

Attachment B

Recommended Conditions of Consent
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SCHEDULE 1 - 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) A Voluntary Planning Agreement, made in accordance with the public benefit offer made by St George Community Housing dated 17 October 2019 must be exhibited and executed.
- (b) The Voluntary Planning Agreement, as executed, must be registered on the title of the land.
- ~~(c) The payment of the monetary contribution must be provided to Council in accordance with the Voluntary Planning Agreement.~~
- ~~(d) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement~~

~~(23)~~ 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.

~~(34)~~ 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.

~~(45)~~ 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).

Condition amended and satisfied via Section 4.55(1a) on 17 March 2020

PART B – 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) CONCEPT DEVELOPMENT APPLICATION

Pursuant to Division 4.4 of the *Environmental Planning and Assessment Act, 1979* and Clause 100 of the *Environmental Planning and Assessment Regulation, 2000*, this Notice of Determination relates to a concept development application, and a subsequent development application (detailed design and use) or applications are required for the determination of any further development on the site.

(2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2019/87 dated 12 December 2017 and the following drawings prepared by DKO Architecture (NSW) Pty Ltd:

Drawing Number	Drawing Name	Date
Stage 1 Envelope	Project Number 11942	16.10.2019
Envelope Plan	Page 37 DA100 C	24/09/2024
Stage 1 Envelope	Project Number 11942	16.10.2019
Envelope Plan	Page 38 DA101 B	24/09/2024
Envelope Plan - Overall	Project Number 11942	24/09/2024
	DA102 B	
Stage 1 Envelope	Project Number 11942	16.10.2019
Stage 1 Envelope Elevations	Page 39 DA200 B	24/09/2024
Stage 1 Envelope	Project Number 11942	16.10.2019
Stage 1 Envelope Elevations	Page 40 DA201 B	24/09/2024

as amended by plans other conditions of this consent.

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

Condition amended via Section 4.55(2) on 14 November 2024

(3) MATTERS NOT APPROVED IN CONCEPT PROPOSAL DEVELOPMENT CONSENT

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

- (a) any demolition, excavation and/or construction;
- (b) any tree removal;
- (c) the layout and number of residential apartments and commercial tenancies;
- (d) the number of car parking spaces, bicycle spaces, car share, service vehicle or loading spaces/zones;
- (e) the number of storeys contained within the envelope;
- (f) the precise quantum of floor space; and
- (g) a 10% design excellence uplift in floor space ratio; and
- (h) the location of the vehicular access point to the site

(4) DESIGN EXCELLENCE AND COMPETITIVE DESIGN PROCESS

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

- (a) Conducted in accordance with 'Design Excellence Strategy for 338 Botany Road, Alexandria, dated ~~November 2019~~ 15 June 2020, prepared by BBC Consulting Planners on behalf of St George Community Housing.
- (b) Conducted prior to the lodgement of any subsequent detailed development application for the site.
- (c) Address in particular air quality, noise mitigation and ventilation requirements to maximise residential amenity for all apartments.

The detailed design of the building/s must exhibit design excellence, in accordance with Clause 6.21 of Sydney Local Environmental Plan 2012.

Condition amended via Section 4.55(1) on 1 July 2020

(5) VOLUNTARY PLANNING AGREEMENT

This consent is subject to a Voluntary Planning Agreement (VPA) in accordance with Section 7.4 of the *Environmental Planning and Assessment Act, 1979*, between the Council of the City of Sydney Council and St George Community Housing referred to in Deferred Commencement Condition (1) in Schedule 1 of this development consent.

The terms of the VPA must be complied with in any subsequent detailed design development application or applications.

(6) RESIDENTIAL LAND USE

The residential component of the development must be designed to address with the principles of State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, the provisions of the Apartment Design Guide (ADG), and the provisions of Sydney DCP 2012.

(7) GROUND FLOOR USE

The ground floor component of the development must not be used for retail premises except those retail uses permitted in accordance with the Sydney LEP 2012.

(8) DETAILED DESIGN OF BUILDINGS

The competitive design process brief and subsequent detailed design development application must incorporate the following requirements:

- a) Minimise overshadowing on adjoining properties in accordance with ADG objective 3B-2.
- ~~b) **Ensure no overshadowing of approved residential apartments at 499 and 501 – 509 Botany Road, Alexandria**~~
- c) Provide a compliant amount of communal open space in accordance with the ADG that receives adequate solar in accordance with the ADG.
- d) If roof top communal open space is proposed it must provide equitable access, be designed to prevent overlooking and noise impacts and all structures (including but not limited to plant and lift overruns) must be within the ~~33~~ **36.2m** height limit.
- e) Acoustic and ventilation treatments to the east and northern frontages in accordance with the requirements of the Sydney DCP and ADG.
- f) Waste management facilities in accordance with Section 4.2.6 of the Sydney DCP 2012.
- g) An awning is to be provided over any building entries on Botany Road in accordance with Section 3.2.4 of the Sydney DCP 2012.

Condition amended via Section 4.55(2) on 14 November 2024

(9) LAND CONTAMINATION

- (a) As part of any future detailed development application, an amended Remediation Action Plan must be submitted and approved by the City. The Remediation Action Plan must be amended to address the requirements in the Letter of Interim Advice or Section B Site Audit Statement prepared by NSW Environment Protection Authority accredited Site Auditor Melissa Porter, Senversa dated 5 September 2019.

- (b) A further letter of Interim Advice from the site auditor must be provided at the detailed development application stage.

(10) LAND DEDICATION – CAPPING LAYER

If the remediation of any land to be dedicated to the City includes a ‘capping layer’, that capping layer must be a minimum of 1.5m below the top most surface of the future footpath.

Land to be dedicated to the City cannot be subject to onerous environmental management requirements.

(11) PUBLIC ART

- (a) A detailed public art plan must be submitted with any subsequent development application for detailed design and construction of the development
- (b) The detailed public art plan referred to in (a) above must be prepared in accordance with Section 3.1.5 of the Sydney Development Control Plan 2012, the City of Sydney Public Art Strategy and Policy and Interim Guidelines for Public Art in Private Development, and include:
 - (i) A rationale for the selection of artists.
 - (ii) A rationale for each artist’s concept relevant to the site.
 - (iii) An indication of how each artwork concept is commensurate with the scale of the development.
 - (iv) Provision of public art concepts, including the form, dimensions, materials and locations of the artworks.
 - (v) A program for documentation, fabrication and installation and integration with the construction program for the development.
 - (vi) Engineer’s drawings, expected maintenance requirements and deaccessioning agreements.
- (d) Neither street furniture nor interpretation strategies must be considered as part of the public art component.

(12) ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Details are to be provided with the subsequent development application for the detailed design of the buildings to confirm that the buildings have adopted the ESD targets specified in the Design Excellence Strategy prepared by BBC Consulting Planners dated ~~November 2019~~ 15 June 2020. The ESD targets must be carried through the competitive process phase, design development, construction, and through to completion of the project.

Condition amended via Section 4.55(1a) on 1 July 2020

(13) FLOOR SPACE RATIO

- (a) The Floor Space Ratio for all detailed development applications on the site must not exceed ~~4.09~~ 4.09:1 calculated in accordance with Clauses 4.4 and 6.14 of the Sydney Local Environmental Plan 2012.
- (b) Notwithstanding (a) above, the proposal may be eligible for up to 10% additional floor space pursuant to the provisions of Clause 6.21(7) of the Sydney Local Environmental Plan 2012 if the consent authority is satisfied that the resulting detailed design development application exhibits design excellence and is the result of a competitive design process in accordance with the requirements of the Sydney Local Environmental Plan 2012.
- (c) Precise calculations and details of the distribution of floor space must be provided with any subsequent detailed design development application or applications.

Condition amended via Section 4.55(2) on 14 November 2024

(14) BUILDING HEIGHT

The maximum height of the buildings must not exceed ~~33~~ 36.2 metres in accordance with the Sydney LEP 2012 **as provided for under D/2024/273**. No structures are to exceed the ~~33~~ 36.2 metres height limit.

Condition amended via Section 4.55(2) on 14 November 2024

(15) DETAILED DESIGN TO BE CONTAINED WITHIN APPROVED ENVELOPE

Subject to the other conditions of this consent, the building envelope is only approved on the basis that the ultimate detailed design development application for the buildings on the site, including articulation, balconies, terraces, services, privacy treatments and other projections will be entirely contained within the approved building footprint and envelope, and comply with the relevant planning controls.

(16) RESIDENTIAL ACOUSTIC AMENITY

An Acoustic Impact Assessment must be undertaken by a suitably qualified acoustic consultant and submitted with any subsequent development application for detailed design and construction of the development, in accordance with the requirements of Section 4.2.3.11 of the Sydney Development Control Plan 2012.

(17) SERVICE VEHICLE SIZE LIMIT AND SWEEP PATHS

Any subsequent detailed design development application must include evidence to demonstrate adequate swept paths for the largest service vehicle to access the proposed loading area(s).

(18) STREET TREES AND DETAILED DESIGN DEVELOPMENT APPLICATION

- (a) All street trees surrounding the site must be included for retention with any future detailed design Development Application/s.

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

(19) WASTE COLLECTION AND SERVICING

Any subsequent detailed design development application is to provide details of the location, construction and on-site servicing of the waste collection facilities for the proposed building in a Waste Management Plan (WMP). The design of the facilities is to be in accordance with Sections 3.11.13 and 4.2.6 of the Sydney Control Plan 2012, including the following requirements:

- (a) Dedicated spaces for residential bulky waste storage must be provided. These spaces should be separated by a caged area (or similar) if included within nominated waste holding rooms for storage or collection bins.
- (b) Clearance height for access by collection vehicles must be no less than 4 metres at any point where Council vehicles are required to enter site to service bins;
- (c) Collection vehicles to enter and exit in a forward direction; and
- (d) Unimpeded access must be provided for Council collection from the residential waste and recycling storage location(s) at all times.

(20) LOADING DOCK MANAGEMENT PLAN

Any subsequent detailed design development application must include a loading dock design and draft Loading Dock Management Plan, including the following:

- (a) Service vehicle parking spaces provided in accordance with Section 3.11.6 and Schedule 7.8.1 of the Sydney Development Control Plan 2012.
- (b) Compliance with the minimum requirements of Australian Standard AS/NZS 2890.2 Parking facilities Part 2: Off-street commercial vehicle facilities including that vehicle access will provide for:
 - (i) A 9.25 metre truck (such as a removalist vehicle); and
 - (ii) Minimum vertical clearance of 4.5 metres.

(21) AUSGRID

Consultation is required with Ausgrid as part of the detailed design development application to confirm whether a substation is required and whether the future development will impact existing overhead powerlines.

Details of the consultation undertaken are to be provided to Council with any subsequent detailed design development application.

(22) FLOODING

A flood assessment report to determine the detailed design flood planning level (FPL) requirements for the subject site is to be submitted with any subsequent detailed development application for the detailed design and construction of the development.

(23) ACID SULPHATE SOILS

As part of any detailed development application, one of the following must be provided:

- (a) Evidence that an acid sulphate soils management plan is not required; or
- (b) An acid sulphate soils management plan.

(24) TRANSPORT IMPACT STUDY

A transport impact study is required to be submitted as a part of detailed development application to demonstrate that the traffic generation from the proposed development will not impact adversely to the adjacent road network. In estimating trip generation Sydney average value from the RMS technical direction TDT 2013/ 04a should not be used. Trip generation coefficient from comparable sites (such as Rockdale in the RMS document) or survey data from similar site should be used in the assessment.

(25) GREEN TRAVEL PLAN

A Green Travel Plan is to be submitted as part of any detailed design development application.

(26) ON SITE LOADING AREAS AND OPERATION

- (a) The detailed development application must ensure all loading and unloading operations associated with servicing the site, including garage collection, can be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

(27) RMS CONDITIONS:

- (a) Any new buildings or structures, together with any improvements integral to the future use of the site are erected clear of the land required for road (unlimited in height or depth) and wholly within the freehold property (unlimited in height or depth), along the Botany Road boundary.
- (b) The redundant driveways on the Botany Road boundary shall be removed and replaced with kerb and gutter to match the existing. The design and construction of the kerb and gutter on Botany Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained by email to: development.sydney@rms.nsw.gov.au

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

- (c) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.
- (d) The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Please send all documentation to: development.sydney@rms.nsw.gov.au
- (e) If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
- (f) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Please send all documentation to: development.sydney@rms.nsw.gov.au
- (g) A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.
- (h) The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTRROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- (i) In accordance with AS 2890.1- 2004 (Parking Facilities, Part 1: Off-street car parking), the driveway shall be a minimum of 5.5 metres in width for a minimum distance of 6 metres from the property boundary.
- (j) Roads and Maritime is currently undertaking a program to implement "Clearways" on State roads within Sydney. If not already in place, "Clearway" restrictions will be implemented along the full Botany Road frontage of the development site.

(28) SYDNEY AIRPORTS CONDITIONS:

- (i) The building must not exceed a maximum height of 52.65 metres AHD, this includes all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden planting, exhaust flues etc.
- (ii) The proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing by emailing ifp@airservicesaustralia.com and quoting YSSY-CA_165.
- (iii) Separate approval must be sought under the Regulations for any equipment (i.e. cranes required to construct the building. Construction

cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) be obtained prior to any commitment to construct.

- (iv) On completion of construction of the building, the Proponent must provide SACL with a written report from a certified surveyor on the finished height of the building.

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>