

<b>DATE OF DETERMINATION</b>	19 June 2024
<b>DATE OF PANEL DECISION</b>	19 June 2024
<b>PANEL MEMBERS</b>	Annelise Tuor (Chair), Penelope Holloway, Glennis James, Carol Provan and Luke Murtas
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Panel meeting held by teleconference on 17 June 2024, opened at 12pm and closed at 3pm (the public meeting opened at 1.10pm and closed at 2.10pm). Papers circulated electronically on 17 June 2024.

#### **MATTER DETERMINED**

PPSSSH-141 – Sutherland Shire – DA23/0380 – at 26 Rosebery St, Heathcote – Residential Flat Building.

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7, the material presented at briefings and the matters observed at site inspection listed at item 8 in Schedule 1 and the matters raised by speakers at the public meeting.

#### **Application to vary a development standard**

Consideration of written requests from the applicant, made under cl 4.6 (3) of the *Sutherland Shire Local Environmental Plan 2015* (SSLEP 2015), which sought to demonstrate:

- compliance with cl. 4.3 Height of Buildings and cl. 4.4 Floor Space Ratio of the SSLEP (2015) is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.3 and 4.4 of the LEP and was deemed appropriate development by the Department of Planning, Housing and Infrastructure through a Site Compatibility Certificate issued 22 February 2022.

#### **Development application**

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The Panel determined to uphold the clause 4.6 variation to Height of Buildings and Floor Space Ratio, and to approve the application for the reasons outlined in the council assessment report and as indicated below:

- The Site Compatibility Certificate (SCC) issued by the Department of Planning, Housing and Infrastructure (DPHI) on 22 February 2022 overrides the prohibition of a residential flat building on the R3 zoned site, noting sufficient size and orientation for a residential flat building that could maintain acceptable amenity and impact on surrounding properties.

- The development demonstrates that adequate regard has been given to the design quality principles listed in Schedule 9 of the Council assessment report, SEPP (Housing) 2021 and the objectives specified in the ADG for the relevant design criteria.
- The proposal does not contravene any particulars of section 4.15 of the *Environmental Planning and Assessment Act 1979* and will not result in significant impact on the environment or to the amenity of nearby residents.
- The proposal offers community benefits through delivery of affordable housing and aligns with the housing goals of both the R3 zone and broader *SSLEP* (2015).
- The proposal provides appropriate transition in height and bulk between adjoining developments.
- The proposal provides an acceptable response to landscape setting through tree retention and additional appropriate native species, suitable clearance from critical trees, compliant landscape areas and integration of the landscape design with built form.
- The proposal provides the requisite 2 hours solar access to adjoining properties between 9am and 3pm in mid-winter and design measures around setbacks, blank walls, window placement, location of habitable versus non-habitable areas, trafficable zones, and management of communal open space have been incorporated to minimise amenity impacts from the development.
- The proposal provides parking beyond the requirements of SEPP (Housing) 2021 and will not result in unacceptable impacts to offsite parking and traffic.

### CONDITIONS

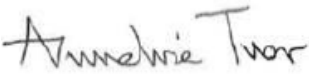

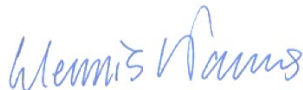


Council's recommended conditions of consent as amended by the Panel are at Schedule 2. Conditions 2(2) and 7 were amended in response to the applicant and Council's comments and conditions 5 and 22 were clarified.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and comments made during the public meeting. The Panel notes the large volume of objections summarised in Appendix C of the Assessment Report, in particular:

- Amenity impacts, including visual and acoustic privacy
- Development incompatible with character of area and site suitability
- Building height and scale not suitable
- Traffic and parking impacts
- Insufficient waste management
- Environmental impacts
- Potential view loss/outlook
- Lack of appropriate infrastructure in the area

The Panel considers that concerns raised by the community have been adequately addressed in Council's assessment report and during the public meeting.

PANEL MEMBERS	
 Annelise Tuor (Chair)	 Penelope Holloway
 Glennis James	 Carol Provan
 Luke Murtas	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSSH-141 – Sutherland Shire Council – DA23/0380
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a residential flat building with the provision of affordable housing
3	STREET ADDRESS	26 Rosebery Street, Heathcote
4	APPLICANT/OWNER	Pacific Community Housing Pty Limited
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ <i>State Environmental Planning Policy (Housing) 2021</i></li> <li>○ <i>State Environmental Planning Policy (Planning Systems) 2021</i></li> <li>○ <i>State Environmental Planning Policy (Resilience &amp; Hazards) 2021</i></li> <li>○ <i>State Environmental Planning Policy (Biodiversity &amp; Conservation) 2021</i></li> <li>○ <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></li> <li>○ <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i></li> <li>○ <i>Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)</i></li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ <i>Sutherland Shire Development Control Plan 2015 (SSDCP 2015)</i></li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i></li> <li>• The public interest</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 7 June 2024</li> <li>• Clause 4.6 statement – Height of Buildings</li> <li>• Clause 4.6 statement – Floor Space Ratio</li> <li>• Written submissions during public exhibition: 154</li> <li>• Total number of unique submissions received by way of objection: 153</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTION BY THE PANEL	<ul style="list-style-type: none"> <li>• Preliminary Briefing: 18/09/2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James and Stephen Nikolovski</li> <li>○ <u>Council staff</u>: Sue McMahon, Amanda Treharne and Alison Davidson</li> <li>○ <u>Applicant representatives</u>: James Matthews, Matthew Daniel, Liam Noble, Frank Stanisic, Jason Nowosad, Martin Musgrave</li> </ul> </li> <li>• Site Inspection: 6/10/023</li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James, Carol Provan and Stephen Nikolovski</li> <li>○ <u>Council staff</u>: Amanda Treharne and Alison Davidson</li> <li>○ <u>Planning Panels Team</u>: Lillian Charlesworth</li> <li>● Assessment Briefing: 20/11/2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James, Carol Provan and Luke Murtas</li> <li>○ <u>Council staff</u>: Amanda Treharne, Alison Davidson</li> <li>○ <u>Applicant representatives</u>: Matthew Daniel, Erica Marshall, Liam Noble, Guy Sturt, Daniel Napper, Frank Stanisic</li> <li>○ <u>Planning Panels Team</u>: Lillian Charlesworth</li> </ul> </li> <li>● Determination Meeting: 17/06/2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James, Carol Provan and Luke Murtas</li> <li>○ <u>Council assessment staff</u>: Sue McMahon and Alison Davidson</li> <li>○ <u>Applicant representatives</u>: Matthew Daniel and Jason Nowosad</li> <li>○ <u>Planning Panels Team</u>: Lillian Charlesworth, Joel Burgess</li> <li>○ <u>Public speakers</u>: Jamie Crozier, Christopher Solomon, Reece Sharpe, Judith Duncan, Heather Engelhardt, Ian Percival and Benjamin Hickling.</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Draft conditions contained in Schedule 2.

## SCHEDULE 2 – CONDITIONS OF CONSENT

### 1. Approved Plans and Documents

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans

Plan number	Reference	Prepared by	Date
DA0003(B)	Contextual Analysis	Stanisic Architects	Prepared 13.9.23
DA0004(C)	Site Plan	Stanisic Architects	Prepared 13.9.23
DA1001(C)	Basement 1 Plan	Stanisic Architects	Prepared 13.9.23
DA1002(D)	Level 1 (Ground) Plan	Stanisic Architects	Prepared 28.11.23
DA1003(C)	Level 2 Plan	Stanisic Architects	Prepared 13.9.23
DA1004(C)	Level 3 Plan	Stanisic Architects	Prepared 13.9.23
DA1005(D)	Level 4 Plan (Roof terrace)	Stanisic Architects	Prepared 28.11.23
DA1006(C)	Roof Plan	Stanisic Architects	Prepared 13.9.23
DA2001(D)	South + North elevation	Stanisic Architects	Prepared 13.5.24
DA2002(C)	West + East Elevations	Stanisic Architects	Prepared 13.9.23
DA2003(B)	Section AA + BB	Stanisic Architects	Prepared 13.9.23
DA2004(B)	Section CC	Stanisic Architects	Prepared 13.9.23
DA2005(B)	Façade Section - Section DD	Stanisic Architects	Prepared 13.9.23
DA1101(B)	External Materials, Finishes + colour board	Stanisic Architects	Prepared 13.9.23
DA1102(B)	Construction Management Plan	Stanisic Architects	Prepared 13.9.23
DA-2146-02(E)	Ground Floor Landscape Plan	Sturt Noble Associates	Prepared 16.11.23
DA-2146-03(E)	Level 3 Maintenance Plan	Sturt Noble Associates	Prepared 25.3.24
DA-2146-04(D)	Rooftop landscape Plan	Sturt Noble Associates	Prepared 8.11.23
DA-2146-05(C)	Rooftop pergola Landscape Plan	Sturt Noble Associates	Prepared 21.11.22
DA-2146-06(D)	Landscape Sections	Sturt Noble Associates	Prepared 8.11.23
DA-2146-07(D)	Ground Floor Planting Schedule	Sturt Noble Associates	Prepared 8.11.23
DA-2146-08(D)	Rooftop Planting Schedule	Sturt Noble Associates	Prepared 8.11.23
SW200-02(B)	Stormwater concept design - basement plan	SGC	Prepared 17.11.23
SW201-03(B)	Stormwater concept design - Level 1 (Ground) Plan (Sheet 01)	SGC	Prepared 17.11.23
SW202-04(B)	Stormwater concept	SGC	Prepared 17.11.23

	design - Level 1 (Ground) Plan (Sheet 02)		
SW300-05(B)	Stormwater concept design - Details sheet	SGC	Prepared 17.11.23
SW400-06(B)	Erosion and sediment control	SGC	Prepared 17.11.23
SW500-07(B)	Stormwater concept design - MUSIC catchment plan, model & results	SGC	Prepared 17.11.23

#### Approved Documents

Document title	Version number	Prepared by	Date of plans
BASIX Certificate	Certificate No. 1346534M_04	ESD Synergy Pty Ltd	23 May 2024
NatHERS Certificate	Certificate No. 0008409630	ESD Synergy Pty Ltd	Prepared 9.2.23
Access Assessment Report	2.2	Jensen Hughes	Prepared 6 December 2023
BCA Assessment Report	2	Jensen Hughes	Prepared 29 November 2023
Traffic & Parking Assessment Report	C	Lyle Marshall & Partners Pty Ltd	Prepared November 2023
Preliminary Fire Systems Statement	1	Collective Engineering	Prepared 12.4.24
Arborist Report	E	Sturt Noble Architecture	Prepared 8.11.23

In the event of any inconsistency between the approved plans and documents, the approved plans prevail.

Except as amended by the following conditions. In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Note: The following must be submitted to Sutherland Shire Council prior to the commencement of any building work.

- i) A Construction Certificate.
- ii) Notification of the appointment of a Principal Certifier and a letter of acceptance from that Principal Certifier.
- iii) Notification of the commencement of building works with a minimum of 2 days' notice of such commencement.

Under Section 6.5 of the Environmental Planning and Assessment Act 1979, please note that Sutherland Shire Council must be appointed as the Principal Certifier for all subdivision works.

## 2. Design amendments

Before the issue of a construction certificate, the certifier must ensure the construction certificate plans and specifications detail the following required amendments to the approved plans and documents:

1. **Gallery (southern elevation)** - To manage privacy impacts to the adjoining units to the south, the screening to the gallery at Levels 2 and 3 must comprise horizontal louvres angled upwards from top of the brick balustrade to 1.8m above floor level as annotated on the stamped approved plans referred to in Condition 1.
2. **Window adjacent lift (northern elevation)** - To manage privacy impacts and building articulation to the northern adjoining neighbour, the window to the lift lobby at Levels 1 to 3 must be setback a minimum of 3.9m (or to match Unit A206/306 bathroom wall alignment) from the northern side boundary and treated with obscure glazing or a fixed grille or louvred screen that prevents overlooking as annotated on the stamped approved plans referred to in Condition 1.
3. **Addition of openings (northern elevation)** - To provide improved solar access to the living areas. A window is to be added to Units A206 and A306 kitchen opposite Bed 1 opening as annotated on the stamped approved plans referred to in Condition 1.
4. **Level 4 skylight** - The skylight servicing Unit A401 at Level 4 must be no higher than the level of the roof parapet.

Details of these design changes must be included in documentation submitted with the application for a Construction Certificate.

### **3. Fire & Rescue NSW hardstand construction**

#### **A. Before construction**

The required hardstand area as required by the Fire safety guideline - Access for fire brigade vehicles and firefighters must be designed and located to retain all on-street parking. A copy of this approved design must form part of the construction certificate.

#### **B. Before occupation**

The hardstand and any associated works required by A. above must be completed to the satisfaction of the certifying authority.

### **4. Waste Management Plan**

Before the issue of a construction certificate, an operational waste management plan for the development must be provided to council and certified by Council's Waste Officer. The waste management plan must incorporate the approved waste collection method being onsite collection by a private contractor and must not result in loss of any street parking.

### **5. Ongoing management of waste collection**

1. All ongoing management, maintenance and cleaning of all waste and recycling management facilities, including suitable collection arrangements and how bins are to be moved from waste storage area/s to the onsite collection area/s are to be carried out in accordance with the approved Waste Management Plan for the development.
2. All waste and recycling bins must be stored wholly within the approved permanent communal garbage and/or recycling storage area.

### **6. Street Tree Pruning by Council**

Street Tree works must be paid for and completed prior to commencement of works on site.

### **7. Payment of security deposits**

#### **A. Before Issuing of any Construction Certificate**

Before the issue of a construction certificate, the applicant must make payment of \$35,000.00 for a security deposit, and a non-refundable \$250.00 administration fee to Sutherland Shire Council. The security deposit may be provided by way of a cash payment or a bank guarantee. A Bank Guarantee may only be used where the minimum bond

amount is \$50,000.

If a principal certifier is required to be appointed for the development, provide the principal certifier with written evidence of the payment and the amount paid.

#### **B. After Occupation**

A request for release of the bond may be made to Sutherland Shire Council after all works relating to this consent have been completed. Such a request must be submitted to Council on the 'Bond Release Request Form' signed by the owner or any person entitled to act on the consent and must be accompanied by a current dilapidation report including photographs.

### **8. Approvals Required under Roads Act or Local Government Act**

#### **A. Before Construction**

No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993. These approvals must be to the satisfaction of Council for the required development works and may include but are not limited to the following:

- Frontage works including construction of a driveway, footpath, etc.
- Road openings and restoration to provide services to the development.
- Work Zones and hoardings.
- Skip bins.
- Shoring / anchoring.
- Standing of cranes, concrete pumps, etc.

Note: All Plans and Permits are required to be on site, at all times and may be requested by Council officers at any time.

**Note: Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifier or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.**

#### **B. During Works**

There must be no occupation or works on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council. Any work on public land must be undertaken strictly in accordance with the relevant approval issued under the Roads Act 1993 and/or the Local Government Act 1993 by Sutherland Shire Council.

### **9. Design and Construction of Works in Road Reserve (Council Design)**

#### **A. Design**

Council has determined that the proposed development generates a need for the following works to be undertaken by the applicant in the road reserve. To this end a Detailed Frontage Works application under the Roads Act 1993 must be submitted to Sutherland Shire Council, prior to the release of the Construction Certificate. The form is available on Council's website. A fee applies for the relevant inspections, assessment, coordination, creation of design brief and the issue of permits providing consent to undertake frontage works. The design will be quoted separately by Council's Design Services unit.

This design will generally comply with the approved architectural design drawings and the current website version of Council's Public Domain Design Manual (PDDM) and Public Domain Technical Manual (PDTM) except where modified by/or addressing the following:



- i) Property alignment/ boundary levels - establish the property alignment/ boundary levels and crossing profiles.
- ii) Grades - regrade footpath verge to final design levels including topsoil, turf and all associated soft landscaping.
- iii) Footpath Pavement - construct a footpath pavement across the full frontage of the site.
- iv) Vehicle Crossings - construct a vehicle crossing measuring 5.5m wide located outside of the prescribed Structural Root and Tree Protection Zones of all street trees marked for retention.
- v) Redundant Laybacks and Crossings - remove redundant laybacks and vehicle crossings and replace with kerb and gutter (including associated road reconstruction works).
- vi) Stormwater Connection - construct a new stormwater connection from the internal drainage system to Council's existing piped network including construction of a new kerb inlet pit as required. The stormwater pipeline must be located to retain all street trees and installed using trenchless methodologies i.e.. underboring.
- vii) Infrastructure Transitions - ensure there are adequate transitions between newly constructed and existing infrastructure as required.
- viii) Road Pavement - reconstruct damaged road pavement as required.
- ix) Kerb and Gutter - reconstruct damaged kerb and gutter/edge strip as required including associated road reconstruction.
- x) Street Signage - alter existing and/or install new street signage as required.
- xi) Trees - all street trees must be protected and retained.
- xii) Utility Services - adjust public services infrastructure as required.
- xiii) NBN - the Australian Government has issued a new policy on the provision of telecommunication infrastructure in new developments. The policy is effective from 1 March 2015. Developers are responsible for providing telecommunications infrastructure in their developments. To provide this infrastructure, developers need to contract a carrier to install and operate a telecommunications network.

NBN is the IPOLR (infrastructure provider of last resort) in developments of 100 lots or more within its fixed-line footprint and in new development where its fixed-line network is available, or the NBN rollout has been announced ([www.nbnco.com.au/learn-about-the-nbn/rollout-map.html](http://www.nbnco.com.au/learn-about-the-nbn/rollout-map.html)).

If you use NBN, you will need to provide six months' notice before your network needs to be available

Evidence of the lodgement of this application must be provided to the Principal Certifier prior to the release of the Construction Certificate

## **B. Before Construction**

Prior to the release of the Construction Certificate property alignment levels and crossing profiles must be obtained from Sutherland Shire Council.

## **C. Before Occupation**

Prior to the occupation of the building or the issue of an Occupation/Subdivision Certificate the following certification must be provided to Sutherland Shire Council:

- i) The supervising engineer must certify that the road frontage works were constructed in accordance with the development consent and associated approval under the Roads Act 1993 including the approved drawings and specification.

## **10. Construction Site Management Plan**

### **A. Before Commencement of Works including Demolition**

An Environmental Site Management Plan must accompany the Construction Certificate. If demolition is to commence prior to the issue of a Construction Certificate the applicant must submit to Sutherland Shire Council a separate Demolition Site Management Plan. These plans must satisfy the Objectives and Controls of Sutherland Shire Development Control Plan 2015 relating to environmental site management and must incorporate the following throughout demolition and construction:

- i) Safe access to and from the site during construction and demolition.
- ii) Method of loading and unloading excavation machines, building materials.
- iii) How and where, construction materials, excavated and waste materials will be stored.
- iv) Methods to prevent material being tracked off the site onto surrounding roadways.
- v) Erosion and sediment control measures.
- vi) The location and materials for protective fencing and hoardings on the perimeter of the site;
- vii) Provisions for public safety;
- viii) Pedestrian and vehicular site access points and construction activity zones;
- ix) Details of construction traffic management including:
  - a. Proposed truck movements to and from the site;
  - b. Estimated frequency of truck movements; and
  - c. Measures to ensure pedestrian safety near the site;
- x) Details of bulk earthworks to be carried out;
- xi) The location of site storage areas and sheds;
- xii) The equipment used to carry out works;
- xiii) The location of a garbage container with a tight-fitting lid;
- xiv) Dust, noise and vibration control measures;
- xv) The location of temporary toilets;
- xvi) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
  - a. AS 4970 - Protection of trees on development sites;
  - b. An applicable Development Control Plan;
  - c. An arborist's report approved as part of this consent A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

### **B. During Works**

The site management measures set out in the above plan must remain in place and be maintained throughout the period of works and until the site has been stabilised and landscaped.

### **C. Before Occupation**

Before the issue of any Occupation Certificate, all foundations / materials associated with construction works (that do not form part of the approved works) must be removed. This includes but is not limited to foundations for tower cranes, vehicle access ways, stockpiles, building waste etc.

## **11. Pre-commencement Inspection**

### **A. Before Works**

A Pre-commencement Inspection/meeting is to be convened by the Applicant on-site a minimum 5 days prior to any demolition and/or construction activity and between the hours of 8.00 am and 4.30 pm Monday to Friday. The meeting must be attended by a representative of Council's Public Domain Assets Branch, the Principal Certifier, the builder/site manager of the building/civil construction company and where necessary the supervising engineer. The attendance of the owner is required when it is intended to use more than one builder/principal contractor throughout the course of construction.

The purpose of the meeting is to:

- i) Ensure safe passage for pedestrians, Work and Hoarded Zones are maintained in accordance with Council requirements.
- ii) Check the installation and adequacy of all traffic management devices.
- iii) Confirm that the supervising engineer has a copy of Council's Specification for Civil Works Associated with Subdivisions and Developments.

**Note:** An inspection fee must be paid to Council prior to the lodgement of the Notice of Commencement. Please refer to Sutherland Shire Council's Adopted Schedule of Fees and Charges.

## **12. Supervising Engineer**

### **A. Before Construction**

The applicant must engage an Accredited Certifier in civil engineering works or a Chartered Civil Engineer to supervise construction of any:

- i) Road frontage works.
- ii) Construction / installation of stormwater drainage.

The Principal Certifier must be informed of the supervising engineer's name and contact details, in writing, prior to the commencement of any construction works.

### **B. During Construction**

The engineer must supervise the works as listed above to ensure compliance with:

- i) All relevant conditions of development consent.
- ii) Any Consent issued under the Roads Act for this development.

### **C. Before Occupation**

The supervising engineer must certify the works required in A. above were undertaken and completed in accordance with the requirements of this Development Consent and to their satisfaction.

## **13. Internal Driveway, Parking and Manoeuvring**

### **A. Design**

The internal driveway profile, parking and manoeuvring areas must be designed in accordance with the approved architectural plans except where modified by the following:

- i) Align with Access and Alignment levels issued by Council's Public Domain Unit.
- ii) The internal driveway and car parking area must be paved or concreted and must be finished in materials other than plain or exposed aggregate concrete.
- iii) Provide adequate sight distance for the safety of pedestrians using the footpath area.
- iv) Install a traffic light and access system to facilitate entry and exit to the development for residents. This system must be designed by a suitably qualified engineer to ensure no queuing occurs within Council's Road Reserve for the life of the development.
- v) Provide a maximum grade of 5% for the first 6 metres inside the property boundary.
- vi) Comply with AS2890.1(2004) in relation to the design of vehicular access, parking and general manoeuvring for the B85 vehicle.
- vii) The maximum longitudinal grade of the driveway must not exceed 25%.

### **B. Construction**

Certification from an appropriately qualified engineer to the effect that the design

requirements of A. above have been met must accompany the Construction Certificate.

### **C. Occupation**

Prior to the occupation of the development or the issue of any occupation certificate a suitably qualified engineer must certify that the works required in A. above were undertaken and completed to their satisfaction and in accordance with the requirements of this Development Consent. This certification must be provided to the PCA and a copy also provided to Council.

### **D. On-going**

An Operational Management Plan must be put in place for the life of the development to ensure:

- i) The approved parking is used exclusively for the allocated units as approved.
- ii) No vehicles are permitted to queue within Council's Road Reserve between the boundary and the layback.
- iii) All vehicles must enter and exit the site in a forward direction.

## **14. Basement Car Park Design**

### **A. Design**

The basement car park must be designed in accordance with the approved architectural drawings, subject to the following modifications:

- i) A minimum headroom of 2.2m measured from the parking floor to the underside of any beam, ventilation duct or service conduit, or to the underside of any door including a security door and fittings when those doors are in an open position in accordance with clause 5.3 of AS2890.1.
- ii) Parking bays must not be enclosed, caged or a door provided.
- iii) All parking bays must provide a minimum clear parking envelop in accordance with figure 5.2 of AS2890.1.
- iv) The security door fitted to the car parking area entrance must be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns.

### **B. Prior to Construction**

Certification from a Chartered Civil Engineer or a Registered Surveyor, to the effect that the car park layout and vehicle access-way design has been prepared in accordance with A above must accompany the Construction Certificate.

### **C. Occupation**

Prior to the occupation of the development or the issue of any Occupation Certificate a Chartered Civil Engineer or a Registered Surveyor must certify that the works required in "A" above have been completed to their satisfaction and in accordance with the requirements of this Development Consent. This certification must be provided to the PCA and a copy provided to Council.

### **D. On-going**

The approved parking must be used exclusively for car parking for the life of the development.

## **15. Drainage Design - Detailed Requirements**

### **A. Design**

The stormwater drainage system must be designed generally in accordance with the approved stormwater drainage design drawing; Australian Standard AS3500.3:2015; the BASIX Certificate issued for this development; Sutherland Shire Environmental Specification - Stormwater Management. Except where modified by the following:

- i) The OSD tank must be designed and relocated outside of the prescribed Structural Root and Tree Protection Zones of all street trees marked for retention.
- ii) A detailed drainage design supported by drainage calculations must demonstrate the management of stormwater flow / discharge for all events up to the 100 ARI storm event. This must include roof gutters / downpipes and in-ground drainage lines and the on-site detention system.
- iii) A layout of the drainage system showing existing and proposed pipe sizes, type, class, grades, lengths, invert levels, finished surface levels and location of all pipes with levels reduced to Australian Height Datum. Impacts on existing trees must be indicated on the plan.
- iv) A longitudinal section of the pipeline within the road reserve including existing natural surface levels, design surface levels, design invert levels of the proposed pipeline and the location, size and reduced level of all services to AHD where those services cross the proposed drainage line. The pipeline must be located to avoid the structural roots of all street trees which are to be protected and retained.
- v) Water from pathways and access driveways shall be prevented from entering the road reserve as surface flow. This can be achieved by constructing a box drain at the boundary equipped with a 300mm wide grate and frame to collect the flow or directing the flow to a sag pit within the property.
- vi) The rate of discharge of stormwater from the site to a drainage system under Council's control must be controlled so that it does not exceed the pre-development rate of discharge. Any required on-site detention facility must be designed to cater for all storm events up to the Recurrence Interval of 1 in 100 years.
- vii) The pipeline within the footpath verge must be a hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres or reinforced concrete pipe (RCP).
- viii) Where pipelines are located within the "tree protection zone" of significant vegetation to be retained, the lines must be installed by directional underboring techniques to reduce any adverse impact on the root zone of the trees.

## **B. Before Construction**

- i) Certification from an Accredited Certifier in Civil Engineering or a Chartered Civil Engineer, to the effect that the drainage design is to their satisfaction and satisfies the design requirements in A. above must accompany the application for a Construction Certificate.

## **C. Before Occupation**

Prior to the issue of an Occupation Certificate:

- i) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared by a Registered Surveyor. This drawing must detail the alignment of pipelines, pits, the rainwater tanks and the detention facilities. An original or a colour copy must be submitted to Sutherland Shire Council.
- ii) The supervising engineer must certify the WAED of the stormwater drainage system that the stormwater drainage works, rainwater harvesting facility and rainwater reuse systems were constructed to their satisfaction and in accordance with the Development Consent, and Public Domain Technical Manual. Prior to the occupation or use of the building the Applicant / Owner must submit to Council a copy of the aforementioned letter of certification.
- iii) The supervising engineer must certify the stormwater drainage, rainwater harvesting and rainwater reuse systems were constructed to their satisfaction and in accordance with the Development Consent and Councils Environmental Specification - Stormwater Management. Prior to the occupation or use of the building the Applicant / Owner must submit to Council a copy of the aforementioned letter of certification.

#### **D. Ongoing**

- i) The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.
- ii) The stormwater detention facility must be:
  - Kept clean and free from silt, rubbish and debris
  - Be maintained so that it functions in a safe and efficient manner
  - Not be altered without prior consent in writing of the Council.

**Note:** Upon submission of the Works-As-Executed drawing for the stormwater drainage system a notation will be added to the Section 10.7 certificate advising future owners that their property is burdened by a stormwater detention facility.

### **16. Stormwater Treatment**

#### **A. Before Construction**

Appropriate stormwater treatment measures, selected and designed in accordance with Engineers Australia (2006) Australian Runoff Quality - A guide to Water Sensitive Urban Design, Argue J R (2013) WSUD: Basic Procedures for 'Source Control' of Stormwater - A Handbook for Australian practice, or other relevant industry design guidelines, must be provided as part of the permanent site stormwater quality management system. Details of the design, construction and maintenance must accompany the Construction Certificate.

#### **B. Before Occupation**

The work required by A. above must be completed to the satisfaction of the supervising engineer before occupation of the site or the issue of any Occupation Certificate.

#### **C. Ongoing**

The stormwater treatment measure must be maintained in accordance with the manufacturers' or designer's specification for the life of the development.

**Note:** Upon approval of the stormwater management designs a notation will be added to the Section 10.7 certificate in relation to any required stormwater treatment device.

### **17. Damage to Adjoining Properties**

#### **A. Before Works**

To minimise vibration damage and loss of support to buildings / structures and properties in close proximity to the development site, a Geotechnical Engineer's Report must be prepared detailing constraints to be placed on earth moving and building plant and equipment and the method of excavation, shoring, underpinning and support. This report must be provided to the person undertaking the excavation and the Principal Certifier.

#### **B. During Works**

The constraints and recommendations of the Geotechnical Engineers Report must be implemented.

### **18. Public Utilities**

This condition is imposed to facilitate the provision of services to the development and reduce conflicts between services and lot boundaries, buildings or associated facilities.

#### **A. Before Construction**

Suitable arrangements must be made with all relevant utility service providers to ensure the development is appropriately serviced by electricity, gas, telecommunications (including NBN) and the like, and any necessary underground conduits are provided. The Australian Government has issued a new policy on the provision of telecommunications infrastructure in new development. This policy is effective from 1 March 2015. Developers are responsible for

providing telecommunications infrastructure in their developments. To provide this infrastructure, developers need to contract a carrier to install and operate a telecommunications network. NBN is the IPOLR (infrastructure provider of last resort). NBN require 6 months' notice in order to make the network available.

A copy of the agreements/contracts with the utility providers must form part of the supporting construction certificate documentation.

## **B. Before Occupation/Subdivision**

Prior to issue of any Occupation/Subdivision certificate, certification must be provided from each utility service provider/approved agent to the effect that each lot has been serviced to their satisfaction.

Prior to the issue of any Occupation/Subdivision certificate, evidence satisfactory to the Certifying Authority that arrangements have been made for:

- i) The installation of fibre-ready facilities (conduits and pits) to all individual lots and/or premises/dwelling to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Certification from each carrier/provider must be provided to the Principal Certifier that they are satisfied that the fibre ready facilities are fit for purpose.
- ii) The provision of fixed-line telecommunications infrastructure (cables) in the fibre-ready facilities to all individual lots and/or premises/dwellings must be installed and certification from the carrier/provider must be provided to the Principal Certifier stating that the infrastructure has been provided and to their satisfaction.
- iii) Installation of gas and/or electricity must be constructed/installed by the utility service provider/approved agent to each allotment. Certification must be provided from each provider/agent stating that all allotments have been serviced to their satisfaction.
- iv) WAE drawings must to be prepared by a registered surveyor detailing location and depth of conduits/pits and connection points/ties within allotments. A copy of the WAE drawings must form part of any Occupation.

Note: Should these requirements result in any significant change to the approved design an application must be made to modify the consent under s.4.55 of the Environmental Planning and Assessment Act.

## **19. Landscaping Works**

### **A. Design**

The landscaping works must be designed in accordance with the approved Landscape Plan except where modified by the following:

- i) The three (3) Yunnan Poplar trees located along the northern boundary must be retained and protected.
- ii) Planting to occupy all of the front grassed area to include the following:  
5x 5lt potted *Banksia ericifolia*, 7x 150mm potted *Grevillea buxifolia*, 3x 150mm potted *Banksia spinulosa*, 15x 150mm potted *Lomandra longifolia*, 9x 150mm potted *Poa labillardieri* and 5x 150mm potted *Myoporum parvifolium*.
- iii) Amend the landscape plan in accordance with the approved architectural plans.
- iii) Provide minimum soil depths in planter boxes as follows:
  - 1200mm for large trees.
  - 900mm for small trees and tall shrubs.
  - 600mm low shrubs.
  - 450mm grass and ground covers.

- iv) In the Communal Open Space (COS) provide a universal toilet, all-weather cover over the entry door, a shade structure of minimum size 6m x 4m, BBQ, basic kitchen facilities, small canopy trees, understorey planting and furniture. Furniture on roof or podium terraces must be fixed to meet BCA requirements.
- v) All landscape retaining walls and planter boxes must be constructed in masonry, stone or gabions. Timber is not acceptable.
- vi) All landscaped areas and all planter boxes on slab must be provided with a water-efficient irrigation system and taps at 25m centres, connected to a pump and the rainwater tank, to enable effective landscape maintenance.
- vii) The private open space of each ground floor dwelling must be provided with a tap, connected to mains water.
- viii) All landscape areas including planter boxes on slab must achieve a minimum density of 4 plants per square metre.

#### **B. Prior to Occupation/Occupation Certificate**

The landscape works must be completed in accordance with the approved Landscape Plan and amendments required by 'A' above by persons with a minimum AQF Level III certification in Horticulture or Landscape Construction.

A Final Landscape Inspection must be carried out and a certificate issued by Council's landscape officer prior to occupation or the issue of an Occupation Certificate. This certificate is required to ensure that all tree protection measures, landscaping works, replacement tree planting and the deep soil percentage requirements have been carried out in accordance with 'A' above and other conditions within this consent, that all new indigenous plants on the site and within the road reserve are the correct species and that all trees planted within the road reserve are in accordance with the detailed road frontage design where it forms part of the Roads Act Consent.

To arrange a Final Landscape Inspection please phone 9710-0333 a minimum of 48 hours prior to the required inspection date. An inspection fee will be charged in accordance with the current schedule of rates listed on Council's website. Any secondary inspections will incur a reinspection fee.

#### **C. Ongoing**

All landscaping works required by 'A' above must be maintained for 12 months following the final landscape inspection date. Trees required by this condition must be maintained and protected until they are covered by Council's Controls for Preservation of Trees and Bushland Vegetation (SSCDCP 2015 Chapter 39).

Any plants found faulty, damaged, diseased or dead shall be replaced with the same species in the same sized container within one month with all costs borne by the owner.

**Note:** If difficulty is experienced sourcing suitable indigenous plants from other suppliers, plants grown from locally provenance seed may be available from:

Sutherland Shire Council Nursery  
345 The Boulevard, Gympie  
Ph: 02 9524 5672

## **20. Tree Removal & Replacement on Private Land**

### **A. Tree Removal**

1. The removal of the following trees is approved:
  - Trees identified within the approved Arborist Report by Sturt and Noble dated 08.11.23 as "existing tree to be removed" with the exception of 3x Yunnan Poplars (Trees 6, 7, 8).



- Any declared noxious plant. The applicant is to ensure that all noxious plants are properly identified and controlled/removed.
- Any tree species exempted by the Sutherland Shire Local Environmental Plan 2015.
- 2. All other vegetation that would require approval to be removed must be protected.
- 3. **8** trees are approved for removal as part of this consent. Where trees are proposed to be removed Sutherland Shire Council requires indigenous replacement canopy tree planting at a ratio of 8:1 on private land (dual occ / medium / high density) (Council Resolution EHR003-17 of 18 July 2016).
- 4. **17** replacement trees are required to be planted as shown on the approved Landscape Plan.
- 5. For the remaining **47** replacement trees required, Council offers offsite planting under a 'Deed of Agreement' as an alternative to on site planting, at a cost specified in Council's Schedule of Fees and Charges.

Offsite planting will be undertaken as part of Council's Green Street Program. 'Deed of Agreement' forms can be downloaded from Council's website at [www.sutherlandshire.nsw.gov.au/Development/Development-Applications/Off-Site-Tree-Replacement-and-Deed-of-Agreement](http://www.sutherlandshire.nsw.gov.au/Development/Development-Applications/Off-Site-Tree-Replacement-and-Deed-of-Agreement) <<http://www.sutherlandshire.nsw.gov.au/Development/Development-Applications/Off-Site-Tree-Replacement-and-Deed-of-Agreement>>

A completed form and payment must be submitted to Council prior to the release of the construction certificate.

#### **C. Prior to Occupation/Occupation Certificate**

The replacement tree planting must be completed in accordance with the approved Landscape Plan/Tree Location Plan.

#### **D. Ongoing**

Trees required by this condition must be maintained and protected until they are covered by Council's Controls for Preservation of Trees and Bushland Vegetation (SSCDCP 2015 Chapter 39). Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month with all costs to be borne by the owner.

### **21. Certification of tree retention and protection**

The principal certifier must be satisfied all tree protection works including AQF Level 5 Arborist Supervision & Certification (if required) have been completed in accordance with the approved plans and documents and any relevant conditions of this consent.

### **22. Tree Retention and Protection**

The following condition applies to all trees including the Sydney Turpentine Ironbark Forest (STIF) on the subject site, trees on the adjoining sites (which are potentially affected by the development works), as well as trees on the adjoining Council land that are not approved for removal.

#### **A. Before Works**

Prior to the commencement of any demolition, excavation or construction works on site, the following tree protection measures must be put in place and maintained during the course of construction to prevent damage to trees.

- i) Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts must be installed at the distance required by Australian Standards AS4970- Protection of Trees on Development Sites. Signage must be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".

- ii) The tree protection zone within the protective fencing must be mulched with a maximum depth 75mm of suitable organic mulch (woodchips or composted leaf chip mulch) and kept regularly watered for the duration of the works subject to this consent.
- iii) No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, stockpiling of soil or building materials.
- iv) Where site access/egress is required over the roots of trees identified for retention and protection, provide hardwood rumble boards over a 200mm thick layer of wood chip.
- v) Before any site work commences, the principal certifier, must be satisfied the measures for tree protection detailed in the construction site management plan are in place.

#### **B. During Construction**

- i) The tree protection measures detailed in 'A' above must be maintained during construction.
- ii) A supervising Arborist must be present during any approved hand excavation or under boring works within the Tree Protection Zone (TPZ) of any tree identified for retention and protection and have the authority to direct works to ensure the trees long term preservation;
- iii) A supervising Arborist must strictly supervise that there is no disturbance or severing of roots greater than 30mm diameter and to cleanly cut those roots between 10-30mm in diameter.
- iv) While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:
  - a) the construction site management plan required under this consent,
  - b) the relevant requirements of AS 4970 Protection of trees on development sites,
  - c) the approved Arboricultural Impact Assessment Report by Sturt and Noble dated 08.11.23

If the tree/s identified for retention in 'A' above are damaged or destabilised during construction then works must cease and Council's Tree Assessment Officer (ph. 9710 0333) must be contacted to assess the tree/s and recommend action to be taken.

## **23. Car Wash Bays**

To prevent contamination of the stormwater drainage system a car-wash bay must be provided on site:

#### **A. Design**

The wash-bay must be graded to an internal drainage point and connected to the sewer.

#### **B. Before Construction**

Details of the design satisfying 'A' above must accompany the application for a Construction Certificate.

#### **C. Before Occupation**

The Principal Certifier must be satisfied that:

- i) 'A' above has been complied with; and

- ii) any discharge to the sewer from the premises is in accordance with the requirements of Sydney Water.

#### **D. Ongoing**

All car-wash, engine degreasing and steam cleaning must be conducted in the wash-bay detailed in 'A' above. Wastewater must be treated in accordance with the requirements of Sydney Water.

### **24. Garbage, Recycling and Waste Storage Area**

To ensure the proper storage of waste from the premises:

#### **A. Design**

The garbage and recycling storage area must have:

- i) A smooth impervious floor that is graded to a floor waste. All waste water must be discharged to the sewer in accordance with the requirements of Sydney Water.
- ii) A tap and hose to facilitate the regular cleaning of the bins

All Garbage bins must be designed to prevent the escape of any liquid leachate and must be fitted with a lid to prevent the entry of vermin.

#### **B. Before Construction**

Details of compliance with 'A' above must form part of the documentation accompanying the applications for a Construction Certificate.

#### **C. Before Occupation**

The works must be completed prior to the issue of any Occupation Certificate.

#### **D. Ongoing**

All waste and recycling bins must be stored wholly within the approved waste storage area. The bins must only be put out for collection in the evening prior to pick-up and returned to the storage area as soon as possible after pick-up.

### **25. External Lighting - (Amenity)**

To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

#### **A. Design**

All lighting must be designed in accordance with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

#### **B. Ongoing**

All lighting must be operated and maintained in accordance with the Standard above.

### **26. Noise Control - Residential Air Conditioning Unit / Heat Pump Water Heater / Any other Pump**

To minimise the noise impact on the surrounding environment:

#### **A. Design**

The equipment must be located, designed and/or acoustically attenuated so that noise emitted does not exceed a sound pressure level of 5dB LAeq (15 minute) above the ambient background level when measured on or within any other residential property boundary.

#### **B. Before Occupation**

The equipment must be installed in accordance with the manufacturer's specification and all

required noise attenuation measures implemented to ensure that the equipment complies with “A” above.

**C. Ongoing**

- i) All equipment must be operated in accordance with ‘A’ above.
- ii) For air conditioning units / heat pump water heaters:  
Between the hours of 10.00pm and 8.00am on weekends and public holidays and 10.00pm and 7.00am any other day, noise emitted must not be heard within any residence with its windows and/or doors open or closed.
- iii) For any other pump:  
Between the hours of 8.00pm and 8.00am on weekends and public holidays and 8.00pm and 7.00am any other day, noise emitted must not be heard within any residence with its windows and/or doors open or closed.
- iv) Receipt of a noise complaint from the operation of this equipment will result in the requirement for certification from an acoustic engineer that the equipment is operating in accordance with the requirements of this condition. If the acoustic assessment reveals that the equipment is not operating in accordance with the consent it must make recommendations on what remediation measures are required to bring the equipment into compliance.

NB. Any other pump includes a swimming pool pump, a spa pump, a sump pump, a water cooler that uses a pump any other apparatus or machine for raising, driving, exhausting or compressing fluid by means of a piston, plunger or rotating vanes.

## **27. Noise Control - Design and Operation (General Use)**

To minimise the impact of noise from the development, the use of the premises and all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems:

**A. Design**

The use of the premises and all plant and equipment must be designed and / or located so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background level when measured at the most affected point on or within any residential property boundary.

**Note:** The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1.

**B. Before Occupation**

Prior to the occupation of the development or the issue of any Occupation Certificate certification must be provided by a qualified acoustic engineer that all work associated with the installation of the acoustic measures has been carried out in accordance with ‘A’ above.

**C. Ongoing**

All plant and equipment must be operated and maintained in accordance with ‘A’ above.

## **28. Noise and Vibration Control - Residential Car Park**

To minimise noise and vibration from use of the security door in the car park:

**A. Design**

The proposed security door fitted to the car parking area entrance must be independently mounted on rubber pads or otherwise installed to prevent vibration noise transmission through the concrete walls and / or columns.

## **B. Before Occupation**

The Principal Certifier must be satisfied that 'A' above has been complied with.

## **29. Car Park Ventilation - Alternate System**

To ensure adequate ventilation for the car park:

### **A. Design**

As the basement car-park does not appear to comply with the natural ventilation requirements of Section 4 of Australian Standards AS1668.2 -2012, the car-park must be either mechanically ventilated by a system complying with AS1668.2 -2012 or alternatively, the natural ventilation system must be certified by a qualified mechanical ventilation engineer to the effect that the system is adequate. The certification shall confirm that the system will protect the health of occupants of the car park at any time it is used and satisfies the atmospheric contaminate exposure rates specified in the Worksafe Australia document: Workplace Exposure Standards for Airborne Contaminants.

### **B. Before Construction**

Details of compliance with 'A' above must form part of the application for a Construction Certificate.

### **C. Before Occupation**

Prior to the occupation of the building or the issue of any Occupation Certificate certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with 'A' above.

### **D. Ongoing**

The ventilation system must be operated and maintained in accordance with 'A' above.

## **30. Demolition Work**

To ensure that demolition of structures is carried out in an environmentally acceptable and safe manner:

### **A. Before Commencement**

If works involve the removal of more than 10 square metres of asbestos material, a bonded asbestos licence is required. A friable asbestos licence is required to remove, repair or disturb any amount of friable asbestos. For further information contact SafeWork NSW.

### **B. During Works**

- i) The demolition of the existing building must be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.
- ii) The applicant must ensure that the demolition contractor has a current public risk insurance coverage for a minimum of \$5 million. A copy of the Policy must be submitted to the Council prior to demolition.

To ensure that the removal and transportation of any asbestos material, regardless of the quantity, is carried out in an environmentally acceptable and safe manner, all work must comply with the following:

- a) Work Health and Safety Act 2011;
- b) Work Health and Safety Regulation 2017;
- c) Safe Work Australia Code of Practice - How to Manage and Control Asbestos in the Workplace;
- d) Safe Work Australia Code of Practice - How to Safely Remove Asbestos;
- e) Protection of the Environment Operations Act 1997; and

- f) Protection of the Environment Operations (Waste) Regulation 2014.

Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW EPA to accept asbestos waste. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m<sup>2</sup> or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate. More information can be found at <https://wastelocate.epa.nsw.gov.au>.

### **31. Dilapidation Report - Adjoining Properties**

To assist in the resolution of any future disputes about damage to properties adjoining the development site.

#### **A. Before Works**

To assist in the resolution of any future disputes about damage to properties adjoining the development site, prior to commencement of any work on site the Applicant or principal contractor must provide dilapidation reports on the adjacent buildings at No.11 Veno Street, No.14-18 Strickland Street & Nos.24A & 24B Rosebery Street, including any basements and ancillary structures. The reports must be provided to the Principal Certifying Authority and to the owners of the properties that are the subject of the report.

The reports must be prepared by a suitably qualified and experienced person, such as a structural engineer.

### **32. Design Requirements for Adaptable Housing**

#### **A. Design**

The development must provide 4 Units as Adaptable Housing. A report prepared by a suitably qualified Adaptable Housing Specialist must be submitted with the Construction Certificate, demonstrating that the development complies with the requirements of AS4299 - Adaptable Housing. The report must contain a completed checklist (Appendix A - AS4299) demonstrating compliance with the requirements of a Class C Adaptable House.

#### **B. Before Occupation**

Prior to the occupation of the development, or this issue of any Occupation Certificate, a suitably qualified Adaptable Housing Specialist must certify that the development has been constructed in accordance with the requirements of "A" above. A copy of this certification must accompany the Occupation Certificate.

### **33. Design Requirements for Livable Housing**

#### **A. Design**

The development must provide 2 Units as Livable Housing. These units must be designed to the 'Silver Standard' as outlined in the *Livable Housing Design Guidelines* (prepared by Livable Housing Australia).

Details must be included in documentation submitted with the application for a Construction Certificate.

#### **B. Before Occupation**

Prior to the occupation of the development, or this issue of any Occupation Certificate, a suitably qualified Livable Housing Specialist must certify that the development has been constructed in accordance with the requirements of "A" above. A copy of this certification must accompany the Occupation Certificate.

### **34. Verification of Design for Construction - SEPP (Housing) 2021**

#### **A. Design**

Design verification must be provided by a registered Architect in accordance with the requirements of SEPP (Housing) 2021 (Chapter 4) stating that the design intent as approved

by the Development Consent has been maintained in the building / architectural plans submitted with the Construction Certificate, including specific confirmation that a minimum ceiling height of 2.7m for all habitable spaces has been achieved in the construction documentation. This design verification must accompany the application for a Construction Certificate.

**B. Before Occupation**

Prior to the issue of any Occupation Certificate design verification must be provided by a registered Architect in detailing that the development (including minimum ceiling heights of 2.7m for habitable spaces) has been completed in accordance with SEPP (Housing) 2021 (Chapter 4).

### **35. External Walls and Cladding Flammability**

**A. Design**

The external walls of the building, including attachments, must comply with the relevant requirements of the *National Construction Code (NCC)*. This includes the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels

**B. Before Construction**

Details of compliance with “A” above must form part of the application for a Construction Certificate.

**C. Before Occupation**

Prior to the occupation of the development, or the issue of any Occupation Certificate, certification, including an appropriate level of detail to demonstrate compliance with the NCC as built, must be provided to the PC by an appropriately accredited professional that external finishes of the building complies with “A” above.

### **36. Certification Requirement of Levels**

**A. During Construction**

At the following stages of construction:

- i) Prior to the pouring of each floor or roof slab,
- ii) Upon completion of the roof slab.

A registered surveyor must provide the Principal Certifier with Certification that the stage of structure complies with the development consent in respect of levels.

**B. Before Occupation**

The certification referred to above must form part of the application for an Occupation Certificate.

### **37. Sydney Water Requirements & Section 73 Compliance Certificate**

**A. Before Any Works**

Prior to the commencement of any works on site, including demolition or excavation, the plans approved as part of the Construction Certificate must also be approved by Sydney Water. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Customers will receive an approval receipt which must be included in the Construction Certificate documentation.

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au).

**B. Before Occupation / Subdivision Certificate**

Prior to the issue of an Occupation Certificate or a Subdivision Certificate a Compliance Certificate under Section 73 of the Sydney Water Act, 1994, must be submitted to Council by the Principal Certifier. Sydney Water may require the construction of works and/or the payment of developer charges. This assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to the mains.

#### **Sydney Water Advice on Compliance Certificates:**

Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator. Please make early contact with the Coordinator, since building of water / sewer extensions can be time-consuming and may impact on other services as well as building, driveway or landscaping design.

Go to [www.sydneywater.com.au/section73](http://www.sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

### **38. Dial Before You Dig**

#### **A. Before Construction**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

### **39. Noise Control and Permitted Hours for Building and Demolition Work**

#### **A. General**

To manage noise impacts to the surrounding properties, demolition, excavation, or construction activities should be managed in accordance with the NSW Department of Environment and Climate Change (now Environment Protection Authority). Interim Construction Noise Guideline (ICNG) 2009, EPA Draft Construction Noise Guideline and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

#### **Dilapidation reports**

Subject to the receipt of permission of the affected landowner, dilapidation report/s of adjoining buildings are to be prepared by an appropriately qualified practising structural engineer and submitted for the approval of the Principal Certifier -

- a) prior to the commencement of demolition/excavation works; and
- b) on completion of construction demolition/excavation works.

Copies are to be provided to affected land owners of adjoining properties.

#### **Demolition, Excavation and Construction Noise and Vibration Management Plan**

A site specific noise management plan must be submitted to the Private Certifier and Council prior to issue of any Construction Certificate relevant to that stage of the development.

The Plan must be prepared by a suitably qualified person who is a member, at Member Level, of -

- the Institution of Engineers Australia and the Australian Acoustic Society;
- or working for, and under the supervision of, a firm that is a member of the Australasian Association of Acoustic Consultants.



The plan must include but not be limited to the following -

- a) Identification of noise sensitive receivers near to the site.
- b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite.
- c) A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated Tables 3 and 4 of the Interim Construction Noise Guideline (ICNG) 2009 Section 4 Quantitative Assessment method.  
Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- d) A representative background noise measurement (LA90, 15 minute) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- e) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- f) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria Tables 3 and 4 of the Interim Construction Noise Guideline (ICNG) 2009.
- g) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- h) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- i) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

### **Compliance with Demolition, Excavation and Construction Noise and Vibration Management Plan**

All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation, and Construction Noise and Vibration Management Plan.

The contractor must provide regular, appropriate, and sustained periods of respite in consultation with Council's Environmental Health and Building Unit:

- Where all control measures detailed in the Demolition, Excavation and Construction Noise and Vibration Management Plan have been implemented and the resultant noise and/or vibration levels at any sensitive receiver still exceed the applicable criteria and
- The development is giving rise to sustained complaints.

### **Hours of Operation**

All demolition, excavation and building, work must be carried out only between the hours of:

- 7.00am and 6.00pm Monday to Friday inclusive,
- 8.00am and 3.00pm Saturdays.

No work is to be carried out on Sundays and Public Holidays.

On a maximum of 12 occasions extended hours may be carried out on the site:

- from 7.00am to 8.00pm Monday to Friday, excluding Public Holidays on a week day.

The purpose of the extended hours note reference ICNG 2009 for example, pouring large slab.

In order to activate the extended hours of operation both Council and affected neighbours must be notified a minimum of 48 hours prior to commencement.

Affected neighbours include those in the immediate vicinity, adjacent or adjoining the development site. Notification must be by way of written advice including:

- Date/s the extended hours will be utilised.
- The purpose of the extended hours note reference ICNG 2009 for example, pouring large slab.
- Address of the development works / site.
- Contact name and number of appropriate site officer (supervisor or manager) for enquiries.
- Include a copy of the letter and a map or list identifying those affected neighbours who have been notified.

## **40. Toilet Facilities**

### **A. During Works**

Toilet facilities must be available or provided at the work site at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site before works begin and must be maintained until the works are completed.

Each toilet must:

- be a standard flushing toilet connected to a public sewer, or
- have an on-site effluent disposal system approved under the Local Government Act 1993, or
- be a temporary chemical closet approved under the Local Government Act 1993.

## **41. Containment of Fill**

### **A. Design**

Fill must not extend beyond the perimeter of the building. (The use of a dropped edge beam is a method of complying with this condition.)

### **B. Before Construction**

Details of the finished levels around the perimeter of the building must accompany the application for a Construction Certificate.

## **42. Street Numbering and Provision of Letter Box Facilities**

### **A. Before Occupation**

Street/unit numbers must be clearly displayed, and suitable letterbox facilities must be provided in accordance with Australia Post specifications and AS 4253.

## **43. Metal Roof Reflectivity**

This condition has been imposed to protect the amenity of the occupants of neighbouring properties, with the intent to reduce the potential for solar reflection and glare.

### **A. Design**

The colour of the metal roof sheeting may be any of the rating classifications under the Building Code of Australia or the National Construction Code (as amended), however if a light classification colour is to be used then the roofing must have a matte finish.

## **B. Before Construction**

The proposed roof colour must be in accordance with Part A of this condition and shown on the Construction Certificate drawings.

## **C. Before Occupation**

The colour of the roof installed must be in accordance with Part A of this condition prior to the issue of any Occupation Certificate.

# **44. Car parking Areas**

## **A. Ongoing**

To ensure that the car parking area satisfies the demands of the development:

- i) it must be made available on an unrestricted basis and free of charge at all times for residents vehicles
- ii) car-parking provided must only be used in conjunction with the dwellings contained within the development and not for any other purpose.

# **45. Affordable Rental Housing - Restriction as to User**

## **A. Before Occupation**

Prior to the occupation of the development or the issue of any Occupation Certificate, a Restriction as to User must be registered against the title of the property in accordance with section 88E of the Conveyancing Act 1919. This restriction must be registered, before the date of the issue of the Occupation Certificate, against the title of the property on which development is to be carried out.

This restriction is to ensure that 50% of dwellings (9 in total) shall be affordable rental housing as defined by State Environmental Planning Policy (Housing) 2021. The restriction shall contain the following wording -

Clause 40(1) of the State Environmental Planning Policy (Housing) 2021 entitled "Must be used for affordable housing for 15 years" states:

- (1) Development consent must not be granted under this Division unless the consent authority is satisfied that, for at least 15 years from the date of the issue of an occupation certificate-
  - (a) at least 50% of the dwellings to which the development relates will be used for affordable housing, and
  - (b) the dwellings used for affordable housing will be managed by a registered community housing provider.

## **B. Ongoing**

Prior to the occupation of the development or the issue of any Occupation Certificate the owner must provide evidence that a binding and contractual arrangement has been entered into with a **registered community housing provider**, to manage the accommodation. This evidence must form part of the Occupation Certificate.

That the Restriction as to User require the dwellings, for a period of 15 years from the date of issue of an Occupation Certificate, to be Affordable Housing as defined by State Environmental Planning Policy (Housing) 2021, namely-

"Affordable housing" means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

## **46. Waste Collection - onsite collection for the number of bins required for the development.**

### **A. Design**

To ensure the proper storage and collection of waste from the premises:

- i) The permanent communal garbage and/or recycling storage area must have a smooth impervious floor that is graded to a floor waste. A tap and hose must be provided to facilitate regular cleaning of the bins and all wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water. Garbage bins must be designed to prevent the escape of any liquid leachate and must be fitted with a lid to prevent the entry of vermin.
- ii) The permanent residential communal garbage and/or recycling storage area must have sufficient space to accommodate:
  - a. 9 x 240L garbage as a shared service collection once a week
  - b. 9 x 240L recycling as a shared service
  - c. 1 X240L green waste bin as a shared service collection fortnightly
- iii) An Operational Waste Management Plan prepared by a suitably qualified person must be prepared and form part of the construction certificate to ensure all waste is collected on site and no loss of on street parking is required to facilitate collection.

### **B. Construction**

Details of compliance with 'A' above must form part of the documentation accompanying the applications for a Construction Certificate.

### **C. Before Occupation**

The works must be completed prior to the issue of any Occupation Certificate.

### **D. On-going**

All ongoing management, maintenance and cleaning of all waste and recycling management facilities, including suitable collection arrangements and how bins are to be moved from waste storage area/s to collection area/s are to be carried out in accordance with the approved Operational Waste Management Plan for the development.

All waste and recycling bins must be stored wholly within the approved waste storage area.

Attached are the prescribed conditions that must be complied with under the Environmental Planning and Assessment Regulations 2021.

## PREScribed CONDITIONS

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**The prescribed conditions in accordance with Part 4, Division 2 of the *Environmental Planning and Assessment Regulation 2021* apply:**

- Clause 69      Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989
- Clause 70      Erection of signs
- Clause 71      Notification of Home Building Act 1989 requirements
- Clause 72      Entertainment venues
- Clause 73      Maximum capacity signage
- Clause 74      Shoring and adequacy of adjoining property

**Refer to the NSW Legislation website for the full text of the above clauses under the *Environmental Planning and Assessment Regulation 2021*. The website can be accessed at: <https://legislation.nsw.gov.au>**