

Attachment A

Recommended Conditions of Consent

DEFERRED COMMENCEMENT CONDITIONS (CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

The following deferred commencement conditions must be satisfied prior to the consent becoming operative:

(A) PART A – DEFERRED COMMENCEMENT CONDITIONS

(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

The consent is not to operate until the following condition is satisfied, within **24 months** of the date of this determination:

(1) VOLUNTARY PLANNING AGREEMENT

- (a) The Voluntary Planning Agreement between the COUNCIL OF THE CITY OF SYDNEY and City West Housing Pty Ltd shall be exhibited, executed and submitted to Council; and
- (b) The Voluntary Planning Agreement, as executed, must be registered on the title of the land.

(2) Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 4.53(6) of the Environmental Planning and Assessment Act 1979.

(3) The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied.

(4) Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent, as detailed in Part B Conditions of Consent (Once the Consent is Operation).

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

PART A1 – GENERAL

CONDITIONS OF CONSENT

(1) CONCEPT DEVELOPMENT APPLICATION

Pursuant to Division 4.22 of the Environmental Planning and Assessment Act, 1979, this Notice of Determination relates to a concept development application. A subsequent development application (DA) is required for any works to be carried out on the site.

Reason

To specify the status of this approval as a concept development consent and that it does not authorise the carrying out of works on any part of the site.

(2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2023/691 dated 3 August 2023 and the following drawings prepared by SJB Architects:

Drawing Number	Drawing Name	Date
A-1022 Rev F	Envelope Plan – Ground & Level 1	7 May 2024
A-1023 Rev C	Envelope Plan – Level 2 & 3	7 May 2024
A-1025 Rev F	Envelope Plan – Level 4	7 May 2024
A-1026 Rev E	Envelope Plan – Level 5/6/7/8/9/10/11	15 February 2024
A-1031 Rev F	Envelope Plan – Roof Level	7 May 2024
A-1431 Rev E	Envelope Elevation North	15 February 2024
A-1432 Rev E	Envelope Elevation East	15 February 2024
A-1433 Rev E	Envelope Elevation South	15 February 2024
A-1434 Rev E	Envelope Elevation West	15 February 2024

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason

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

(3) MATTERS NOT APPROVED

The following items are not approved and do not form part of this concept development consent:

- (a) any demolition, tree removal, excavation, remediation and/or construction;
- (b) the height in storeys or street frontage height in storeys of the development;
- (c) the layout and number of residential apartments or non-residential tenancies;
- (d) the depth, extent, number, layout and design of basement levels and/or configuration of car parking;
- (e) the number of car parking spaces, bicycle spaces, car share or loading spaces/zones;
- (f) the precise quantum of floor space; and
- (g) up to 10% design excellence uplift in floor space.

(4) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT

The terms of the planning agreement entered into in accordance with the VOLUNTARY PLANNING AGREEMENT condition contained in the Deferred Commencement Conditions at Part A of this consent must be complied with.

Reason

To ensure the development complies with all terms of the planning agreement.

(5) BUILDING HEIGHT

- (a) Building height proposed as part of any subsequent DA for the detailed design of the building must not exceed the heights expressed as RLs (AHD) shown on drawings listed in the APPROVED DEVELOPMENT condition above.
- (b) To be clear, this condition does not restrict development comprising building height:
 - (i) proposed or erected by or on behalf of a public authority on land identified in the Voluntary Planning Agreement for transfer (and/or dedication) for the purpose of public amenities such as street furniture, street lighting, landscape structures or the like;

- (ii) located in the ground level common open space areas for the purpose of landscape structures and communal facilities that do not comprise floor space (or GFA) and do not compromise deep soil provision.

Reason

To ensure the constructed development complies with the approved height.

(6) FLOOR SPACE RATIO

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio (FSR) of development contained within the site must not exceed the maximum permitted FSR calculated in accordance with the Sydney Local Environmental Plan 2012.
- (b) Notwithstanding (a) above, the development contained within the site may be eligible for up to 10% additional floor space pursuant to the provisions of Clause 6.21D(3) of the Sydney Local Environmental Plan 2012 if the consent authority is satisfied that the subsequent DA for the detailed design of the building exhibits design excellence and is the result of a competitive design process.

Reason

To specify the relevant floor space ratio controls applicable to the development.

(7) DEVELOPMENT TO BE CONTAINED WITHIN ENVELOPES

The detailed design of the buildings must be contained within the approved envelopes except for footpath awnings and/or projections beyond private property boundaries over or into the public road/footpath in accordance with the requirements of Schedule 4 of the Sydney Development Control Plan 2012.

Reason

To ensure that the detailed building design is not inconsistent with the approved concept envelope.

(8) DISTRIBUTION OF FLOOR SPACE WITHIN ENVELOPES

The approved concept proposal envelopes establish the maximum parameters for the competitive design process and the future built form on the site. The detailed design of buildings must not occupy the entirety of the envelopes. The maximum permissible floor space of any subsequent detailed design development application must be consistent with the relevant provisions of the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012 and the conditions of this development consent.

Reason

To specify the relevant parameters for the detailed building design.

(9) COMPETITIVE DESIGN PROCESS

A competitive design process shall be conducted in accordance with the provisions of the Sydney Local Environmental Plan 2012 and:

- (a) In accordance with the 'Design Excellence Strategy' prepared by Ethos Urban and dated 1 May 2024; and
- (b) Prior to the lodgement of any subsequent development application(s) for the detailed design of the buildings.

The detailed design of the buildings must exhibit design excellence in accordance with Clause 6.21C of the Sydney Local Environmental Plan 2012.

Reason

To specify the approved Design Excellence Strategy for the development.

(10) ECOLOGICALLY SUSTAINABLE DEVELOPMENT

- (a) Details are to be provided with the subsequent development application for the detailed design of the building to confirm that the building has adopted the following ESD targets set out in the Design Excellence Strategy referred to in Condition 9 (Competitive Design Process).

Reason

To specify the ESD target benchmarks for the development.

(11) STREET TREES AND DETAILED DESIGN DEVELOPMENT APPLICATION

- (a) All street trees surrounding the site must be included for retention with any subsequent detailed design development application.
- (b) Any design elements (awnings, street furniture, footpath upgrades etc) within the public domain must ensure appropriate setbacks are provided from the street trees to allow maturity of the tree to be achieved.
- (c) The location of any new driveways shall ensure it does not require the removal of any existing street trees. The driveway shall be appropriately setback so as it does not adversely impact on any existing street trees both below and above ground.

- (d) An Arboricultural Impact Assessment by a qualified Arborist with a minimum Australian Qualification Framework (AQF) of Level 5 and written in accordance with the Australian Standard AS 4970-2009 Protection of Trees on Development Sites (AS4970) must be provided with any future detailed design DA. The report must include an assessment and discussion of the likely impacts the proposed development will have on any street trees adjacent to the site. This must include above and below ground constraints on trees that should be retained. The report must also include details of any pruning required for the new building and associate scaffolding.

Reason

To ensure any future detailed design DA is accompanied by adequate information relating to trees.

(12) LANDSCAPING OF THE SITE (TREES)

- (a) Detailed landscape plans, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted with any future detailed design DA. The plan must include:
- (b) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;
- (c) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers;
- (d) Location, numbers, type and supply of plant species, with reference to the relevant Australian Standard;
- (e) The design must provide a minimum 15% canopy cover within the site, provided by trees that will reach heights of 6 - 8 metres;
- (f) Tree selection shall include a diverse range of species which must be consistent with the expected mature heights and growth within the Sydney area (mature heights must not solely rely on plant literature). Palms, fruit trees and species recognised to have a short life span will not be accepted as suitable trees;
- (g) Details of planting procedure and maintenance;
- (h) Details of drainage, waterproofing and watering systems;
- (i) Prior to the issue of a Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.
- (j) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

Reason

To ensure sufficient canopy cover is provided and healthy trees are established and maintained on the site

(13) LAND CONTAMINATION

- (a) Any subsequent DA for the detailed design of the building must include reports and documentation to address the requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land.
- (b) The relevant reports and documentation may include but are not limited to the following:
 - (i) Preliminary Site Investigation prepared by EI Australia dated 25 May 2023 (Reference: E26025.E01_Rev0).
 - (ii) Detailed Site Investigation prepared by EI Australia dated 21 June 2023 (Reference: E26025.E02_Rev0).

Reason

To advise as to the documentation to be provided as part of any subsequent DA for the detailed design of the building to demonstrate site suitability.

(14) LAND DEDICATION – NO LONG-TERM ENVIRONMENTAL MANAGEMENT PLAN

Any land that is to be dedicated to the City under the planning agreement entered into in accordance with the VOLUNTARY PLANNING AGREEMENT condition contained in the Deferred Commencement Conditions at Part A of this consent, must not be encumbered by an Environmental Management Plan or Long-Term Environmental Management Plan.

Reason

To ensure future public land is not encumbered by onerous ongoing land contamination management requirements.

(15) STORMWATER QUALITY ASSESSMENT

Any future detailed design DA must generally comply with the report titled "*Storm water Management Report 22-26 Bourke Rd*" dated 25 August 2023 prepared by Integrated Group Services.

The detailed design DA must include a design certification report prepared by a suitably qualified practitioner engineer (NER/RPEng) demonstrating compliance with approved music link targets and parameters. The report must include a response to all stormwater quality improvement devices structural integrity, treatment train and their treatment properties demonstrating compliance with the approved MUSIC link reports.

Reason

To ensure appropriate stormwater quantity and quality on the site.

(16) FLOOD PLANNING LEVELS

Any future detailed design DA must be constructed to comply with the recommended flood planning levels of 8.77m AHD for commercial floor space and 10.45m AHD for below ground basement levels as indicated in the Flooding Impact and Risk Management Report prepared by Integrated Group Services dated 28 February 2024.

Details must be submitted with the detailed design DA demonstrating that the development will comply with the recommended flood planning levels.

Reason

To ensure the development complies with the recommended flood planning levels.

(17) PRELIMINARY LOADING AND SERVICING MANAGEMENT PLAN

A preliminary Loading and Servicing Management Plan (LSMP) must be submitted with any detailed design DA. The Plan must include (but is not limited to) how the following matters are addressed:

- (a) Service vehicle (including a 10.6m Council waste vehicle) access the loading areas;
- (b) Demonstrate that the largest service vehicle can enter and exit the site in a forward direction;
- (c) Demonstrate that servicing demands on site can be satisfied at each stage of the development;
- (d) Details of anticipated service vehicle movements during the day for all tenants of the site;
- (e) Management of conflicts between cars accessing the residential and non-residential car parking areas and vehicle movements to and from the loading dock;
- (f) Management of conflicts between heavy vehicles accessing the site and pedestrian movements; and
- (g) Management of deliveries to ensure vehicles are not waiting on public streets to enter the site.

Reason

To ensure loading and servicing is managed appropriately.

(18) SECURITY GATES

If any detailed building design submitted as part of any detailed design DA incorporates a car park accessed by a security gate, then that gate must be located at least 6 metres within the site from the property boundary with the street.

Reason

To ensure any subsequent detailed building design provides adequate space between security gates and the street.

(19) PARKING DESIGN

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of *Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities.*

All vehicular access ramps must be designed to the relevant Australian Standard, with regards to grade transitions and maximum grades. Vertical clearance swept paths can be provided in support of any non-compliant ramps.

Reason

To ensure parking facilities are designed in accordance with the Australian Standards.

(20) BICYCLE AND END OF TRIP FACILITIES

- (a) The minimum number of bicycle parking spaces and end of trip facilities to be provided within the site boundary for the development should be in accordance with the rates specified at Section 3.11.3 of the Sydney Development Control Plan 2012.
- (b) All bicycle parking spaces and end of trip facility must be provided on private land. The public domain cannot be used to satisfy this condition.
- (c) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities.

Reason

To ensure a compliant quantum of bicycle and end of trip facilities are provided.

(21) VEHICLE ACCESS

The detailed building design must allow for all vehicles to enter and depart the site in a forward direction.

Reason

To optimise traffic and pedestrian safety on and around the site.

(22) ON SITE LOADING AREAS AND OPERATION

The detailed building design must provide for all loading, unloading and servicing operations to be carried out within the confines of the site and so there is no obstruction of other properties/units or the public way.

Reason

To ensure any subsequent detailed design for the building is able to accommodate all loading activities within the site.

(23) WASTE INFRASTRUCTURE AND SERVICING

(a) Any detailed design DA must incorporate waste management facilities, vehicle access and loading in accordance with the relevant requirements of the Sydney Development Control Plan 2012 and the City's Guidelines for Waste Management in New Developments. The architectural drawings and Waste Management Plan must address the following requirements including but not limited to:

- (i) Waste collection vehicles to be able to enter and exit the premises in a forward direction; and
- (ii) Waste management infrastructure and storage areas designed in accordance with the provisions specified in the City's Guidelines for Waste Management in New Developments.

Reason

To permit safe and efficient scheduled residential waste collection activities.

(24) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

Any future detailed design DA must demonstrate access and facilities are provided for people with a disability in accordance with the Building Code of Australia.

Reason

To ensure the detailed design of the building provides access for people of all abilities.

(25) PUBLIC ART

Public art must be installed to the City's satisfaction prior to the issue of any Occupation Certificate.

(a) The public artwork must be developed in accordance with the Public Art Strategy (2024/223430), dated April 2024, the Sydney DCP 2012, the Public Art Policy, and the Interim Guidelines: Public art in private developments.

- (b) Following the competitive design process, a Preliminary Public Art Plan with details of the proposed public art opportunities must be submitted to and approved by Council's choose Area Planning Manager/Director City Planning, Development and Transport with the Stage 2 detailed Development Application.
- (c) A Detailed Public Art Plan with final details of the proposed public artwork must be submitted to and approved by Council's choose Area Planning Manager/Director City Planning, Development and Transport prior to issue of any Construction Certificate for above ground works.
- (d) Public artwork must be installed to the City's satisfaction, inspected and approved and the Final Public Art Report submitted and approved by Council's Area Planning Manager prior to the issue of any Occupation Certificate.

Note: Public Art must be reviewed and endorsed by the City's Public Art Team and/or the Public Art Advisory Panel prior to submission for Council approval. Further information is available online at <http://www.cityofsydney.nsw.gov.au/explore/arts-and-culture/public-art>.

Please contact the Public Art Team at publicartreferrals@cityofsydney.nsw.gov.au for further information.

Reason

To ensure public art is installed to the City's satisfaction.

(26) SIGNAGE STRATEGY

A detailed signage strategy must be submitted with any subsequent detailed design DA. The signage strategy must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

Reason

To require signage to be considered as part of any subsequent detailed building design.

(27) CONSOLIDATION PLAN

A Consolidation Plan prepared by a registered surveyor is to be lodged with the office of NSW Land Registry Services and registered prior to the lodgement of any subsequent DA for the detailed design of the building. The boundaries of the registered Consolidation Plan must be used for the architectural design of the building.

Reason

To ensure the orderly development of land, with redefined boundaries consistent and not conflicting with the design of the building, as the building envelopes have no setback to easements in some locations.

(28) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO COMPETITIVE DESIGN PROCESS

- (a) Prior to the commencement of any competitive design process, an accurate 1:1 electronic CAD model of the envelope approved by this consent must be submitted to and approved by Council's City Model Unit.
- (b) The data required to be submitted within the surveyed location must include and identify:
 - (i) envelope design above in accordance with the development consent;
 - (ii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.
- (c) The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.
- (d) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements>
- (e) Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

There are no conditions relevant to Part B.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

There are no conditions relevant to Part C.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

There are no conditions relevant to Part D.

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

There are no conditions relevant to Part E.

PART F – OCCUPATION AND ONGOING USE

There are no conditions relevant to Part F.

SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2021* apply:

- Clause 69 Compliance with *National Construction Code* (previously known as *Building Code of Australia*) and insurance requirements under the *Home Building Act 1989*
- Clause 70 Erection of signs
- Clause 71 Notification of *Home Building Act 1989* requirements
- Clause 72 Conditions relating to entertainment venues
- Clause 73 Conditions relating to maximum capacity signage
- Clause 74 Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 2 conditions of development consent of the *Environmental Planning and Assessment Regulation 2021*. This can be accessed at: <http://www.legislation.nsw.gov.au>