

Our ref: Mixed-use development with in-fill affordable housing, 4 Delmar Parade and 812 Pittwater Road, Dee Why (SSD-68230714)

Mr. Stephen Barry
Planning Director
Office of Independent Planning Commission NSW
Suite 15.02, Level 15, 135 King Street
Sydney NSW 2001

17 December 2024

Subject: Response to request for information and request for comment

Dear Stephen,

I am writing in response to the Independent Planning Commission's (Commission's) request for additional information dated 11 December 2024 and request for comment on draft conditions dated 13 December 2024, in relation to the State significant development (SSD) application for mixed-use development with in-fill affordable housing located at 4 Delmar Parade and 812 Pittwater Road, Dee Why lodged by Landmark Group Australia (the Applicant).

The Commission requested the Department:

1. clarify whether the further information provided by the Applicant, including revised clause 4.6 variation requests, changes any of the Department's recommendations set out in the Department's Assessment Report or recommended conditions of consent, dated November 2024
2. comment on the Applicant's request to consider amendments to Conditions B1, C2, C24 (Attachment B to the Commission's letter dated 13 December 2024).
3. comment on the workability, enforceability and potential unintended consequences of the proposed changes to the recommended conditions (Attachment A to the Commission's letter dated 13 December 2024)

The Department has provided a response to each of these items below.

1. The Department has reviewed the Applicant's revised clause 4.6 variation requests and is satisfied that the updated documents do not change any of the recommendations set out in the Department's Assessment Report or recommended conditions of consent.

2. The Department has reviewed the Applicant's letter to the Commission dated 11 December 2024 which outlined amendments sought to conditions B1, C2 and C24 and has the following comments:

- Condition B1(c) Design amendments

The Department maintains its position, as outlined in its assessment report, that the additional dwellings above the 218 dwellings already approved should be limited to providing parking in line with the Housing SEPP.

- Condition C2 Construction Traffic and Pedestrian Management Sub-Plan

The Department does not raise any concerns with the suggested updates to Condition C2, as set out by the Applicant.

- Condition C24 Right turn to Delmar Parade from Pittwater Road

The Department reviewed the reasoning put forward by the Applicant however does not consider it appropriate to delay the necessary approval of the traffic measures for right turns from Pittwater Road to Delmar Parade until prior to the issue of the Occupation Certificate as:

- works associated with the condition need to be *delivered* prior to occupation of the development to ensure traffic impacts are mitigated (see Condition E36); and
- sufficient time needs to be provided for any construction associated with the roadworks between the time that the roadwork design is approved by the road authority and occupation of the buildings.

Further, it is also noted that Condition 42 of DA2022/0145 (approved DA) required the Applicant to begin discussions with Northern Beaches Council and Transport for NSW to limit right-turn movements from Pittwater Road to Delmar Parade prior to issue of a construction certificate for the approved DA. Noting works associated with the approved DA commenced in March 2024, it is expected that discussions would be underway regarding the intersection treatment.

The Department however acknowledges that works are underway on site and considers that an alternative timeframe of "prior to the first Construction Certificate for works associated with fit-out and finishes of the building" would be appropriate. This would allow time for the necessary approvals, allow construction works to continue on the site, while ensuring there is

sufficient time for any roadworks be constructed prior to occupation.

3. The Department has responded to the residual comments on the recommended conditions in Attachment A to the Commission's letter dated 13 December 2024 in the attached document.

Thank you for requesting the Department's comments on these matters.

Please contact Michelle Niles on [REDACTED] if you require any additional information.

Yours sincerely,

[REDACTED]

Amy Watson
Director
Social and Affordable Assessments

Development Consent

Section 4.38 of the Environmental Planning and Assessment Act 1979

The Independent Planning Commission (the Commission), as the declared consent authority under section 2.7 of the State Environmental Planning Policy (Planning Systems) 2021 and section 4.5(a) of the *Environmental Planning and Assessment Act 1979*, approves the development application referred to in Schedule 1, subject to the conditions specified in Schedule 2.

The conditions imposed under this consent are required to:

- meet statutory requirements;
- protect the amenity of the locality; and
- ensure amenity for future residents.

Michael Chilcott
Member of the Commission

Suellen Fitzgerald
Member of the Commission

Sydney

date

File: SSD 68230714

SCHEDULE 1

Application Number:	SSD 68230714
Application lodged by:	Landmark Group Australia Pty Limited
Consent Authority:	Independent Planning Commission
Site:	4 Delmar Parade and 812 Pittwater Road, Dee Why (SP 32071, SP 32072 and SP 54641)
Development:	Construction of a mixed-use development consisting of: • 280 apartments including 43 in-fill affordable housing apartments • four commercial tenancies • basement parking for 425 cars comprising 337 residential spaces, 56 residential visitor spaces and 32 commercial spaces • subdivision works • associated infrastructure and landscaping works.

Right of Appeal

Section 8.7 of the EP&A 1979 provides a right to appeal this decision to the Land and Environment Court, and Section 8.2 provides a right to request a review of this determination, within the timeframe set out in Section 8.10 of that Act.

DEFINITIONS

Interpretation

References in the conditions of this consent to any guideline, protocol, or policy are to such documents in the form they are in as at the date of this consent.

Definitions

Unless otherwise defined in the following definitions table, words and expressions that occur in this development consent have the same meanings as they have in the EP&A Act and EP&A Regulations.

Applicant	The person having the benefit of this consent, or who is carrying out the Development.
Australian Standard (AS)	Australian Standard published by Standards Australia International Limited and means the standard which applies at the time the relevant work or action is undertaken.
Certifier	A council or person registered as a registered certifier under the <i>Building and Development Certifiers Act 2018</i> .
Consultation	When capitalised, means undertaking a consultation process with a party under which the Applicant: (a) consults with the relevant party prior to submitting the subject document to the Planning Secretary for information or approval; and (b) provides details of the consultation undertaken including: (i) the outcome of that consultation, matters resolved and unresolved; and (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.
Council	Northern Beaches Council
Department	NSW Department of Planning, Housing and Infrastructure.
Development	Where capitalised, means the Development approved pursuant to this consent.
EIS	The Environmental Impact Statement titled Environmental Impact Statement (SSD 68230714) 4 Delmar Parade and 812 Pittwater Road, Dee Why, prepared by Sutherland & Associates Planning, dated July 2024, submitted with the application for consent for the Development, including any additional information provided by the Applicant in support of the application.
Engineer	A Professional Engineer as defined in the <i>Practice Standard for Professional Engineers Requirements for Professional Engineers registered under the Design and Building Practitioners Act 2020</i> .
EPA	NSW Environment Protection Authority.
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i> .
EP&A Regulations	<i>Environmental Planning and Assessment Regulation 2021</i> and where relevant, other regulations made under the EP&A Act.
Fire Safety Certificate	Has the same meaning as in the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> .
Incident	An occurrence or set of circumstances that causes or threatens to cause Material Harm to the environment, and as a consequence of that harm, may cause harm to the health and safety of human beings, and which may or may not be or cause a non-compliance.
Material Harm	Is harm (excluding harm to which Work Health and Safety reporting requirements apply) that: • involves actual harm to the environment that may include (but not be limited to) a leak, spill, emission other escape or deposit of a substance, and as a consequence of that environmental harm (pollution), may cause harm to the health or safety of people; or • results in actual loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000 (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment).
Minister	The NSW Minister with administrative responsibility for administering the EP&A Act, (or delegate), being at the time of grant of this consent, the Minister for Planning and Public Spaces.
NCC	National Construction Code means the current standard which applies at the time the relevant work is undertaken, published by the Australian Building Codes Board.
Planning Secretary	The Planning Secretary under the EP&A Act (or delegate).
Prescribed Conditions	The conditions prescribed by the EP&A Regulation (Part 4, Division 2) to which the development consent is subject under s 4.17(11) of the EP&A Act.
Registered Surveyor	A person who is registered with the Board of Surveying and Spatial Information.
Report	When capitalised, means a written report including all required information and details set out in the relevant condition, prepared by a suitably qualified Engineer, consultant, or other expert, and where the condition specifies the type of professional, consultant or other expert, means a suitably qualified professional, consultant or other expert specified.

Sensitive Receiver

Residence, education institution (e.g. school, university, TAFE college), health care facility (e.g. nursing home, hospital), religious facility (e.g. church), children's day care facility, or other similar uses which may be more sensitive to environmental impacts.

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SCHEDULE 2

PART A GENERAL CONDITIONS

ADMINISTRATIVE CONDITIONS

TERMS OF CONSENT

A1. The Development must be carried out:

- (a) in compliance with the conditions of this consent;
- (b) in accordance with the EIS, the Applicant's response to submissions, the Applicant's response to requests for further information and Amendment Report; and
- (c) in accordance with the approved plans in the table below, as modified by the conditions of this consent:

Drawing Number	Rev	Name of Plan	Date
Architectural plans prepared by Rothelowman			
TP00.04 C	C	Site Plan	04.09.2024
TP00.05 C	C	Site Analysis Plan	04.09.2024
TP01.00 C	C	Basement 3	04.09.2024
TP01.01 C	C	Basement 2	04.09.2024
TP01.02 C	C	Basement 1	04.09.2024
TP01.03 C	C	Ground	04.09.2024
TP01.04 C	C	Level 1	04.09.2024
TP01.05 C	C	Level 2	04.09.2024
TP01.06 C	C	Level 3	04.09.2024
TP01.07 C	C	Level 4	04.09.2024
TP01.08 C	C	Level 5	04.09.2024
TP01.09 C	C	Level 6	04.09.2024
TP01.10 C	C	Level 7	04.09.2024
TP01.11 C	C	Level 8	04.09.2024
TP01.12 C	C	Level 9	04.09.2024
TP01.13 C	C	Level 10	04.09.2024
TP02.05 D	D	Site elevations	26.09.2024
TP02.06 D	D	Site elevations	26.09.2024
TP03.01 C	C	Sections	04.09.2024
TP03.02 C	C	Sections 2	04.09.2024
TP06.01 C	C	GFA Plans	04.09.2024

Drawing Number	Rev	Name of Plan	Date
TP06.02 C	C	GFA Plans – Affordable Housing	04.09.2024
TP06.03 D	D	Deep Soil	04.09.2024
TP06.04 C	C	Communal / Landscape Plan	04.09.2024
TP06.05 C	C	SEPP 65 Solar & Cross Ventilation Compliance	04.09.2024
TP06.21 C	C	Storage Schedule	04.09.2024
TP06.34 C	C	Adaptable Plans & LHA Schedule	04.09.2024
TP10.01 C	C	Development Summary	04.09.2024
TP11.01 A	A	Materials Legend	26.09.2024
TP11.02 A	A	Materials Legend	26.09.2024
Stormwater Plans prepared by SGC Consulting Engineers			
SW200	F	Stormwater Concept Design Basement 3 Plan	11.03.24
SW201	F	Stormwater Concept Design Basement 1 Plan	11.03.24
SW202	F	Stormwater Concept Design Ground Floor Plan Sheet 1 of 2	11.03.24
SW203	F	Stormwater Concept Design Ground Floor Plan Sheet 2 of 2	11.03.24
SW300	F	Stormwater Concept Design Details Sheet Sheet 1 of 2	11.03.24
SW301	F	Stormwater Concept Design Details Sheet Sheet 2 of 2	11.03.24
SW400	F	Erosion and Sediment Control Plan	11.03.24
SW401	F	Erosion and Sediment Control Details	11.03.24
SW500	F	Stormwater Concept Design MUSIC Catchment Plan	11.03.24
Landscape Plans prepared by Ground Ink			
LA-101	J	Landscape Master Plan	08.03.24
LA-102	J	Ground Floor Landscape Plan 1	08.03.24
LA-103	J	Ground Floor Landscape Plan 2	08.03.24
LA-104	J	Ground Floor Landscape Plan 3	08.03.24
LA-107	A	Levels 1-6 Typical Balcony Plans	08.03.24

Drawing Number	Rev	Name of Plan	Date
LA-108	A	Level 7 Landscape Plans	08.03.24
LA-201	J	Landscape Sections	08.03.24
LA-301	J	Ground Floor Indicative Tree Plan	08.03.24
LA-302	J	Ground Floor Indicative Planting Plan	08.03.24
LA-303	J	Ground Floor Indicative Plant Palette	08.03.24
LA-306	A	Level 7 Planting Plans & Palette	08.03.24
LA-401	J	Landscape Details	08.03.24
Subdivision Plans prepared by Christopher Thomas Norton			
Sheet 1 of 6	F	No title	08.03.24
Sheet 2 of 6	F	Basement 3 & below	08.03.24
Sheet 3 of 6	F	Basement 2	08.03.24
Sheet 4 of 6	F	Basement 1	08.03.24
Sheet 5 of 6	F	Ground floor	08.03.24
Sheet 6 of 6	F	Level 1 & above	08.03.24

Note: Development which is 'Exempt and Complying Development' as identified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or another environmental planning instrument may be carried out without development consent.

- A2. To the extent of any inconsistency:
- (a) the more recent document in Condition A1(b) prevails over an earlier document in that section; and
 - (b) the conditions of consent prevail over a document listed in Condition A1(c).
- A3. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities that employees, contractors (and their sub-contractors) carry out in respect of the Development.

LIMITS ON CONSENT

- A4. This consent will lapse two years from the date the consent is published on the NSW Planning Portal unless the works associated with the development have physically commenced.
- A5. This consent does not approve the following:
- (a) demolition works
 - (b) tree removal
 - (c) excavation
 - (d) stormwater diversion works
 - (e) below ground works consisting of foundation construction and structural basement construction including footings, columns, slabs and walls
 - (f) use, fit-out or operating hours of the commercial tenancies
- A6. Where required, separate approvals must be obtained from the relevant landowner or authority (except where exempt and/or complying development applies).

MODIFICATION OF DEVELOPMENT CONSENT DA2022/0145

- A7. Prior to the issue of any construction certificate or commencement of any works under this consent, the Applicant must submit for approval by the Planning Secretary a marked-up document with track changes to the conditions in development consent DA2022/0145 granted by the Sydney North Planning Panel (as modified by Northern

Beaches Council), which removes all of the development approved under DA2022/0145 pursuant to section 4.17(1)(b) and (5) of the Environmental Planning and Assessment Act 1979 except for the following:

- (a) demolition of existing structures
- (b) tree removal
- (c) shoring works
- (d) bulk excavation
- (e) stormwater division works
- (f) amendments and extinguishments to drainage and electricity easements
- (g) below ground works consisting of foundation construction and structural basement construction including footings, columns, slabs and walls.

The modification(s) to DA2022/0145 proposed in the marked-up document must not authorise or require anything that is inconsistent with the conditions of this consent. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict.

- A8. Prior to the issue of any construction certificate or commencement of any works under this consent, the Applicant is to provide written notice to Northern Beaches Council (Council) (which includes a copy of the document approved in Condition A7) pursuant to section 67 of the *Environmental Planning and Assessment Regulation 2021* to modify DA2022/0145 in accordance with Condition A7.

INFRASTRUCTURE CONTRIBUTIONS

DEVELOPER CONTRIBUTIONS

- A9. Prior to the issue of the first Construction Certificate, the Applicant must provide written evidence to the Certifier that a monetary contribution pursuant to the provisions of the Dee Why Town Centre Contributions Plan 2019 has been paid to Council. Council must be contacted for calculation of required contributions.

Note: Any credits required for payment of contributions associated with DA2022/0145 will be considered by Council at the time of payment.

HOUSING AND PRODUCTIVITY CONTRIBUTIONS

- A10. Prior to the issue of the first Construction Certificate, the Housing and Productivity Contribution (HPC) set out in the table below is required to be made:

Housing and Productivity Contribution	Amount
Housing and productivity contribution (base component)	\$201,188.33
Total housing and productivity contribution	\$201,188.33

Note: The contribution amount is subject to indexation in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* at the time of payment. A request for assessment of the adjusted amount and instructions on how to make a payment can be made by contacting hpc.enquiry@planning.nsw.gov.au.

PART B PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

DETAILED DESIGN

DESIGN AMENDMENTS

- B1. Prior to the issue of the first Construction Certificate, the Applicant must provide evidence to the Certifier that the revised plans detailing the following revisions have been submitted to and approved by the Planning Secretary:
- (a)  details of treatment to the façade of Building B which demonstrate that a blank façade is not presented to Pittwater Road, Dee Why;
 - (b) provision of planter boxes and/or window screening to the eastern façade of apartments 421 and 422 to prevent overlooking of 8 Delmar Parade; and

SUBSTATION AND FIRE STAIR DESIGN

- B2. Prior to the issue of the first Construction Certificate for above ground works, the Applicant must provide evidence to the Certifier that Council has provided owners consent to permit the two substations and the fire escape stairs located along the southern façade to open outward onto Council land. Alternatively, the Applicant must provide to the Certifier the revised plans detailing the following revisions have been submitted to and approved by the Planning Secretary in relation to the two substations and the fire escape stairs, along the southern façade:
- (a) that the doors have been designed to open inward; or
 - (b) that the design of the southern façade has been amended so that doors open outward onto the site and access to these doors is wholly provided on the site.

PRE-CONSTRUCTION REQUIREMENTS

SITE STABILITY

- B3. Prior to the issue of the first Construction Certificate, the Applicant must submit to the Certifier a Report from an Engineer, which includes the following:
- (a) geotechnical details which confirm the suitability and stability of the site for the Development;
 - (b)  design and construction requirements to be implemented to ensure the stability and adequacy of the Development and adjacent land;
 - (c) details to demonstrate that the proposed methods of support and construction are suitable for the site and will not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration;
 - (d) details of how adequate support will be provided for the adjoining land and buildings located upon the adjoining land at all times throughout building work; and
 - (e) details of written approvals that have been obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place).

STRUCTURAL DETAILS

- B4. Prior to the issue of the first Construction Certificate, the Applicant must submit to the Certifier detailed structural drawings and a Report demonstrating that the development is able to withstand the level of flood hazard applicable to the site and that structural drawings comply with:
- (a) relevant clauses of the NCC; and
 - (b) this development consent.

STORMWATER MANAGEMENT SYSTEM

- B5. Prior to the issue of the first Construction Certificate, the Applicant must submit to the Certifier details of an operational stormwater management system for the Development designed by a suitably qualified and experienced person(s):
- (a) prepared in consultation with Council;
 - (b) generally in accordance with the conceptual design in the EIS and any Council stormwater requirements and specifications which are consistent with that conceptual design;
 - (c) in accordance with applicable Australian Standards; and
 - (d) with a system capacity designed in accordance with *Australian Rainfall and Runoff* (Engineers Australia, 2016) and *Managing Urban Stormwater: Council Handbook* (EPA, 1997) guidelines

SYDNEY WATER ASSETS

- B6. Prior to the issue of the first Construction Certificate, the plans approved under this consent must be submitted to the Sydney Water Tap in™ online service, to determine whether the Development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

Note: Sydney Water's Tap in™ in online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

LANDSCAPING

- B7. Prior to the issue of the first Construction Certificate for above ground works, the Applicant must submit to the Certifier a detailed Landscape Plan which:
- (a) is consistent with the landscape plans prepared by Ground Ink, as amended by any requirement of these conditions;
 - (b) includes details of tree planting;
 - (c) includes details of the location, species, maturity and height at maturity of plants to be planted on-site;
 - (d) demonstrates adequate drainage and watering systems;
 - (e) includes details of the waterproofing method and drainage to all planters over the slab over which soil and planting will be provided;
 - (f) includes details of plant maintenance and watering for the first 12 months; and
 - (g) includes a commitment to replace plants with the same species if any plant loss occurs within the maintenance period.
- B8. Prior to the issue of the first Construction Certificate for above ground works, the Applicant must submit to the Certifier evidence, prepared by a qualified Structural Engineer, that all planters (including on building planters) have been designed to support the wet weight of landscaping including soil, materials and established planting.

PARKING

- B9. Prior to the issue of the first Construction Certificate, the Applicant must submit to the Certifier a Report demonstrating that the Development will provide for the following traffic flow and car parking requirements:
- (a) all vehicles must enter and leave the subject site in a forward direction;
 - (b) all vehicles 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 must be provided at the egress from parking areas;
 - (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; and
 - (g) submit to the Certifier a Report demonstrating compliance with the following:
 - (i) compliance with Australian Standards for the layout, design and security of bicycle facilities;
 - (ii) provision of electric vehicle charging infrastructure in accordance with the NCC; and
 - (iii) provision of 27 bicycle parking spaces, including a minimum of 23 residential visitor spaces and 4 commercial visitor spaces.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

- B10. Prior to the issue of the first Construction Certificate, the Applicant must submit to the Certifier a Crime Prevention Through Environmental Design Assessment (**CPTED**) report, prepared by a suitability qualified person, and, if needed, updated plans demonstrating that the design of the Development has incorporated the management and mitigation measures recommended in the CPTED report.

WIND MITIGATION MEASURES

- B11. Prior to the issue of the first Construction Certificate for above ground works, the Applicant must submit a Report to the Certifier demonstrating that the design of the Development has incorporated the wind mitigation measures contained within the document titled 4 Delmar Parade & 812 Pittwater Rd, Dee Why Environmental Wind Impact – Desktop Study, prepared by SLR Consulting Australia Pty Ltd, dated 14 March 2024.

COMPLIANCE WITH ACOUSTIC ASSESSMENT

- B12. Prior to the issue of the first Construction Certificate for above ground works, the Applicant must submit a Report to the Certifier from an Acoustic Engineer demonstrating that the design of the Development has incorporated all performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report, prepared by Acoustic Dynamic, dated 23 July 2024.

ADAPTABLE UNITS

- B13. Prior to the issue of the first Construction Certificate for above ground works, the Applicant must submit to the Certifier a Report demonstrating that any adaptable dwellings specified in the approved plans or supporting documentation comply with the applicable Australian Standards.

BASIX CERTIFICATION

- B14. Prior to the issue of the first Construction Certificate for above ground works, BASIX No. 1250181M_07 Certificate must be submitted to the Certifier with all commitments clearly shown on the Construction Certificate plans.

REFLECTIVITY

- B15. Prior to the issue of the first Construction Certificate for above ground works, the Applicant must submit a report to the Certifier demonstrating that the visible light reflectivity from the building materials used on the facades of any building or structures shall not exceed 20% and shall be designed to minimise glare.

FLOODING

- B16. Prior to the issue of the first Construction Certificate, the Applicant must submit a report, prepared by a suitably qualified person, reviewing the consistency of flood mitigation and evacuation processes proposed in the report titled Integrated Water Management Plan, prepared by SGC dated 1 October 2024, against existing flood emergency management arrangements for the area including (but not limited to) the Draft Dee Why South Catchment Floodplain Risk Management Plan.
- B17. Where the report required by Condition B16 identifies variations to any existing flood emergency management arrangements for the area, updated plans and a report confirming that the updated plans are in compliance with the flood emergency management arrangements for the area must be submitted to the Certifier prior to issue of the first Construction Certificate.
- B18. Prior to issue of the first Construction Certificate, the Applicant must submit a report, prepared by a suitability qualified consultant, and plans to the Certifier identifying the measures to ensure that the flood conveyance void and flow path along the southern site boundary have been designed to protect the building from flood water ingress.
- B19. Prior to issue of the first Construction Certificate, the Applicant must submit plans to the Certifier demonstrating:
- (a) all electrical connections and flood sensitive equipment shall be located above the 1% AEP (100 year ARI) flood level plus 500 mm freeboard;
Where it is not practical and feasible to install the equipment above the 1% AEP (100 year ARI) flood level plus 500 mm freeboard, the installations shall generally be in accordance with the recommendations in ABCB Construction of Buildings in Flood Hazard Areas (2012) Section C2.9 - Requirements for Utilities.
 - (b) measures that ensure that the flood conveyance void and flow path along the southern site boundary have been designed to protect the building from flood water ingress;
 - (c) all basement carpark areas shall be designed to resist floodwater ingress for up to the Probable Maximum Flood (PMF) event. This includes protection of lifts, stairwells, ventilation shafts, entry ramp crest, and other components which may otherwise create a water ingress risk;
 - (d) all structures subject to flooding and overland flows must be constructed of flood compatible building components below the 1% AEP (100-year ARI) flood plus 500 mm freeboard;
 - (e) new fencing shall be designed to allow for the unimpeded movement of floodwaters; and
 - (f) all structures subject to flooding and overland flows must be structurally designed to withstand the forces of floodwaters having regard to hydrostatic pressure, hydrodynamic pressure, wave action, the impact of debris, the impact of immersion and buoyancy forces up to the Probable Maximum Flood (PMF) event.

PART C PRIOR TO COMMENCEMENT OF WORKS

MANAGEMENT PLANS

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

- C1. Prior to the commencement of any work, the Applicant must prepare and submit to the Certifier a Construction Environmental Management Plan (**CEMP**) for the Development with measures to reduce environmental impacts and harm during construction of the Development, including, at a minimum, the following information:
- (a) details of:
 - (i) hours of construction;
 - (ii) 24 hour contact details of the site manager and complaint handling procedure;
 - (iii) construction program and construction methodology, including construction staging;
 - (iv) traffic management;
 - (v) noise and vibration management;
 - (vi) management of dust and odour;
 - (vii) stormwater control and discharge including ensuring that vehicles leaving the site do not transfer dirt to roadways;
 - (viii) prevention and management of contamination;
 - (ix) management of stockpiles of soil or other materials;
 - (x) waste management;
 - (xi) external lighting in compliance with applicable Australian Standards; and
 - (xii) site security, including fencing or hoarding.
 - (b) Construction Traffic and Pedestrian Management Sub-Plan in accordance with condition C2;
 - (c) Construction Noise and Vibration Management Sub-Plan in accordance with condition C3;
 - (d) Air Quality Management Sub-Plan in accordance with condition C4;
 - (e) Construction Waste Management Sub-Plan in accordance with condition C5;
 - (f) Construction Soil and Water Management Sub-Plan in accordance with condition C6;
 - (g) an unexpected finds protocol for remediation in accordance with condition C18;
 - (h) an unexpected finds protocol for Aboriginal and non-Aboriginal heritage and associated communications procedure, including but not limited to ensuring compliance with condition D23;
 - (i) waste classification (for materials to be removed) and validation (for materials to remain) to be undertaken to confirm the contamination status of relevant areas of the site.

CONSTRUCTION TRAFFIC AND PEDESTRIAN MANAGEMENT SUB-PLAN

- C2. Prior to the commencement of any work, the Applicant must submit to the Certifier a final Construction Traffic and Pedestrian Management Sub-Plan (**CTPMP**) for the Development with measures to reduce environmental impacts and harm during construction of the Development arising from construction traffic, a copy of Council's owners consent to use the Council car park adjoining the site and which includes, at a minimum, the following information:
- (a) location of proposed work zone(s);
 - (b) construction vehicle access arrangements and haulage routes;
 - (c) predicted number and timing of construction vehicle movements and vehicle types;
 - (d) identification of potential conflicts between vehicle movements required for construction and general traffic, cyclists, pedestrians, bus services within the vicinity of the site from construction vehicles;
 - (e) details of measures to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site;
 - (f) details of measures to ensure that multiple large vehicles do not arrive at the same time within the Stony Range car parking area; and
 - (g) details of signage and traffic control personnel proposed to manage the turning of vehicles within the prescribed work zone within the Stony Range car parking area.

CONSTRUCTION NOISE AND VIBRATION MANAGEMENT SUB-PLAN

- C3. Prior to the commencement of any work, the Applicant must submit to the Certifier a Construction Noise and Vibration Management Sub-Plan (**CNVMP**) for the Development with measures to reduce environmental impacts

and harm during construction of the Development arising from construction noise and vibration, including, at a minimum, the following information:

- (a) identification of noise sources and Sensitive Receivers;
- (b) quantification of the rating background noise level (**RBL**) for Sensitive Receivers;
- (c) the construction noise, ground-borne noise and vibration objectives derived from an application of the Interim Construction Noise Guideline (DECC, 2009) (**ICNG**), and how the Applicant will ensure that construction is carried out in compliance with the construction noise management levels detailed in the ICNG and so as not to exceed approved noise limits for the site;
- (d) prediction and assessment of potential noise, ground-borne noise (as relevant) and vibration levels from the proposed construction methods expected at Sensitive Receiver premises against the objectives identified in the ICNG;
- (e) noise mitigation measures that can be implemented to reduce construction noise and vibration impacts, including installation of acoustic barriers/enclosures
- (f) measures to identify non-conformances with the requirements of the CNVMP, and procedures to implement corrective and preventative action and to respond to complaints;
- (g) procedures for notifying residents of construction activities that are likely to affect their noise and vibration amenity.

AIR QUALITY MANAGEMENT SUB-PLAN

C4. Prior to the commencement of any work, the Applicant must submit to the Certifier an Air Quality Management Sub-Plan (**AQMP**) for the Development. The AQMP must be prepared by a suitably qualified and experienced expert in accordance with the EPA's Approved Methods for the Modelling and Assessment of Air Pollutants in NSW and include, as a minimum, the following information:

- (a) relevant environmental criteria to be used to guide management of dust and odours;
- (b) dust and odour management practices to be implemented, including:
 - (i) watering of exposed surfaces and stockpiles;
 - (ii) covering of truck loads;
 - (iii) prevention of dirt from trucks tracking onto public roads and cleaning of any tracked dirt;
 - (iv) progressive land stabilisation works to minimise exposed surfaces.
 - (v) monitoring requirements;
 - (vi) communication strategy; and
 - (vii) system and performance review for continuous improvements; and
- (c) measures to identify non-conformances with the requirements of the CNVMP, and procedures to implement corrective and preventative action and to respond to complaints.

CONSTRUCTION WASTE MANAGEMENT SUB-PLAN

C5. Prior to the commencement of any work, the Applicant must submit to the Certifier a Construction Waste Management Sub-Plan (**CWMP**) for the Development. The CWMP must include, as a minimum, the following information:

- (a) requirement that all waste generated during the project is assessed, classified and managed in accordance with the EPA's "Waste Classification Guidelines Part 1: Classifying Waste";
- (b) demonstrate that an appropriate area will be provided for the storage of bins and recycling containers and all waste and recyclable material generated by the works;
- (c) procedures for minimising the movement of waste material around the site and double handling;
- (d) requirement that waste (including litter, debris or other matter) is not caused or permitted to enter any waterways;
- (e) requirements that any vehicle used to transport waste or excavation spoil from the site is covered before leaving the premises;
- (f) requirement that the wheels of any vehicle, trailer or mobilised plant leaving the site are cleaned of debris prior to leaving the premises;
- (g) details in relation to the transport of waste material within the site and from the site, including (at a minimum):
 - (i) a traffic plan showing transport routes within the site;
 - (ii) a commitment to retain waste transport details for the life of the project to demonstrate compliance with the *Protection of the Environment Operations Act 1997*; and
 - (iii) the name and address of each licensed facility that will receive waste from the site.

CONSTRUCTION SOIL AND WATER MANAGEMENT PLAN SUB-PLAN

- C6. Prior to the commencement of any work, the Applicant must submit to the Certifier a Construction Soil and Water Management Sub-Plan (**CSWMP**) for the Development. The CSWMP must be prepared by a suitably qualified expert, in Consultation with Council and include, at a minimum, the following information:
- (a) describe all erosion and sediment controls to be implemented during construction
 - (b) provide a plan of how all construction works will be managed in a wet-weather event (i.e. storage of equipment, stabilisation of the site);
 - (c) detail all off-site flows from the site during construction; and
 - (d) describe the measures that must be implemented to manage stormwater and flood flows for small and large sized events, including, but not limited to 1 in 1-year ARI, 1 in 5-year ARI and 1 in 100-year ARI.

FLOOD MANAGEMENT

- C7. Prior to the commencement of works, the Applicant must prepare and implement for the duration of the works:
- (a) flood warning and notification procedures for construction workers on the site; and
 - (b) evacuation and refuge protocols.

PRE-CONSTRUCTION DOCUMENTATION AND MEASURES

SURVEY CERTIFICATE

- C8. Prior to the commencement of works, the Applicant must cause the building to be set out by a Registered Surveyor to verify the correct position of all structures in relation to site boundaries and the approved alignment levels, and cause the Registered Surveyor to submit a plan to the Certifier certifying that structural works are in accordance with this consent.
- C9. The Applicant must cause a Registered Surveyor to measure and mark:
- (a) prior to commencement of works – the positions of all footings/ foundations;
 - (b) at other stages of construction – any marks that are required by the principal Certifier, and provide information on the positions to the principal Certifier.

PRE-CONSTRUCTION DILAPIDATION REPORTS

- C10. Prior to the commencement of any work, the Applicant must submit to the Certifier a Pre-Construction Dilapidation Report, prepared by an Engineer, which details the structural condition of all adjoining land, buildings, infrastructure and roads (including the public domain site frontages, the footpath, kerb and gutter, driveway crossovers and laybacks, kerb ramps, road carriageway, street trees and plantings, parking restrictions and traffic signs, and all other existing infrastructure along the street) within the 'zone of influence', prior to construction.
- C11. Where only part of a building on privately affected land may fall within the 'zone of influence', any Pre-Construction Dilapidation Report for that building must include details of the whole building.
- C12. In the event that access for undertaking a Pre-Construction Dilapidation Report is denied by an adjoining owner, the Applicant must demonstrate, in writing, to the Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the report and that these steps have failed.
- C13. In the event that a Pre-Construction Dilapidation Report, prepared by an Engineer, was prepared for works approved in DA2022/0145 and if it has considered the matters required by Conditions C10 to C12, the Applicant may submit that Pre-Construction Dilapidation Report to the Certifier prior to commencement of work.
- C14. A copy of the Pre-Construction Dilapidation Report is to be forwarded to the Planning Secretary and each of the affected property owners.
- C15. Any damage to the public way including trees, footpaths, kerbs, gutters, road carriageway and the like must be made safe and functional by the Applicant to the satisfaction of the public authority responsible for the public way.
- C16. Any damage to the public way must be fully rectified by the Applicant in accordance with the Council's standards prior to a Certificate of Completion being issued for Public Domain Works or before the final Occupation Certificate is issued for the development, whichever is the sooner.

PROTECTION OF PUBLIC INFRASTRUCTURE AND STREET TREES

- C17. Prior to the commencement of works, the Applicant must:

- (a) undertake Consultation with the relevant owner and provider of services that will be affected by the Development to make suitable arrangements for access to, diversion, protection and support of the affected infrastructure;
- (b) prepare a dilapidation Report identifying the condition of all public infrastructure in the vicinity of the site (including roads, gutters and footpaths) and submit a copy of the dilapidation Report to the Certifier, Planning Secretary and Council; and
- (c) ensure all street trees directly outside the site not approved for removal are retained and protected in accordance with the applicable Australian Standards.

REMEDICATION

UNEXPECTED FINDS PROTOCOL

- C18. Prior to the commencement of works, the Applicant must submit to the Certifier an unexpected finds protocol which has been reviewed and endorsed by a suitably qualified and experienced consultant. The protocol must outline contingency measures and the procedures to be followed in the event unexpected finds of contaminated material are encountered during works.

CONTAMINATION

- C19. Prior to the commencement of any works, the Applicant must submit to the Certifier a report, prepared by a suitably qualified person, which confirms that the recommendations of the Detailed Site Investigation, prepared by Geosyntec Consultants Pty Ltd dated 4 May 2022, were undertaken as part of works for DA2022/0145.

NOTIFICATIONS AND COMMENCEMENT OF WORKS

NOTIFICATION OF COMMENCEMENT

- C20. The Applicant must notify the Department in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.
- C21. If the construction or operation of the Development is to be staged, the Applicant must notify the Department in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

UTILITIES AND SERVICES

- C22. Prior to the commencement of works written advice must be obtained from the electricity supply authority, an approved telecommunications carrier and an approved gas carrier (where relevant) stating that satisfactory arrangements have been made to ensure provision of adequate services.

DIAL BEFORE YOU DIG SERVICE

- C23. Prior to the commencement of any excavation on or near the site, the Applicant must submit to the Certifier written confirmation from NSW Dial Before You Dig Service that the proposed excavation will not conflict with any underground utility services.

ROADWORKS

RIGHT TURN TO DELMAR PARADE FROM PITTWATER ROAD

- C24. Prior to the  of the Occupation Certificate, the Applicant must submit for approval by the Planning Secretary details of roadworks to prevent right turn movements from Pittwater Road to Delmar Parade. Written endorsement of the roadworks from the relevant roads authority must be provided in the submission to the Planning Secretary and roadworks must consist of either:
- (a) the addition of a PM peak right turn ban to be added to the existing AM peak right turn ban from Pittwater Road to Delmar Parade; or
 - (b) the closure of the median on Pittwater Road at Delmar Parade to prevent right turns into Delmar Parade from Pittwater Road; or
 - (c) an alternative measure endorsed by the relevant road's authority.

Note:

- Approval must be obtained for the roadworks under section 138 of the Roads Act 1993.
- All costs associated with the roadworks must be borne by the Applicant.

PART D DURING CONSTRUCTION

SITE NOTICE

- D1. The Applicant must erect site notices in prominent positions on the site informing the public of project details including, but not limited to:
- (a) the name, address and telephone number of the builder, Certifier and structural Engineer;
 - (b) the name of the principal contractor (if any), its address and 24-hour contact phone number for any inquiries, including construction/noise complaints;
 - (c) stating the approved hours of work;
 - (d) stating that unauthorised entry to the work site is prohibited.
- D2. The site notices must:
- (a) be positioned prominently at the site informing the public of key project details;
 - (b) have dimensions of at least A1 size with large writing
 - (c) be durable and weatherproof.

HOURS OF CONSTRUCTION

- D3. Construction, including the delivery of materials or machinery to and from the site, may only be carried out between the following hours:
- (a) between 7am and 5pm, Monday to Friday inclusive; and
 - (b) between 8am and 1pm, Saturdays.
- D4. No work may be carried out on Sundays or public holidays.
- D5. Activities may be undertaken outside of these hours if required:
- (a) by the Police or a public authority for the delivery of vehicles, plant or materials to and from the site; or
 - (b) in an emergency to avoid the loss of life, damage to property or to prevent environmental harm..
- D6. Notification of activities undertaken in the circumstances in Condition D5 must be given to affected residents before undertaking the activities or as soon as is practical afterwards.
- D7. Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:
- (a) 9am to 12pm, Monday to Friday;
 - (b) 2pm to 5pm Monday to Friday; and
 - (c) 9am to 12pm, Saturday.

IMPLEMENTATION OF MANAGEMENT PLANS

- D8. The Applicant must implement and comply with the requirements of any management plan or sub-plan required under this consent. To the extent of any inconsistency between a condition of consent and a management plan or sub-plan, the condition of consent prevails.

CONSTRUCTION NOISE LIMITS AND VIBRATION CRITERIA

- D9. The Applicant must ensure construction vehicles (including concrete agitator trucks) do not arrive at the subject site or surrounding residential precincts outside of the construction hours of work outlined under this consent.
- D10. The Applicant must implement, where practicable and without compromising the safety of construction staff or members of the public, audible movement alarms of a type that would minimise noise impacts on surrounding Sensitive Receivers.
- D11. The Applicant must ensure that any work generating high noise impact (i.e. work exceeding a NML of LAeq 75dBA) as measured at any Sensitive Receiver is only undertaken in continuous blocks of no more than 3 hours, with at least a 1 hour respite between each block of work generating high noise impact, where the location of the work is likely to impact the same receivers. For the purposes of this condition 'continuous' includes any period during which there is less than 1 hour respite between ceasing and recommencing any of the work the subject of this condition.
- D12. Vibration at any residence or structure outside the site caused by construction must be limited to:
- (a) for structural damage, the latest version of DIN 4150-3 (1992-02) Structural vibration - Effects of vibration on structures (German Institute for Standardisation, 1999);

- (b) for human exposure to vibration, the evaluation criteria set out in the *Environmental Noise Management Assessing Vibration: a Technical Guideline* (Department of Environment and Conservation, 2006) (as may be updated or replaced from time to time).

D13. Vibratory compactors must not be used within 30 metres of residential or heritage buildings unless vibration monitoring confirms compliance with the vibration criteria specified above. These limits apply unless otherwise outlined in the project specific CNVMP required by this consent.

AIR QUALITY

D14. The Applicant must take all reasonable steps to minimise dust generated during all works authorised by this consent.

ADEQUACY OF ADJOINING PROPERTY

D15. Any damage to the public way including trees, footpaths, kerbs, gutters, road carriageway and the like must be made safe and functional by the Applicant to the satisfaction of the public authority responsible for the public way.

TREE PROTECTION

D16. While site or building work is being carried out, the Applicant must maintain all tree protection measures required under this consent, in accordance with relevant requirements of applicable Australian Standards and any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

EROSION AND SEDIMENT CONTROL

D17. All erosion and sediment control measures must be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works have been stabilised and rehabilitated so that it no longer acts as a source of sediment. Erosion and sediment control techniques are, as a minimum, to be in accordance with the publication *Managing Urban Stormwater: Soils & Construction (4th edition, Landcom, 2004)* commonly referred to as the 'Blue Book' and must comply with the CSWMSP.

DISPOSAL OF SEEPAGE AND STORMWATER

D18. Any seepage or rainwater collected on-site during construction or groundwater must not be pumped to the street stormwater system unless separate prior approval is given in writing by the EPA in accordance with the *Protection of the Environment Operations Act 1997*.

D19. Adequate provisions must be made to collect and discharge stormwater drainage during construction of the Development. Prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.

D20. A separate written approval from Council is required to be obtained in relation to any proposed discharge of groundwater into Council's drainage system external to the site.

ASBESTOS

D21. The Applicant must ensure that any asbestos encountered on site is monitored, handled, transported and disposed of by appropriately qualified and licensed contractors in consultation with SafeWork NSW and in accordance with any requirements of SafeWork NSW and any relevant guidelines, including:

- (a) *Work Health and Safety Regulation 2017*;
- (b) SafeWork NSW Code of Practice – How to Manage and Control Asbestos in the Workplace September 2016;
- (c) SafeWork NSW Code of Practice – How to Safely Remove Asbestos September 2016; and
- (d) *Protection of the Environment Operations (Waste) Regulation 2014*, including Part 7 – 'Transportation and management of asbestos waste'.

CONTACT TELEPHONE NUMBER

D22. The Applicant must ensure that the 24-hour contact telephone number is continually attended by a person with authority over the works for the duration of the construction.

UNCOVERING RELICS OR ABORIGINAL OBJECTS

D23. If a Relic (as defined in the Heritage Act 1977) or Aboriginal object (as defined in the *National Parks and Wildlife Act 1974*) is unexpectedly discovered:

- (a) all works must cease immediately;

- (b) the Applicant must notify the Heritage Council of NSW in respect of a Relic and notify the Planning Secretary and the Heritage Council of NSW in respect of an Aboriginal object; and
- (c) the Applicant must otherwise comply with the unexpected finds protocol required as part of the CEMP.

D24. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Planning Secretary.

UNEXPECTED FINDS PROTOCOL – HISTORIC HERITAGE

D25. If any unexpected archaeological relics are uncovered during the work, then:

- (a) all works must cease immediately in that area and notice is to be given to Heritage NSW and the Planning Secretary within 2 business days;
- (b) depending on the possible significance of the relics, an archaeological assessment and management strategy may be required before further works can continue in that area as determined in consultation with Heritage NSW; and
- (c) works may only recommence with the written approval of the Planning Secretary.

INCIDENT NOTIFICATION, REPORTING AND RESPONSE

D26. The Applicant must notify the Department within 24 hours of becoming aware of an Incident. The notification must be made via the NSW planning portal (Major Projects) and address details of the Incident including:

- (a) date, time and location;
- (b) a brief description of what occurred and why it has been classified as an Incident;
- (c) a description of what immediate steps were taken in relation to the Incident; and
- (d) identifying a contact person for further communication regarding the Incident.

D27. The Applicant must provide the Department with a subsequent Incident report in accordance with Appendix 1 (Incident Notification and Reporting Requirements).

NON-COMPLIANCE NOTIFICATION

D28. Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non-compliance. The notification must be in writing and must be submitted via the NSW planning portal (Major Projects). The notification must identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, why it does not comply, the reasons for the non-compliance (if known), and what actions have been undertaken, or will be undertaken, and when, to address the non-compliance.

Note: A non-compliance which has been notified as an Incident does not need to also be notified as a non-compliance.

PART E COMMENCEMENT OF OCCUPATION AND USE

GENERAL REQUIREMENTS

OCCUPATION CERTIFICATES

- E1. In accordance with the EP&A Act, the Applicant must obtain an Occupation Certificate from the Certifier prior to commencement of occupation or use of the whole or any part of a new building or, an altered portion of, an extension to an existing building.
- E2. An Occupation Certificate for the 43 affordable housing units must be issued concurrently or before an Occupation Certificate for the remainder of the development.

NOTIFICATION OF OCCUPATION

- E3. The Applicant must notify the Department in writing at least one month prior to the proposed occupation or use of the Development.
- E4. If the occupation or use of the Development is to be staged, the Applicant must notify the Department in writing of the date of commencement of the occupation or use of the relevant stage at least one month before that date.

ENVIRONMENTAL PERFORMANCE

- E5. Prior to the occupation or commencement of use, the Applicant is to provide documentation to the Certifier demonstrating the development has incorporated, and would operate in accordance with, the environmental sustainability objectives, measures and initiatives required under this consent.

DILAPIDATION AND REPAIRS

POST-CONSTRUCTION DILAPIDATION REPORT

- E6. Before the issue of any Occupation Certificate, the Applicant is to provide a Report (**Post-Construction Dilapidation Report**) to the Certifier:
- (a) stating whether, based on a comparison of the Pre-Construction Dilapidation Report and Post-Construction Dilapidation Report, there has been any structural damage to any adjoining buildings, infrastructure or roads;
 - (b) if there has been structural damage to any adjoining buildings, infrastructure or roads, the structural damage that is the result of the carrying out of Development;
 - (c) whether relevant authorities have confirmed that there is no adverse structural damage to their infrastructure and roads.
- E7. The Applicant is to provide a copy of the Post-Construction Dilapidation Report to the Planning Secretary and to the relevant adjoining property owner(s).

ROAD DAMAGE

- E8. Unless agreed to in writing by the relevant asset owner, prior to the occupation or commencement of the use, the cost of repairing any damage caused to Council or other public authority's assets in the vicinity of the site as a result of construction works associated with the approved development is to be paid in full by the Applicant.

PROTECTION OF PUBLIC INFRASTRUCTURE AND OTHER REPAIRS

- E9. Unless the Applicant and the applicable public authority agree otherwise, the Applicant must:
- (a) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the Development; and
 - (b) repair/reconstruct, or pay the full costs associated with repairing/reconstructing, any public infrastructure (including but not limited to ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) in the vicinity of the Development that is damaged by carrying out the Development;
- E10. Prior to the occupation or commencement of the use of the Development, any damage identified in condition E6 as being caused by the carrying out of the Development not subject to condition E9 must be fully repaired and rectified by the Applicant.

COMPLIANCE REPORTING

WORKS-AS-EXECUTED PLANS AND ANY OTHER DOCUMENTARY EVIDENCE

- E11. Prior to the issue of an Occupation Certificate, the Applicant must submit to the Certifier:

- (a) works-as-executed plans for the Development; and
- (b) any compliance certificates and any other evidence confirming all stormwater drainage systems and storage systems.

E12. Prior to the issue of an Occupation Certificate, the Applicant must submit to the principal Certifier a Report from a Registered Surveyor demonstrating that:

- (a) no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced; or
- (b) the Applicant has re-established any survey mark(s) that were damaged, destroyed, obliterated or defaced in accordance with the Surveyor General's Direction No. 11 – Preservation of Survey Infrastructure.

COMPLIANCE WITH BASIX CERTIFICATE

E13. Prior to the issue of any Occupation Certificate, the Applicant must submit to the Certifier evidence that all the commitments contained in the BASIX Certificate approved under this consent have been implemented.

GFA AND BUILDING HEIGHT CERTIFICATION

E14. Prior to the issue of an Occupation Certificate, the Applicant must submit to the Certifier a Report from a Registered Surveyor demonstrating compliance that the Development does not exceed the approved gross floor area and building height.

ACOUSTIC COMPLIANCE

E15. Prior to the issue of any Occupation Certificate, the Applicant must prepare and submit to the Certifier a Report demonstrating compliance with all noise mitigation measures required under Condition B12.

STRUCTURAL INSPECTION CERTIFICATE

E16. 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 Inspection Certificate or a Compliance Certificate to the Certifier.

E17. The Applicant must submit a copy of the Structural Inspection Certificate or a Compliance Certificate with an electronic set of final drawings to the Planning Secretary and the Council after:

- (a) the site has been periodically inspected and the Certifier is satisfied that the structural works are deemed to comply with the final design drawings; and
- (b) the drawings listed on the Structural Inspection Certificate or have been checked with those listed on the final Design Certificate/s.

LANDSCAPE PRACTICAL COMPLETION REPORT

E18. Prior to the issue of any Occupation Certificate, the Applicant must submit to the Certifier a Landscape Practical Completion Report prepared by the consultant responsible for the landscape design plan which:

- (a) verifies that all landscape works have been carried out generally in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application;
- (b) verifies that a maintenance program under the Landscape Plan required under condition B7 has been commenced;
- (c) includes details of plant maintenance and watering for the first 12 months; and
- (d) includes details of plant maintenance and watering for the life of the Development.

FIRE SAFETY CERTIFICATION

E19. Prior to the issue of any Occupation Certificate, a Fire Safety Certificate must be obtained for all the relevant Essential Fire or Other Safety Measures forming part of the Development.

E20. The Applicant must submit a copy of the Fire Safety Certificate to the relevant authority and Certifier and display the Fire Safety Certificate prominently in the building.

OUTDOOR LIGHTING

E21. Prior to the occupation or commencement of use of the Development, the Applicant must submit to the Certifier a Report demonstrating that installed lighting associated with the Development:

- (a) achieves the objective of minimising light spillage:
 - (i) beyond the property boundary; and
 - (ii) to any adjoining or adjacent Sensitive Receivers;

- (b) complies with the latest version of AS 4282-2019 - Control of the obtrusive effects of outdoor lighting (Standards Australia, 1997); and
- (c) has been mounted, screened and directed in such a manner that it does not create a nuisance to surrounding properties or the public road network.

SYDNEY WATER COMPLIANCE

- E22. Prior to the issue of any Occupation Certificate, the Applicant must submit to the Certifier a Section 73 Compliance Certificate under the *Sydney Water Act 1994*, obtained from Sydney Water Corporation.

UTILITY PROVIDERS

- E23. Prior to the issue of any Occupation Certificate, the Applicant must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the Development, is completed to the satisfaction of the relevant authority.
- E24. Prior to the issue of any Occupation Certificate, the Applicant must provide or cause to be provided written confirmation to the Certifier from the relevant authority that the relevant services have been completed.

BICYCLE PARKING

- E25. Prior to the occupation or commencement of use of the Development, the Applicant must submit to the Certifier evidence of compliance demonstrating that bicycle parking spaces have been provided in accordance with Condition B9(g).
- E26. Prior to the operation or commencement of use of the Development, bicycle way-finding signage must be installed within the site to direct cyclists from footpaths to designated bicycle parking areas.

STREET NUMBERING

- E27. Prior to the issue of any Occupation Certificate, the Applicant must provide to the Certifier evidence that street numbers are clearly displayed at the ground level frontage of the building.

MANAGEMENT PLANS, GUIDES AND MISCELLANEOUS

OPERATIONAL PLAN OF MANAGEMENT

- E28. Prior to the occupation or commencement of use, whichever is earlier, the Applicant must prepare an Operational Plan of Management for the development and submit it to the Certifier, which includes (but not be limited to):
- (a) details of the managing agent;
 - (b) management of communal areas and open spaces, including noise management recommendations contained in Section 8.5 of the acoustic report, prepared by Acoustic Dynamic, dated 23 July 2024
 - (c) loading and unloading;
 - (d) security and staff management;
 - (e) emergency management/ evacuation and incident response protocols;
 - (f) waste management;
 - (g) flood management as required by Condition E39;
 - (h) tenant induction and behaviour/ house rules;
 - (i) community consultation and complaint procedures.
- E29. The Operational Plan of Management approved under this consent shall be implemented following occupation of the development. The Operational Plan of Management is to be reviewed and updated annually.

OPERATIONAL WASTE MANAGEMENT

- E30. Prior to the occupation or commencement of use of the Development, the Applicant must prepare an **Operational Waste Management Plan** for the Development, incorporating measures outlined in the Waste Management Report (prepared by Senica Consultancy Group dated 7 July 2024) and submit it to the Certifier. The Operational Waste Management Plan must:
- (a) be prepared in consultation with Council;
 - (b) set out adequate provisions within the premises for the storage, collection and disposal of waste and recyclable materials;
 - (c) confirm the location of waste collection and establish appropriate routes to the collection point;
 - (d) provide confirmation that appropriate arrangements have been made for the collection of waste;
 - (e) detail the type and quantity of waste to be generated during operation of the Development;

- (f) describe the handling, storage and disposal of all waste streams generated on site, consistent with the *Protection of the Environment Operations Act 1997*, *Protection of the Environment Operations (Waste) Regulation 2014* and the Waste Classification Guideline (EPA).

Note: Conditions in Part F require the Applicant to implement the Operational Waste Management Plan for the life of the Development.

STORMWATER

- E31. Prior to the issue of any Occupation Certificate, the Applicant must submit to the Certifier a copy of the stormwater drainage design plans, prepared by an Engineer experienced in the design of stormwater drainage systems and approved with the Construction Certificate.
- E32. Prior to the issue of any Occupation Certificate, the Applicant must submit to the Certifier a **Stormwater Operational and Maintenance Plan (SOMP)** that:
- (a) is designed to ensure the proposed stormwater quality measures remain effective; and
 - (b) specifies, but is not limited to:
 - (i) a maintenance schedule of all stormwater quality treatment devices;
 - (ii) record and reporting details;
 - (iii) relevant contact information; and
 - (iv) Work Health and Safety requirements.
- E33. Prior to the issue of any Occupation Certificate, the Applicant must submit to the Certifier a report demonstrating that a "restriction on the use of land" and "positive covenant" (under section 88E of the Conveyancing Act 1919) has been placed on the title of the subject property to ensure that all drainage systems involving on-site detention are maintained and that no works which could affect the design function of the detention/infiltration system are undertaken without the prior consent (in writing) of Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council
- Note:*
- The "restriction on the use of land" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's required wording/layout for the restriction and positive covenant may be obtained from Council.
 - The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.

CAR PARKING, LOADING AND SERVICING MANAGEMENT PLAN

- E34. Prior to the issue of any Occupation Certificate, the Applicant must submit to the Certifier a **Car Parking, Loading and Servicing Management Plan** that:
- (a) is designed to ensure that any potential traffic and safety impacts associated with the car park and loading dock operation are mitigated;
 - (b) specifies, but is not limited to, details of:
 - (i) the Development's loading and servicing profile, including the forecast loading and servicing traffic volumes by vehicle size, frequency, time of day and duration of stay;
 - (ii) measures to manage any potential traffic and safety impacts of the car parking and loading dock operation; and
 - (iii) how vehicles larger than a 6.4m SRV delivering to the site must be managed.

REGISTRATION OF EASEMENTS

- E35. Prior to the issue of any Occupation Certificate, all matters required to be registered on title including easements required by this consent, approvals, and other consents have been lodged for registration or registered at the NSW Land Registry Services.

ROADWORKS

- E36. Prior to the issue of any Occupation Certificate, the Applicant must complete the roadworks approved in Condition C23 to the satisfaction of the relevant roads authority.

REDUNDANT DRIVEWAYS

- E37. Prior to occupation, the Applicant must remove any redundant driveway and replace it with new kerb and gutter and the footway must be reinstated in accordance with Council standards.

STORMWATER DIVERSION WORKS

- E38. Prior to the issue of any Occupation Certificate, the Applicant must submit to the Certifier a letter confirming that all works required for the diversion and construction of new stormwater infrastructure required under DA2022/0145 has been completed to the satisfaction of Council.

FLOODING

- E39. Prior to the issue of any Occupation Certificate, the Applicant must submit to the satisfaction of the Certifier a final Operational Flood and Emergency Response Plan (FREP). The final Operational FREP must:
- (a) be prepared by an experience, registered practitioner who is a Professional Engineer; and
 - (b) be in accordance with the *'Integrated Water Management Plan for 4 Delmar Parade & 812 Pittwater Road, Dee Why'*, prepared by SGC Consulting and dated 1 October 2024.

IN-FILL AFFORDABLE HOUSING

- E40. Prior to the issue of any Occupation Certificate, the Applicant must provide to the Certifier evidence that:
- (a) the affordable housing component is complete and ready for occupation;
 - (b) a restriction has been registered against the title of the site on which Development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, requiring:
 - (i) a minimum of 43 dwellings within the Development to be used for the purposes of affordable housing as defined by the EP&A Act and the *State Environmental Planning Policy (Housing) 2021* for a minimum of 15 years from the day an Occupation Certificate is issued for all parts of the building(s) to which this development relates;
 - (ii) specifically nominating those units to be allocated and used for affordable housing; and
 - (iii) the affordable housing component must be managed by a registered community housing provider;
 - (c) an agreement with a registered community housing provider for the management of the affordable housing component has been given to the Registrar of Community Housing, including the name of the registered community housing provider; and
 - (d) the requirements of paragraphs (b) and (c) have been met and evidence has been given to the Consent Authority.

PART F OCCUPATION AND ONGOING USE

MAINTENANCE OF WASTEWATER AND STORMWATER TREATMENT DEVICES

- F1. Following the issue of the Occupation Certificate or commencement of use and throughout the life of the Development, the Applicant must:
- (a) implement the SOMP; and
 - (b) otherwise ensure that all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective and (if applicable) in accordance with any positive covenant.

STORAGE AND HANDLING OF WASTE

- F2. Following the issue of the Occupation Certificate or commencement of use and throughout the life of the Development, the Applicant must implement the Operational Waste Management Plan.
- F3. The Applicant must ensure that at all times during the life of the Development:
- (a) waste is not placed or left on the site;
 - (b) waste must not be placed for collection in a public place e.g. footpaths, roadways and reserves.

TRAFFIC AND PARKING

- F4. All loading and unloading operations associated with the site must be carried out:
- (a) in accordance with the **Car Parking, Loading and Servicing Management Plan** prepared under this consent;
 - (b) within the confines of the site, at all times and must not obstruct other properties or the public way; and
 - (c) in a manner so as not to cause inconvenience to the public or detrimentally impact the amenity of the locality
- F5. The service vehicle docks, car parking spaces and driveways must be kept clear of goods at all times and must not be used for storage purposes, including waste storage.
- F6. The car spaces within the Development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.

LANDSCAPING

- F7. Landscaping for the Development must be carried out and maintained in accordance with the Landscape Plan required under condition B7.

FIRE SAFETY CERTIFICATION

- F8. The Development must operate in accordance with the Fire Safety Certificate obtained in accordance with this consent.

OUTDOOR LIGHTING

- F9. If any outdoor lighting results in any residual impacts on the amenity of surrounding Sensitive Receivers, the Applicant must provide mitigation measures in consultation with affected landowners to reduce the impacts to an acceptable level.

BASIX CERTIFICATION

- F10. The Development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate No. 1250181M_07 and any updated certificate issued if amendments are made.

HOUSING

IN-FILL AFFORDABLE HOUSING

- F11. A minimum of 43 dwellings within the Development must be used for the purpose of affordable housing as defined by the EP&A Act and *State Environmental Planning Policy (Housing) 2021*, for a minimum tenure of 15 years from the day an Occupation Certificate is issued for all parts of the building(s) to which this development relates.
- F12. 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:
- (a) the affordable housing component must be used for affordable housing; and
 - (b) the affordable housing component must be managed by a registered community housing provider; and

- (c) notice of a change in the registered community housing provider who manages the affordable housing component must be given to the Registrar of Community Housing and the Consent Authority no later than 3 months after the change; and
 - (d) the registered community housing provider who manages the affordable housing component must apply the Affordable Housing Guidelines.
- F13. The Applicant must use best endeavours to ensure that the affordable housing units are at full occupancy and by 30 June of each year, must submit to the Secretary a report relating to the previous 12 month period as to:
- (a) the occupancy rate of the affordable housing units for that year; and
 - (b) compliance with the requirement in this condition to use best endeavours.

PART G PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

REQUIREMENTS OF THE EP&A ACT – PART 6 CERTIFICATES

- G1. In undertaking the subdivision approved under this consent, the Applicant must comply with the requirements of Part 6 of the EP&A Act in relation to the issue of a Subdivision Certificate. For the purpose of this approval, the issue of a Subdivision Certificate/s is restricted to the Development carried out in accordance with the documents set out in Condition A1.

SUBDIVISION CERTIFICATE

- G2. Before granting any Subdivision Certificate, the Certifier must be satisfied that the Applicant has complied with all conditions of this consent that are required to be complied with before a Subdivision Certificate may be issued in relation to the plan of subdivision.

BUILDING MANAGEMENT STATEMENT

- G3. Prior to the issue of a Subdivision Certificate, a Building Management Statement must be prepared in the approved form prescribed by Schedule 8A of the *Conveyancing Act 1919* or a Strata Management Statement must be prepared in the approved form prescribed by Part 6 of the *Strata Schemes Development Act 2015* and submitted to the Certifier.
- G4. The Building Management Statement or Strata Management Statement (as applicable) is to apply to the Development as a 'united building'. The Building Management Statement or Strata Management Statement (as applicable) must include details of the following:
- (a) the use, operation and arrangements for the supply of services, maintenance and upgrading of infrastructure of each stratum lot within the subdivision;
 - (b) the ongoing maintenance, upgrading, redevelopment and structural adequacy of each stratum lot within the subdivision; and
 - (c) any other matters which the Certifier considers relevant and pertinent to the issue of a Subdivision Certificate.

CREATION OF EASEMENTS

- G5. Prior to the issue of a Subdivision Certificate, easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to section 88B of the *Conveyancing Act 1919*.

REGISTRATION OF EASEMENTS

- G6. Prior to the issue of a Subdivision Certificate, the Applicant must provide to the Certifier evidence that all matters required to be registered on title, including easements noted on the draft subdivision plans listed in Condition A1, are contained within the subdivision plan to be lodged for registration at the NSW Land Registry Services.

ENCROACHING AND/OR SHARED SERVICES

- G7. Any pipes, service lines or the like servicing each lot must be contained within their respective lots or, if service lines encroach upon adjoining lots within the subdivision, or are shared by more than one lot, appropriate easements must be created, pursuant to section 88B of the *Conveyancing Act 1919*, over the service lines where any such encroachment occurs.

ACCESS EASEMENT – GROUND LEVEL

- G8. Prior to the registration of the stratum plan for the site, appropriate ground level access easement/s are to be created to provide access to the building from the public domain for each respective building owner/s, tenant/s and visitors, as relevant to the stratum lot/s the subject of the stratum plan to the Certifier. Each easement is to address construction staging, including any restrictions to access as a result of the construction activities, including erecting hoardings as relevant.

COMPLIANCE CERTIFICATE

- G9. Prior to issue of any Subdivision Certificate, a compliance certificate issued under Part 6, Division 9 of the *Sydney Water Act 1994* must be obtained from Sydney Water and must be provided to the Certifier demonstrating that the Development has satisfied the detailed requirements of Sydney Water in respect to water and wastewater.
- G10. Prior to the issue of each Subdivision Certificate (as relevant), a Registered Surveyor has confirmed that the parcel boundary of the plan corresponds with floors, external walls and ceilings of the relevant building/structures as constructed or alternatively, has the benefit of an appropriate easement or is the subject of appropriate

provisions in the Building Management Statement or Strata Management Statement, to enable the registration of the plan.

ADVISORY NOTES

- AN1. All new buildings and structures, and any alterations or additions to existing buildings and structures, that are part of the Development, including external walls of all buildings and ventilation of premises, must be constructed in accordance with the relevant requirements of the NCC and applicable Australian Standards.
- AN2. The development consent is subject to, and the Applicant must comply with, the Prescribed Conditions.
- AN3. No condition of this consent overcomes any obligation on the Applicant to obtain, renew or comply with licences, permits, approvals, certifications and consents which may be required under law required to carry out the Development. The Applicant is responsible for obtaining any such licences, permits, approvals, certifications and consents, licences, permits, approvals, certifications and consents may include but are not limited to:
- (a) modifications to this consent or other development consents required under the EP&A Act;
 - (b) certificates under Part 6 of the EP&A Act;
 - (c) approval under section 138 of the *Roads Act 1993* for activities and works including road occupancy, hoarding, scaffolding, barricades and other construction/building works requiring the use of a public place including a road or footpath;
 - (d) approvals for the installation of any hoardings over Council footways or road reserves;
 - (e) approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act);
 - (f) approvals required under the *Sydney Water Act 1994*.
- AN4. The Applicant is responsible for ensuring that all agreements required to carry out the Development are obtained from other authorities or other parties, as relevant.
- AN5. No condition of this consent removes any obligation on the Applicant to comply with laws, including but not limited to:
- (a) work health and safety laws;
 - (b) environmental laws including *Protection of the Environment Operations Act 1997* and its regulations;
 - (c) *Disability Discrimination Act 1992* (Cth);
 - (d) *Building and Construction Industry Long Service Payments Act 1986*;
 - (e) *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*;
 - (f) *Airports (Protection of Airspace) Regulations 1996*.
- AN6. The Housing and Productivity Contribution:
- (a) may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the *Environmental Planning and Assessment Act 1979* agrees; and
 - (b) is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the EP&A Act to the development, or the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* exempts the development from the contribution.
- AN7. The operation and maintenance of warm water systems and water cooling systems (as defined under the *Public Health Act 2010*) must comply with the *Public Health Act 2010*, *Public Health Regulation 2012* the NSW Health Code of Practice for the Control of Legionnaires' Disease and applicable Australian Standards.

APPENDIX 1 INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. All Incident notifications and reports must be submitted via the NSW planning portal (Major Projects).
2. The Applicant must provide notification as required under these requirements, even if the Applicant fails to give the notification required under Condition D29 or, having given such notification, subsequently forms the view that an Incident has not occurred.
3. Within 7 days (or as otherwise agreed by the Planning Secretary) of the Applicant making the immediate Incident notification (in accordance with Condition D30), the Applicant is required to submit a subsequent Incident report that:
 - (a) identifies how the Incident was detected;
 - (b) identifies when the Applicant became aware of the Incident;
 - (c) identifies any actual or potential non-compliance with conditions of consent;
 - (d) identifies further action(s) that will be taken in relation to the Incident; and
- (a) a summary of the Incident;
 - (b) outcomes of an Incident investigation, including identification of the cause of the Incident;
 - (c) details of the corrective and preventative actions that have been, or will be, implemented to address the Incident and prevent recurrence, including the period for implementing any corrective and/or preventative actions; and
 - (d) details of any communication with other stakeholders regarding the Incident.
4. The Applicant must submit any further reports as directed by the Planning Secretary.