearance in accordance with AS2890.1 and AS2890.2, is provided between the frontage road and the loading bay.
- (j) Simultaneous manoeuvrability of the largest vehicle using the site (minimum Council’s 10.5m waste vehicle) and a passenger vehicle including clearance in accordance with AS2890.1 and AS2890.2, is provided between the frontage road and the loading bay. Alternatively, a traffic management system such as signals is provided to manage vehicles in locations where

the two vehicles cannot pass.
(Reason: Ensure compliance)

43K. Finish Surface Levels Along the Street Boundary

Prior to the issue of any Construction Certificate other than for demolition or excavation, finished surface levels for all internal works along the street boundary, including finish floor levels, driveways, car spaces, landscaping, drainage structures etc., must be shown on the plans issued for construction. The development's internal surface levels along the street boundary must be consistent with the public domain civil works plans approved by Council under the Roads Act (1993). Any changes required to the finish floor levels approved under this development consent may require an application under S4.55 of the EP&A Act.
(Reason: Ensure compliance)

46. Disabled Parking Provision

Disabled parking wayfinding and parking spaces must be provided on-site to the satisfaction of Council's DCP 2012 ~~2023~~. The parking spaces must be located in a convenient and secure location in as close proximity to the retail areas and internal pedestrian facilities such as lifts, escalators and ramps as possible. All spaces must be clearly and visibly marked on site for their intended use.

The design of the disabled parking spaces must be to the satisfaction of Council and meet Australian Standards, Austroads guidelines and TfNSW technical directions and guidelines.
(Reason: Support mobility impaired users access)

47. Amended Landscape Plan

Amended Landscape Plans shall be submitted to Council for approval. Written approval from council is to be submitted to the Certifying Authority prior to the issue of ~~a~~ the Construction Certificate.

The following details must be shown on an amended Landscape Plans:

- (a) The five (5) trees within the raised planter beds along the Anderson Street frontage are to be shown on the planting plan; the trees shall be capable of a minimum mature height of 8m and shall have minimum pot size of 100L.
- (b) Street trees to be planted on Council land forward of the property:
 - i. The six (6) Jacaranda mimosifolia (Jacaranda) street trees along the Anderson Street frontage shall be changed to be 200L Fraxinus angustifolia subsp. oxycarpa 'Raywood' (Claret ash);
 - ii. The Jacaranda mimosifolia (Jacaranda) street tree on the O'Brien Street frontage shall be changed to be 200L Pyrus calleryana 'Capital' (Capital ornamental pear);

- (c) The public footpath on O'Brien Street at the western end is to be reduced to finish in line with the western edge of the through site link pathway and the remaining street verge be turf;
- (d) The through site link pathway along the western boundary shall have a minimum width of 2m and must not be encroached upon by building elements such as pillars.
The landscaping along the boundary may be narrowed to not less than 500mm opposite the pillars to accommodate the 2m path width. The edge of the pathway shall be realigned in sections opposite the pillars, with a splay at an angle of 30 degrees.

(Reason: Landscape amenity)

48. Tree Protection Plan

- (a) Submit to the registered certifier a Tree Protection Plan for approval prior to commencement of demolition. ~~issue of a construction certificate.~~
- (b) The Tree Protection Plan is to be prepared by a qualified Arborist with minimum qualification AQF Level 5.
- (c) Tree Protection Plan shall address tree protection and management of all trees (including those on Council land and adjoining properties) in accordance with AS 4970-2009 'Protection of trees on development sites' and clearly mark tree protection zones as well as tree protection measures and fencing. (Reason: Tree protection)

76. Inspection of Drainage Connection to Council's Drainage Line

The connection of the site stormwater drainage system to the existing Council pipeline pit shall be inspected by Council's Engineer when the pipes are exposed, prior to backfill. ~~and it is possible to confirm that the connection complies with Council's requirements and the new connection pipe does not protrude into the Council pipe system. The inspection must be booked via telephone with Council's Engineer and a minimum of 48 hours notice provided.~~ The inspection must be booked via Council's website with Council's Engineer and a minimum of 2 working days' notice provided. For the purpose of inspections carried out by Council Engineer, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council. (Reason: Ensure compliance)

97. Tree Planting

Prior to the issue of a Whole Occupation Certificate, the Project Arborist or Landscape Architect shall certify in writing that trees have been planted in accordance with the following:

No. Required	Species & Location	Min Pot Size
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At least twenty-eight (28) trees on ground level within the site	As indicated on Ground Level Planting Plan in Appendix 9 - Landscape Design Report dated 6/11/2023	100L
At least twelve (12) trees on level 03	As indicated on Level 03 Planting Plan in Appendix 9 - Landscape Design Report dated 6/11/2023	100L
least four (4) trees on level 15	As indicated on Level 15 Planting Plan in Appendix 9 - Landscape Design Report dated 6/11/2023	100L
Eight (8) street trees	As per Public Tree Planting condition.	200L

The trees shall:

- (a) Have a minimum container size of 100 litres and grown to AS 2303:2018 Tree stock for landscape use;
- (b) Be planted, mulched, watered and maintained according to industry best practice.

(Reason: Landscape amenity)

122. Performance Bond

Prior to the issue of any Occupation Certificate, the Applicant shall lodge with the Council a performance bond of ~~\$110,000~~ **\$115,000** against defective public civil works undertaken by the main Contractor for a period of twelve (12) months from the date of the completion certificate issued by Council as the road authority under the Roads Act 1993. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee which will be refundable subject to the approval of Council's Engineers at the end of the maintenance period. In this period, the Applicant is liable for any part of the work which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.

(Reason: Ensure compliance and specification)

133. Waste Agreement

Prior to the issue of any Occupation Certificate, the developer is to enter into a formal agreement with a licenced private waste contractor to service the **non-residential component of the** development. The contract is to ensure the removal of all waste from the development site.

Prior to entering into an agreement for a private waste collection service, the developer is to ensure that:



WILLOUGHBY
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- (a) The service is functional and meets the operational needs of the development
- (b) The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.
- (c) Council has been provided with indemnity against claims for loss or damage, should they take over the service at some point in the future.

A copy of the contract is to be forwarded to Council prior to the issue of any Occupation Certificate.

(Reason: Ensure compliance)

159. — Public Art

~~For the purposes of contributing to the social, cultural and economic vitality of the Willoughby LGA, the public art will be maintained and managed in accordance with Council's Public Art Policy.~~

~~(Reason: Ensure compliance with Council's Public Art Policy)~~

164A. Maintenance of the right-of-way

Maintenance of the right-of-way, including all landscaping, shall be the responsibility of Owner's Corporation.

(Reason: Landscape amenity)

Peter Wells,
Consultant Planner



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APPENDIX 1 – APPLICANT’S RESPONSE TO DRAFT CONDITIONS



17 December 2024

Willoughby City Council
31 Victor Street
Chatswood NSW 2057

ATTN: Peter Wells peter.wells@willoughby.nsw.gov.au

Dear Peter,

RESPONSE TO COUNCIL DRAFT CONDITIONS – DA 2023/152 – 54-56 ANDERSON STREET, CHATSWOOD

This response has been prepared by Mecone on behalf of Anderson Chatswood Development Pty Ltd (applicant) in relation to DA-2023/152 at 54-56 Anderson Street, Chatswood. This letter responds to Council's draft conditions of consent to be presented to the meeting of the Sydney North Planning Panel (SNPP) on 18 December 2024.

This response outlines requested changes to the draft conditions, which are presented in full in **Appendix A**, where changes are marked up in ~~strikethrough~~ where text is requested to be deleted, or ***bold italics***, where text is requested to be inserted.

A summary of the rationale for each change is provided in this response letter below.

1. ISSUING OF CONSTRUCTION CERTIFICATES – CONDITIONS 2 (A9, A12, A27, A28, A35, A36, A42), 3 (1.5, 1.6, 1.7, 1.9, 1.10, 1.16, 1.17, 1.18, 1.20), 10, PAGE 76 (Heading Above Condition 8), PAGE 78 (Heading Above Condition 11), 21, 25, 26, 28, 31, 37, 41, 47, 48 AND 49

To address the construction of the proposed development efficiently the applicant would mostly likely require the staging of the issuing of Construction Certificates (CC). This is a common practice where early works such as demolition, excavation and shoring of the development site may be addressed under a CC prior to all the development details being coordinated and a CC being issued for the main building structure or all of the building works in totality. Similarly, CCs for the likes of internal works, external facades and landscaping may also be issued later as the construction proceeds.

The wording of conditions 2 (A9, A27, A28, A35, A36, A42), 3 (1.5, 1.6, 1.7, 1.9, 1.10, 1.16, 1.17, 1.18, 1.20), 10, PAGE 76 (Heading Above Condition 8), PAGE 78 (Heading Above Condition 11), 21, 25, 26, 28, 31, 37, 41, 47, 48 and 49 refer to prior to the issue of "a" or "any" CC that certain works or requirements must be met. For condition 2 A12 it requires that "No" CC can be issued until the condition is satisfied. The proposed wording of these draft conditions requires each condition to be satisfied prior to the issue of any Construction Certificate. This requires substantial works (including detailed design, management plans) and approvals to be obtained under conditions of consent that in many instances relate to the main building structure or finishing elements of the development, while preventing demolition and early works commencing on site.

We would request that only where Council requires a condition to be satisfied, or to be provided information prior to any construction works commencing on the site that this wording be applied. In all other instances we would request that the wording "prior to the issue of ***the*** Construction Certificate...", OR "prior to the issue of ***the relevant*** Construction Certificate..." be used as this will provide limited flexibility for the Certifier to determine the satisfaction of the condition against the CC applicable and construction works to commence under staged CCs.

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2. NSW POLICE CONDITION 7.

The "conditions" listed under Condition 7 NSW Police do not provide criteria to ensure a clear and enforceable outcome, go beyond the scope of power to impose, and lack any specific timelines by which they must be satisfied. They appear to be the comments of NSW Police that have been inserted into the draft conditions document without consideration for any specific drafting of conditions.

We particularly call out Condition 7 (3.), which states:

7. NSW Police

3. Appropriated modifications should be made where necessary to accommodate the increase in traffic congestion on surrounding streets and intersections.

We seek that this "condition" be deleted as it is not clear, unreasonable and not enforceable.

We would request that if Condition 7 (1. – 16.) is to be included, rather it not be a condition but that it form an advice note that can be appended/forwarded to the applicant for consideration during further detailed design.

3. AMENDED LANDSCAPE PLAN CONDITION 47(d).

This condition requires that the through site link pathway along the western boundary shall have a minimum width of 2m and must not be encroached upon by building elements such as pillars.

The current design includes five pillars that encroach within the pathway reducing the effective width at these discrete locations to just over 1.5m as currently depicted on the landscape plan. We would request that condition 47(d) be deleted so that the proposed building and landscape plans can remain as currently proposed.

4. TREE PLANTING CONDITION 97.

The table in this condition contains an error in the first cell of row 3 and 4 – where each cell should refer to "At least".

2. PUBLIC ART 159.

This condition is a duplicate of Condition 144 and we request it is deleted

CONCLUSION

We trust this response and accompanying documents adequately address requested changes to the draft conditions of consent.

Please do not hesitate to contact me or Kirsty Vogel on 02 8667 8668 or via email at kvogel@mecone.com.au or asmtih@mecone.com.au.

Yours sincerely,

Alistair Smith
Director