

Department of Planning, Housing and Infrastructure

Our ref: SSD-59805958

Mr Stephen Barry
Planning Director
Independent Planning Commission
Suite 15.02, Level 15, 135 King Street
Sydney NSW 2000

Via email: [REDACTED]

9 July 2025

Subject: Novus on Albert – 763-769 Pacific Highway, Chatswood – Built-to-Rent (SSD-59805958)
Request for Comment – Recommended Conditions of Consent

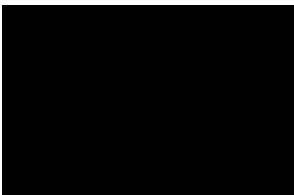
Dear Mr Barry

I refer to your letter dated 4 July 2025, seeking the Department of Planning Housing and Infrastructure's (the Department) advice on the workability, enforceability and any potential unintended consequences of the proposed conditions for the proposed Novus on Albert, Chatswood Build-to-Rent State significant development (SSD) application.

In response to the Independent Planning Commission's request, the Department advises that it is supportive of the proposed amendments to the draft conditions of consent, subject to consideration of the comments provided in **Attachment A**.

Please do not hesitate to contact Gabriel Wardenburg, Team Leader on [REDACTED] if you require any further information or clarification on these matters.

Yours sincerely,



Paulina Wythes
Director
Social and Diverse Housing Assessments

Novus on Albert – 763-769 Pacific Highway, Chatswood – Build-to-Rent (SSD-59805958)

Changes to Conditions of Consent

Notes:

1. Not all conditions in the table below are replicated in full, only necessary parts of the conditions to demonstrate changes.
2. As a result of new conditions, re-numbering of conditions will be required/undertaken.
3. Minor grammatical, typographical and condition cross-reference corrections to conditions are not included in the table below.

Condition No.	Commission's Intended Outcome	Revised Condition (Additions in bold and underlined , deletions in striketrough)	DPHI Comments
SCHEDULE 1 Development	To align with the advice provided by the Department dated 24 June 2025.	Construction of a new mixed-use shop top housing development comprising: <ul style="list-style-type: none"> o 198 build-to-rent units o ground level retail uses, and residential area lobbies and other ancillary uses o residential amenities, including co-working facilities and rooftop communal spaces o demolition, bulk earthworks, landscaping, tree removal and associated works. 	Agreed.
DEFINITIONS Site Establishing and Enabling Works	Question to DPHI: the Applicant has stated that this definition is no longer required as it overlaps with other definitions, possibly a carryover from previous drafting. Applicant considers it is no longer relevant due to the CC strategy. Can the Department confirm if this definition can be deleted and provide comments?		Agreed. The definition can be deleted as it overlaps with other definitions and is not relied on within the consent.
NEW DRIVEWAYS – PROXIMITY TO POLES A9.	To provide clarity of the types of poles being referred to.	Proposed driveways must be located to maintain a minimum clearance of 1.5m from the nearest face of the a signage pole to any part of the driveway, including the layback, to allow room for future signage pole replacements.	Agreed.
BUILDINGS AND STRUCTURES TO BE WHOLLY CLEAR OF THE SP2 ZONE A10.	To provide land use zone terminology consistent with the <i>Willoughby Local Environmental Plan 2012</i> certainly about the land on which the buildings and structures can / cannot be located.	All buildings and structures must be located wholly outside and clear of the (Pacific Highway and Albert Avenue) on parts of the site identified within Zone E2 Commercial Core and must be wholly outside and clear of parts of the site identified as SP2 Infrastructure (Classified Road) pursuant to the Willoughby Local Environmental Plan 2012 zones.	Agreed.
PHOTOGRAPHIC ARCHIVAL RECORDING B1.	To ensure no demolition at all is to commence prior to recording being completed.	Prior to the commencement of any Demolition Works, a photographic archival record of the external and internal areas of the heritage items on site and all other items of heritage significance on the site identified in the Statement of Heritage Impact prepared by Artefact (2024) must be prepared in accordance with the NSW Heritage Branch guidelines titled Photographic Recording of Heritage Items using Film or Digital Capture. A digital copy must be submitted to Council and the Planning Secretary prior to the commencement of Demolition Works.	Agreed.
HERITAGE INTERPRETATION PLAN	To provide terminology consistent with the <i>Willoughby Local</i>	Prior to the commencement of Demolition Works, the Applicant must submit an initial Heritage Interpretation Plan	Agreed.

Condition No.	Commission's Intended Outcome	Revised Condition (Additions in bold and underlined , deletions in striethrough)	DPHI Comments
B2.	<i>Environmental Plan 2012</i> and certainty on the identification of the heritage item.	addressing the <u>item of environmental heritage described as</u> Old Fire Station (<u>item number</u> 1238) <u>pursuant to the Willoughby Local Environmental Plan 2012</u> at 767 Pacific Highway, Chatswood, to the satisfaction of the Planning Secretary. The plan must be prepared in general accordance with the re-interpretation response described in the Response to Submission Design Report (18 October 2024, Rothelowman) and must: (a)	
HERITAGE INTERPRETATION PLAN B3(f).	To provide terminology consistent with the <i>Willoughby Local Environmental Plan 2012</i> and certainty on the identification of the heritage item.	(f) outlines all interpretation measures to be implemented <u>to</u> acknowledge the heritage values of the <u>item of environmental</u> heritage item described as <u>in</u> the Old Fire Station (<u>item number</u> 1238) under <u>pursuant to</u> the <i>Willoughby Local Environmental Plan 2012</i> ;	
NEW CONDITION LOT CONSOLIDATION C1.	To ensure the lot consolidation occurs prior to the issue of a Construction Certificate, rather than an Occupation Certificate as proposed by the Department. The Commission considers it is appropriate to require consolidation at this stage of the development to ensure there all dwellings will be located on the same lot of land	<u>Prior to the issue of the first Construction Certificate, the allotments/separate titles comprising the development site must be consolidated to ensure all dwellings will be located on the same lot of land. A plan of consolidation must be registered with the Land and Property Information Division of the NSW Land Registry Services.</u>	The Department recommends revised wording which accommodates the proposed staging of the development. This allows initial site establishment and enabling works to commence without undue delay while also ensuring that lot consolidation is achieved prior to substantive construction of above ground building elements. Importantly, the revised recommended condition would require lot consolidation to occur before a construction certificate can be issued for the construction of any dwellings. <i>Prior to the issue of a Construction Certificate for Above Ground Works the first Construction Certificate, the allotments/separate titles comprising the development site must be consolidated to ensure all dwellings will be located on the same lot of land. A plan of consolidation must be registered with the Land and Property Information Division of the NSW Land Registry Services.</i>
ECOLOGICALLY SUSTAINABLE DEVELOPMENT C9.	To ensure the report is prepared by the appropriately qualified person.	Prior to the issue of a Construction Certificate for Above Ground Works, the Applicant must submit to the Certifier a Report <u>from a suitably qualified professional</u> demonstrating the development incorporates all design, construction and operation measures, or equivalent, as identified in the Ecologically Sustainable Development (ESD) Report, prepared by JHA Consulting Engineers, dated May 2024.	Agreed.
STRUCTURAL DETAILS C10.	To ensure the drawings and Report are prepared by the appropriately qualified person.	Prior to the issue of a Construction Certificate for Above Ground Works, the Applicant must submit to the Certifier detailed structural drawings and a Report <u>prepared by a suitably qualified and experienced professional engineer</u> demonstrating that structural drawings comply with: (a) relevant clauses of the NCC; and (b) this development consent.	Agreed.
STORMWATER MANAGEMENT SYSTEM C11.	To ensure the information is prepared by the appropriately qualified person.	Prior to the issue of a Construction Certificate for Above Ground Works, the Applicant must submit to the Certifier details of an operational stormwater management system for the Development designed by a suitably qualified and experienced <u>professional engineer</u> person (s): (a) ...	Agreed.
LANDSCAPING C13(e).	To provide an appropriate timeframe for plant maintenance and watering to provide a greater chance of successful landscaping.	(e) includes details of plant maintenance and watering for the first 42 <u>36</u> months; and	Agreed.

Condition No.	Commission's Intended Outcome	Revised Condition (Additions in bold and underlined , deletions in strike through)	DPHI Comments
PARKING C14.	<p>To ensure the report is prepared by the appropriately qualified person.</p> <p>Edit to (d) to provide an auditory warning system, similar to other developments within CBD locations.</p> <p>Edit to (g) to remove repetition of submitting a report to the Certifier and subsequent amendment to phrasing.</p> <p>Question to DPHI: the Commission notes other similar consents include reference to AS2890.1-2004 and AS2890.2:2018 instead of AUSTROADS at subclause (f).</p> <p>Can the Department please advise if the Australian Standards, AUSTROADS or both is the relevant reference for subclause (f)?</p>	<p>Prior to the issue of a Construction Certificate for Below Ground Works, the Applicant must submit to the Certifier a Report from a suitably qualified professional demonstrating that the Development will provide for the following traffic flow and car parking requirements:</p> <ul style="list-style-type: none"> (a) all vehicles must enter and leave the basement car park in a forward direction; (b) all vehicles accessing the basement are to be wholly contained on site before being required to stop; (c) parking associated with the Development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) must be in accordance with the applicable Australian Standards; (d) appropriate pedestrian advisory signs and an auditory warning system must be provided at the egress from parking areas; and (e) all works/regulatory signposting associated with the Development must be at no cost to the relevant roads authority; (f) the swept path of the longest vehicle (including garbage trucks) entering and exiting the site, as well as manoeuvrability through the site, must be in accordance with AUSTROADS; (g) provision of submit to the Certifier a Report demonstrating compliance with the following: <ul style="list-style-type: none"> (i) provision of resident vehicle parking for 53 car spaces including 6 accessible spaces; (ii) provision of 121 bicycle spaces; (iii) provision of 4 motorcycle spaces; and (iv) provision of electric vehicle charging infrastructure in accordance with the NCC; and (h) compliance with Australian Standards for the layout, design and security of bicycle facilities. 	<p>Agree with proposed revised condition with.</p> <p>AUSTROADS specifies vehicle types and design standards relevant to swept path analysis while AS2890.1-2004 and AS2890.2:2018 set out minimum car park and layout dimensions. The Department considers that both are relevant to this development and recommends the condition C14(f) is revised per below:</p> <p>(f) <i>the swept path of the longest vehicle (including garbage trucks) entering and exiting the site, as well as manoeuvrability through the site, must be in accordance with AUSTROADS, AS2890.1-2004 and AS2890.2:2018;</i></p>
WIND MITIGATION MEASURES C15.	<p>To ensure the report is prepared by the appropriately qualified person.</p>	<p>Prior to the issue of a Construction Certificate for Above Ground Works, the Applicant must submit a Report prepared by a suitably qualified and experienced professional engineer to the Certifier demonstrating that the design of the Development has incorporated the wind mitigation measures contained within the document titled Pedestrian Wind Environment Assessment, prepared by Windtech, dated 17 May 2024 and Addendum Letter dated 17 October 2024.</p>	Agreed.
COMPLIANCE WITH ACOUSTIC ASSESSMENT C16.	<p>To ensure the report is prepared by the appropriately qualified person.</p>	<p>Prior to the issue of a Construction Certificate for Above Ground Works, the Applicant must submit a Report to the Certifier from a suitably qualified and experienced professional engineer and/or consultant demonstrating that the design of the Development has incorporated all performance parameters, requirements, engineering assumptions and recommendations contained in the Noise and Vibration report, prepared by E-LAB Consulting, dated</p>	Agreed.

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		16 May 2025 and the Addendum Acoustic Letter dated 22 October 2024.	
DETAILED STORMWATER MANAGEMENT PLAN (SWMP) C21.	To ensure the version in force at the time is applied.	Prior to the issue of a Construction Certificate for Above Ground Works, the Applicant must submit to the Certifier a detailed stormwater management plan 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 C.5 of Council's Development Control Plan and Technical Standards, AS/NSZ3500.3 – <i>Plumbing and Drainage Code and National Construction Code</i> <u>(or the latest version(s) in force at the time)</u> . The system must include: (a)	Agreed.
DESIGN OF WORKS IN PUBLIC ROAD C22(b).	To ensure any potential footpath reconstruction works within the public domain are captured.	(b) reconstruction of existing kerb and gutter <u>and any footpath located within the road reserve</u> for the full frontage of the development site in Albert Lane in accordance with Council's specifications and Standard Drawing SD105;	Agreed.
VEHICLE ACCESS AND MANOEUVRING C23.	Question to DPHI: the condition as recommended references condition C2(l) which does not exist within the consent. Can the Department please confirm which condition should be referenced?		For clarity the original recommended condition C22 is reproduced below: VEHICLE ACCESS AND MANOEUVRING C22. Prior to the issue of a Construction Certificate for Below Ground Works, with the exception of Condition C21(l) which shall be confirmed prior to the issue of a Construction Certificate for Above Ground Works the Applicant shall submit to the 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: The reference to Condition C21 (l) is outdated and should be revised to reflect Condition C22(j) within the originally recommended condition, reproduced here for clarity: (j) That a minimum of 4.5m headroom is provided between the ground level vehicle bay and any overhead structure, including roofs or awnings. This exception addresses the timing of ground level design details which interface between below and above ground works.
CONSTRUCTION TRAFFIC AND PEDESTRIAN MANAGEMENT SUB-PLAN D3(b).	To ensure the CTPMP includes details of construction vehicle parking.	(b) construction vehicle access arrangements, <u>parking</u> and haulage routes;	Agreed.
NEW CONDITION REMEDIAL ACTION PLAN D16.	This new condition is in line with the recommendations of the PSI submitted to the Department.	<u>Prior the commencement of any demolition works, a Hazardous Materials Survey must be completed by a suitably qualified and experienced professional and in accordance with the recommendations of the Preliminary Site Investigation (PSI) prepared by EI Australia dated 2 June 2023. The survey must:</u> (a) <u>identify potentially hazardous materials that may be released to the environment during demolition works; and</u> (b) <u>recommend appropriate management measures for any hazardous materials identified which must be implemented during any demolition works to maintain worker health and safety and prevent spreading of hazardous materials to site soils and into the environment.</u>	Agreed.

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		<u>Recommendations of the survey must be complied with at all times, and a copy is to be provided to the principal Certifier.</u>	
REMEDIAL ACTION PLAN D17 – D19	These amendments are in line with the documentation submitted to the Department, condition now refers to the PSI and the outcome of the Environmental Addendum Letter requiring a DSI and potential RAP.	<p>D17. The development is to be undertaken in accordance with the findings and recommendations contained in the Preliminary Detailed Site Investigation (DSI PSI) prepared by EI Australia dated 2 June 2023, the Targeted Site Investigation (TSI) prepared by EI Australia dated 4 September 2023 and the Environmental Addendum Letter prepared by EI Australia dated 7 November 2024.</p> <p>D18. Further investigations are to be undertaken post demolition of existing structures to confirm the findings and outcomes of the Preliminary Detailed Site Investigation (DSI PSI) prepared by EI Australia dated 2 June 2023, the Targeted Site Investigation (TSI) prepared by EI Australia dated 4 September 2023 and the Environmental Addendum Letter prepared by EI Australia dated 7 November 2024.</p> <p>D19. Should the results of a further As specified in the Environmental Addendum Letter prepared by EI Australia dated 7 November 2024, a Stage 2 Detailed Site Investigation (DSI) (to must be undertaken post demolition) to confirm findings of the PSI and TSI. If results of the DSI identify any contamination which may pose risks to human or ecological receptors on site, a Remedial Action Plan (RAP) is to be prepared and submitted to the Certifier describing the remediation and validation works necessary to render the site suitable for its proposed use.</p>	Agreed.
DEMOLITION D28.	To ensure the version in force at the time is applied.	Before the commencement of demolition works, the Applicant must submit to the Certifier a statement of compliance with <i>Australian Standard AS 2601-2001 The demolition of structures</i> (Standards Australia, 2001 or the latest version in force) and any work plans required by AS 2601-2001, accompanied by a written statement from a suitably qualified person work plans complies with the safety requirements of the Australian Standard.	Agreed.
SITE NOTICE E1(a).	To provide clarity.	(a) the name, address and telephone number of the development's builder, Certifier and Professional Engineer;	Agreed.
PROTECTION OF PUBLIC INFRASTRUCTURE AND OTHER REPAIRS F8(a),	To provide clarity.	(b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated because as a result of the Development; and	Agreed.
ACOUSTIC COMPLIANCE F14.	To ensure the report is prepared by the appropriately qualified person.	Prior to the issue of the relevant Occupation Certificate, the Applicant must prepare and submit to the Certifier a Report prepared by a suitably qualified professional demonstrating compliance with all noise mitigation measures required under Condition C15.	Agreed.
STRUCTURAL INSPECTION CERTIFICATE	To ensure the certificate is prepared by the appropriately qualified person.	Prior to the occupation or commencement of use of the relevant parts of any new or refurbished buildings as part of the Development, the Applicant must submit a Structural	Agreed.

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F15.		Inspection Certificate or a Compliance Certificate to the Certifier <u>which has been prepared by a suitably qualified and experienced professional engineer.</u>	
LANDSCAPE COMPLETION REPORT F17(c).	To provide an appropriate timeframe for plant maintenance and watering to provide a greater chance of successful landscaping.	(c) includes details of plant maintenance and watering for the first 42 <u>36</u> months; and	Agreed.
OUTDOOR LIGHTING F20(b).	To ensure the version in force at the time is applied.	(b) complies with the latest version of AS 4282-2023 - <i>Control of the obtrusive effects of outdoor lighting (Standards Australia, 2003 or its latest version)</i> ; and	Agreed.
DELETION OF CONDITION LOT CONSOLIDATION (former) F35.	Please refer to comments above previously in this table for new condition C1.	Prior to the issue of the Occupation Certificate for the whole of the building, the lots/separate titles within the development site must be consolidated to provide that all dwellings are located on the same lot of land. A plan of consolidation must be registered with the Land and Property Information Division of the NSW Land Registry Services.	Agreed.
DEDICATION OF LAND TO COUNCIL F35.	To provide land use zone terminology consistent with the <i>Willoughby Local Environmental Plan 2012</i> .	Prior to the issue of the Occupation Certificate for the whole of the building, land <u>identified as zoned Zone SP2 Infrastructure (Classified Road) pursuant to the Willoughby Local Environmental Plan 2012</u> along the Pacific Highway and Albert Avenue frontages <u>of the Site</u> is to be dedicated to Council to use as an expanded public domain prior to any future works to be undertaken by Transport for NSW.	Agreed.
CONSTRUCTION OF WORKS IN ROAD RESERVE AND PUBLIC DOMAIN F43.	To ensure the condition includes a responsible party for the works. Edit to (a) and (c) to provide clarity that the condition is referring to road pavement and not footpaths.	Prior to the issue of the Occupation Certificate for the whole of the building, <u>the Applicant must complete /</u> construct the following works: (a) new kerb and gutter together with any necessary associated <u>road</u> pavement restoration for the full frontage of the development site in Albert Lane and as required to facilitate the stormwater drainage works in Albert Avenue; (b) new footpath / shared path for the full frontage of the development site in Albert Avenue and Pacific Highway; (c) mill and resheet the <u>road</u> pavement in Albert Lane; and (d) construction of new stormwater pipe from the site to the existing Council system in Albert Avenue. The works are to be in accordance with Council's specification and the approved Public Domain Drawings.	Agreed.
DELETION OF CONDITION BUILD-TO-RENT HOUSING (former) G13.	Deletion of this condition to remove any uncertainty, due to the development being build-to-rent in perpetuity which is covered by the condition below. Noting section 73(3) of SEPP Housing requires build-to-rent in perpetuity due to its location on land within Zone E2 Commercial Core under the <i>Willoughby Local Environmental Plan 2012</i> .	For a period of 15 years commencing on the day an Occupation Certificate is issued for all parts of the building(s) to which this development relates, the tenanted component of the building(s) must: (a) contain 198 dwellings occupied, or intended to be occupied, by individuals under residential tenancy agreements, and (b) not be subdivided into separate lots, and (c) be owned and controlled by 1 person, and	Agreed.

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		(d) be operated by 1 managing agent, who provides on-site management.	
BUILD-TO-RENT HOUSING G13.	To ensure the build-to-rent requirements are enforced through the title of the property in perpetuity to remove any uncertainty or unknowns for potential future owners of the land, and adding 'for the life of the development' to ensure compliance with section 73(3) of SEPP Housing.	<p>From the day Prior to the issue of an Occupation Certificate, <u>a restriction is to be registered against the title of the property on which the development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919 nominating that, is issued for all parts of the building(s) to which the development relates for the life of the development</u> the tenanted <u>residential</u> component of the building(s) must:</p> <ul style="list-style-type: none"> (a) contain 198 dwellings occupied, or intended to be occupied, by individuals under residential tenancy agreements, and (b) not be subdivided into separate lots, and (c) be owned and controlled by 1 person, and (d) be operated by 1 managing agent, who provides on-site management. 	Agreed.