

# **Attachment A**

<b>Recommended Conditions of Consent</b>
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## CONDITIONS OF CONSENT

### SCHEDULE 1A

#### APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION

**Note:** Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

##### (1) APPROVAL, PLANS AND CONSEQUENTIAL AMENDMENT OF D/2020/93

- (a) Development must be in accordance with Development Application No. D/2021/514 dated 13 March 2021. All conditions of this development consent and of D/2020/93, as specifically amended by this consent, must be complied with as part of this approval.
- (b) Prior to commencement of this development consent, the existing base development consent D/2020/93 (as amended) shall be modified pursuant to Section 4.17(b) and (c) of the Environmental Planning and Assessment Act 1979.
- (c) Notice of such modification shall be given to Council in accordance with Section 97 of the Environmental Planning & Assessment Regulation 2000 prior to the commencement of any works pursuant to this consent.
- (d) The required amendments under Condition No. 1(b) of this consent are listed as follows:
  - (i) Drawings of the existing base development consent D/2020/93 set out in the following schedule shall be modified by the following approved drawings:

Drawing Number	Drawing Name	Date
DA-00-0001 Rev. E	Development Data Sheet	16 November 2021
DA-10-0080 Rev. F	Basement Level 02 Plan	16 November 2021
DA-10-0090 Rev. G	Basement Level 01 Plan	16 November 2021
DA-10-1000 Rev. H	Ground Floor Plan (Level 00)	16 November 2021
DA-10-1100 Rev. G	Level 01 Floor Plan	16 November 2021
DA-10-1200 Rev. G	Level 02 Floor Plan	16 November 2021
DA-10-1300 Rev. G	Level 03 Floor Plan	16 November 2021
DA-10-1400 Rev. G	Level 04 Floor Plan	16 November 2021
DA-10-1500 Rev. G	Level 05 Floor Plan	16 November 2021
DA-10-1600 Rev. G	Level 06 Floor Plan	16 November 2021

Drawing Number	Drawing Name	Date
DA-10-1700 Rev. F	Level 07 Floor Plan	16 November 2021
DA-10-1800 Rev. F	Roof Plan	16 November 2021
DA-20-0100 Rev. E	North and West Street Elevations	16 November 2021
DA-20-0200 Rev. E	Kingsborough Way Street Elevations	16 November 2021
DA-20-0300 Rev. F	Building A Elevations	16 November 2021
DA-20-0400 Rev. F	Building B Elevations	16 November 2021
DA-30-0100 Rev. D	Building A Sections	20 July 2021
DA-30-0101 Rev. D	Building B Sections	20 July 2021

- (ii) The following conditions of the existing base development consent D/2020/93 (as amended) in the left column of the table below must be replaced with the conditions specified in the right column of the table below, which appear in Schedule1A of this development consent:

Condition number and title – D/2020/93 (as amended)	Condition number and title – D/2021/514
Condition 5 – Design Modifications	Condition 4 – Design Modifications
Condition 16 – Affordable housing contribution – Green Square – payment of money in lieu of floor space	Condition 2 – Affordable housing contribution – Green Square – payment of money in lieu of floor space
Condition 17 – Section 7.11 contributions payable – contribution towards public amenities – City of Sydney Development Contributions Plan 2015 – South Precinct	Condition 3 – Section 7.11 contributions payable – contribution towards public amenities – City of Sydney Development Contributions Plan 2015 – South Precinct
Condition 19 – Floor space ratio – all other areas	Condition 5 – Floor space ratio – all other areas
Condition 22 – Use of common areas and facilities	Condition 6 – Use of common areas and facilities
Condition 33 – Allocation of parking	Condition 7 – Allocation of parking
Condition 36 – Bicycle parking and end of trip facilities	Condition 8 – Bicycle parking and end of trip facilities
Condition 47 – Restriction on residential development	Condition 9 – Restriction on residential development
Condition 50 – Restriction on the use of car spaces	Condition 10 – Restriction on the use of car spaces
Condition 85 – Waste and recycling management - residential	Condition 11 – Waste and recycling management - residential

<b>Condition number and title – D/2020/93 (as amended)</b>	<b>Condition number and title – D/2021/514</b>
Condition 106 – Road network and geometric road design	Condition 13 – New road design

- (iii) The following conditions of the existing base development consent D/2020/93 (as amended) must be deleted:

<b>Condition number and title – D/2020/93 (as amended)</b>
Condition 3 – Building A approved as serviced apartments (tourist and visitor accommodation and Building B approved as residential flat building
Condition 4 – Communal open space
Condition 5 (b)(c)(e) – Design Modification
Condition 14 – Visitor and tourist accommodation – plan of management
Condition 15 – Plan of management
Condition 23 – Use of common areas and facilities – Building A serviced apartments
Condition 48 – Visitor and tourist accommodation – use and operation
Condition 49 – Restriction on serviced apartments
Condition 82 – Waste and recycling collection contract
Condition 83 – Waste and recycling management – commercial (including serviced apartments)
Condition 93 – Land subdivision – separate DA required

## **(2) AFFORDABLE HOUSING CONTRIBUTION - GREEN SQUARE - PAYMENT OF MONEY IN LIEU OF FLOOR SPACE**

In accordance with Clause 7.13 of *Sydney Local Environmental Plan 2012* and prior to a Construction Certificate being issued, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid at the office of the Department of Planning, Industry and Environment or a bank guarantee in favour of the Department of Planning, Industry and Environment to the value of the required contribution has been lodged. The contribution is \$3,080,318.42 based on the in lieu monetary contribution rate for non-residential development at \$76.16 per square metre of total non-residential floor area (9,913sqm), and for residential development at \$228.58 per square metre of total residential floor area (10,173sqm). Contributions will be indexed in accordance with the formula set out below.

Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the applicant must provide evidence that the bank guarantee referred to above has been redeemed as payment of this contribution. If the contribution is paid after the indexation period in which the consent is granted 1

March 2021 to 28 February 2022, the amount of the contribution will be indexed in accordance with the formula set out below.

Notes:

- (a) Applicants have two payment options:

Option 1 is payment by bank cheque using "Form B - Receipt to Release Certificate of Construction after payment by Bank Cheque". Form B must be obtained from the Green Square and Major Projects team, Strategic Planning and Urban Design unit at the City of Sydney on [GSPT@cityofsydney.nsw.gov.au](mailto:GSPT@cityofsydney.nsw.gov.au) and then must be lodged with a bank cheque with the NSW Department of Planning, Industry and Environment.

Option 2 is lodgement of a bank guarantee using "Form A - Receipt to Release Certificate of Construction after lodgement of Bank Guarantee". Form A must be obtained from the Green Square and Major Projects team, Strategic Planning and Urban Design unit at the City of Sydney on [GSPT@cityofsydney.nsw.gov.au](mailto:GSPT@cityofsydney.nsw.gov.au) and then must be lodged with a Bank Guarantee with the NSW Department of Planning, Industry and Environment.

Where Form A has been used, any occupation certificate must not be released until payment by bank cheque using "Form C - Receipt to Release Certificate of Occupancy after payment by Bank Cheque". Form C must be obtained from the Green Square and Major Projects team, Strategic Planning and Urban Design unit at the City of Sydney on [GSPT@cityofsydney.nsw.gov.au](mailto:GSPT@cityofsydney.nsw.gov.au) and then must be lodged with a bank cheque with the NSW Department of Planning, Industry and Environment.

- (b) Applicants are made aware that the contribution amount quoted in this condition may not be final and that a correct indexed affordable housing contribution amount can be obtained from the relevant Form A, B or C at time of payment.
- (c) Forms A, B or C for payment of the affordable housing contribution can only be obtained from the City of Sydney's Green Square and Major Projects team, Strategic Planning and Urban Design unit. Quote the development application number and the relevant Council officer will provide the applicant with an indexed contribution amount which must be paid at the Department of Planning, Industry and Environment.
- (d) The contribution will be indexed on the basis of the Established House Price Index for Sydney as published by the Australian Bureau of Statistics.
- (e) Contributions at Time of Payment =  $C \times \text{HPI2} / \text{HPI1}$ , where:
- (i) C is the original contribution amount as shown above;
  - (ii) HPI2 is the Established House Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the time of the payment; and

- (iii) HPI1 is the Established House Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics that applied at the date of the consent 1 March 2020 to 28 February 2021.

The amount of the monetary contribution is calculated on the total floor area (not a percentage of it). Contribution = (total residential floor area sqm) x residential rate (\$) + (total non-residential floor area (sqm) x non-residential rate (\$) + (total non-residential floor area (sqm) x non-residential rate (\$)

**(3) SECTION 7.11 CONTRIBUTIONS PAYABLE - CONTRIBUTION TOWARDS PUBLIC AMENITIES – CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2015 – SOUTH PRECINCT**

Council has identified the development will increase demand for public amenities and facilities. Pursuant to Section 7.11 of the Environmental Planning and Assessment Act, 1979 (as amended), and the City of Sydney Development Contributions Plan 2015 the following monetary contributions are required towards the cost of public amenities.

<u>Contribution Category</u>	<u>Amount</u>
Open Space	\$2,036,528.15
Community Facilities	\$411,948.16
Traffic and Transport	\$366,083.60
Stormwater Drainage	\$144,794.50
Total	\$2,959,354.41

The City of Sydney will index the above contribution for inflation at the time of payment using the following formula.

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

$C_{\text{payment}}$  = Is the contribution at time of payment;

$C_{\text{consent}}$  = Is the contribution at the time of consent, as shown above;

$CPI_{\text{payment}}$  = Is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment; and

$CPI_{\text{consent}}$  = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 120.2 for the September 2021 CPI quarter.

The contribution must be paid prior to the issue of any Construction Certificate in relation to this development.

Please contact Council's Planning Administration staff at [planningsystemsadmin@cityofsydney.nsw.gov.au](mailto:planningsystemsadmin@cityofsydney.nsw.gov.au) to request a letter confirming the indexed contribution amount payable.

Once the letter confirming the indexed contribution is obtained, payment may be made at any of the City's Neighbourhood Service Centres or the One Stop Shop at Town Hall House. Acceptable payment methods are EFTPOS (debit card only), cash (up to 10K only), Credit Card (up to 50K only) or a bank cheque made payable to the City of Sydney. Personal or company cheques will not be accepted.

#### **(4) DESIGN MODIFICATIONS**

The design of the development must be modified as follows:

- (a) Where sliding doors are the only source of ventilation for residential apartments (and are not noise affected), a fanlight window is to be provided above the doors for ventilation, safety and security.
- (b) All external facing entry swing doors to ground level apartments are to be detailed as a solid door with an operable fanlight above
- (c) Side walls separating the private open space and entries to all ground floor apartments are to have a height no higher than 1.8m.
- (d) The feature shrubs along the northern boundary of the private open space to apartment BG10 are to be replaced with screen planting to mitigate privacy.
- (e) External operable privacy screens are to be applied to the north facing living room glazing of apartment BG10 to mitigate privacy impacts.
- (f) External operable privacy screens are to be applied to the south facing bedroom glazing of apartments BG03 & G04.
- (g) All wind amelioration measures outlined in the Pedestrian Wind Environment Statement (WD884-02F02(REV0)- WS Report prepared by WINDTECH Consultants and dated 18 December 2019 are to be incorporated into the development. Landscape measures are also to be detailed as part of Condition 11 of this consent.

The modifications are to be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager prior to the issue of any Construction Certificate for above ground works.

#### **(5) FLOOR SPACE RATIO - ALL OTHER AREAS**

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the mixed use must not exceed 2.2:1 calculated in accordance with the Sydney Local Environmental Plan 2012. For the purposes of the calculation of FSR, the Gross Floor Area is 15,551sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under the Sydney Local Environmental Plan 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifier.

## (6) USE OF COMMON AREAS AND FACILITIES

The roof top terrace and ground level communal open space for Building A and Building B must be available for the use all residents of the buildings and must be designated as common property on any strata subdivision of the site, with no exclusive use rights.

## (7) ALLOCATION OF PARKING

The number of car parking spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Accredited Certifier prior to the issue of any Construction Certificate for below ground works, other than for demolition, excavation, site remediation works and construction of basement with no fitout.

Car Parking Type	Number
Residential spaces	88
Accessible residential spaces	28
Residential visitor spaces	12
Accessible residential visitor spaces	3
Retail parking	2
Car share parking	3
Motorcycle parking	11
Car wash bay	2
Electric charging spaces	2
Service vehicle spaces	1
Small Rigid Vehicle loading dock(s)	2
Medium Rigid Vehicle loading dock(s) – can also accommodate a Council Waste Vehicle	1
Total	

- (a) Number of motorcycle spaces refers to dimensions of 1.2m x 2.5m per Australian Standards. Alternatively, the proponent may provide standard car spaces marked as motorcycle spaces (dimensions of 2.4m x 5.4m per Australian Standards). In this case a maximum of 3 spaces would be required.
- (b) The waste collection area must meet the requirements of DCP12 Section 3.11.13 (3), namely that vehicle access for collection and loading will include (but is not limited to) the following:
  - (i) a **9.25m Council garbage truck** and a small rigid delivery vehicle;
  - (ii) minimum vertical clearance of **4.0 metres** for residential development or else 3.8m clear of all ducts, pipes and other services, depending on the gradient of the access and the type of collection vehicle;
  - (iii) collection vehicles to be able to enter and exit the premises in a forward direction. Where a vehicle turntable is necessary to meet this requirement, it is to have a **capacity of 30 tonnes**;
  - (iv) a minimum driveway width of **3.6m**; and
  - (v) a minimum turning circle radius of **10.5m**.



- (c) The proposed loading dock is to be co-used by the residential and retail of the site (including Building A and B) and is to accommodate the delivery needs of each usage.
- (d) Accessible Parking spaces to meet the Australian Standards AS/NZS 2890.6 including having the shared area located adjacent to the space.

## **(8) BICYCLE PARKING AND END OF TRIP FACILITIES**

- (a) The minimum number of bicycle parking spaces and end of trip facilities to be provided for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Residential	182	Spaces must be a class 2 bicycle facilities
Residential visitor	19	Spaces must be Class 3 bicycle facilities
Non-residential staff	1	Spaces must be Class 2 bicycle facilities
Non-residential visitor	2	Spaces must be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	1	
Personal lockers	1	

### Notes:

- (i) If a basement storage area on title that is large enough to store a bike and is no smaller than a class 1 bike locker this can be counted as a space.
- (b) 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. The details must be submitted to and approved by the Accredited Certifier confirming compliance prior to any Construction Certificate for below ground works, other than for demolition, excavation, site remediation works and construction of basement with no fitout being issued.

## **(9) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

The following restriction applies to Building A and Building B approved for residential use:

- (a) The accommodation portion of Building A and Building B must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the *Sydney Local Environmental Plan 2012*.

- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from residential accommodation as defined in *Sydney Local Environmental Plan 2012*. The covenant is to be registered on title prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.
- (c) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (d) No person can advertise or organise the use of residential apartments approved under this consent for short term accommodation or share accommodation.

**(10) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL AND MIXED USE**

The following conditions apply to car parking:

- (a) The on-site car parking spaces, exclusive of service and visitor car spaces, are not to be used other than by an occupant, tenant or resident of the subject building.
- (b) Prior to any Occupation Certificate being issued, a documentary restrictive covenant, is to be registered on the Title of the development site pursuant to Section 88E of the *Conveyancing Act 1919*, to the effect of (a) above. The covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
- (c) Any future strata subdivision of the site is to include a restriction on User pursuant to section 39 of the *Strata Titles (Freehold Development) Act, 1973*, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate restrictive covenant pursuant to section 88B of the *Conveyancing Act 1919* burdening all car parking part - lots in the strata scheme.

## **SCHEDULE 1B**

### **PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING**

#### **(11) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL**

- (a) The Waste and Recycling Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste and Recycling Management Plan is to be submitted to and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to a Construction Certificate being issued. The plan must comply with the Council's *Guidelines for Waste Management in New Developments 2018* and provide appropriate acoustic verification should any chutes be located next to habitable rooms. The plan is to include details of the ongoing management of the chute system including bin transfers, rotations, servicing and chute failure.

All requirements of the approved Waste and Recycling Management Plan must be implemented during construction of the development.

- (c) The building must incorporate designated areas or separate garbage rooms constructed in accordance with Council's *Guidelines for Waste Management in New Developments 2018*, to facilitate the separation of commercial waste and recycling from residential waste and recycling.

#### **UPON COMPLETION OF THE DEVELOPMENT**

- (d) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

#### **(12) BASIX CERTIFICATE – DETAILS TO BE LODGED WITH A CC**

A copy of the required completed BASIX certificate accepted as part of this Development Consent with respect to the proposed residential building works, must be lodged with an application for a construction certificate and the items nominated as part of the subject BASIX certificate must be specified on the plans submitted with the construction certificate application. – See Note.

#### **IMPORTANT NOTE:**

Any requirement detailed in the accompanying BASIX Certificate, MUST be included as a specific notation or inclusion on any future Construction Certificate plans and specification in accordance with Part 3 of Schedule 1 of the EP&A Regulation, 2000.

#### **(13) NEW ROAD DESIGN**

*Liaison with other authorities* - Preparation of the detailed design and construction documentation for the proposed public road system shall include all necessary liaison with, and requirements of, all relevant public utility authorities, Transport for

NSW, the City of Sydney, the Local Pedestrian Cycling and Traffic Calming Committee and its nominated consultants in order to achieve design approvals and construction compliance. Written evidence of approval from relevant authorities must be submitted to the City with the road design submission.

*Design package and accompanying documentation* – A design package shall be prepared based on the requirements outlined in City's *Public Domain Manual*. A design report for the road works must be prepared by an appropriately qualified civil engineer certifying that the design complies with the City of Sydney's policies, standards and specifications and those of all other relevant authorities as applicable. All engineering plans and calculations shall be checked, signed and certified by a suitably qualified practicing professional engineer and included in the report. The design package, inclusive of construction documentation, and report shall be submitted to and approved by City's Public Domain Manager prior to any Construction Certificate for above ground works.

## **SCHEDULE 1C**

### **DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION**

#### **(14) OCCUPATION CERTIFICATE TO BE SUBMITTED**

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

#### **(15) HOURS OF WORK AND NOISE – CBD**

The hours of construction and work on the development must be as follows:

- (a) All work, including demolition, excavation and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.00am and 7.00pm on Mondays to Fridays, inclusive, and 7.00am and 5.00pm on Saturdays, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Unit, prior to works proceeding.

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

#### **(16) BASIX**

All commitments listed in each relevant BASIX Certificate for the development must be fulfilled prior to any Occupation Certificate being issued.

## SCHEDULE 2

### PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply:

- Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*
- Clause 98A Erection of signs
- Clause 98B Notification of *Home Building Act 1989* requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Conditions relating to maximum capacity signage
- Clause 98E Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: <http://www.legislation.nsw.gov.au>