

# Memo to the Waverley Local Planning Panel

**To:** Chair and Panellists of the Waverley Local Planning Panel

**From:** David Knight, Senior Development Assessment Planner  
Bridget McNamara, Manager, Development Assessment

**Subject:** Item 6 - DA-214/2022 – 17-21 Curlewis Street BONDI BEACH  
Addendum to the Assessment Report (land contamination issues)

**Date:** 12/12/2022



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## 1. PREAMBLE

The development application, known as DA-214/2022, was lodged with Council on 2 June 2022 for demolition of existing buildings and construction of a 3 storey commercial building with basement services and parking at the site known as 17-21 Curlewis Street, North Bondi.

The application is recommended for deferred commencement consent by Council's Development and Building Unit (DBU) in a report to the Waverley Local Planning Panel (WLPP), as the applicant had not provided documentation stating that the site is suitable, or will be made suitable, for the intended use in terms of contamination and remediation of land.

## 2. ASSESSMENT OF ADDITIONAL INFORMATION

On 8 December 2022, the applicant provided a letter from Douglas Partners Pty Ltd stating that the site will be rendered suitable for the intended use subject to a data gap investigation and preparation of a remedial action plan if subsequently required.

Council's Executive Manager of Compliance has reviewed the letter, and is now satisfied that the site is suitable, or will be made suitable, for the intended use, that the provisions of Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 are met, and that therefore the application can be approved without the requirement for a Deferred Commencement consent subject to the following condition of consent:

### **34. SITE CONTAMINATION**

*Sampling data gaps currently exist namely: (i) potential undetected variations in contaminants in fill beneath inaccessible parts of the site, and (ii) potential impacts resulting from demolition of the existing structures on-site.*

*Therefore, the site must be made suitable for the proposed commercial development subject to the following prior to the commencement of any work, other than demolition or excavation in association with remediation of the site:*

- a. *Conduct a data gap investigation (DGI), following demolition, by a suitably qualified environmental consultant, a CEnvP-SC qualified at minima, to provide an updated statement on suitability of the site for the proposed development to be submitted to and approved by Council's Executive Manager of Compliance (or delegate). The DGI must comprise additional testing/inspection to meet NSW EPA recommended sampling densities and assessment of any potential demolition impacts; and*
- b. *(If required) Preparation of a Remediation Action Plan (RAP) to manage the site in accordance with:*
  - i. *Guideline on Investigation Levels for Soil & Groundwater : Schedule B1 – National Environment Protection (Assessment of Site Contamination) Measure (NEPM), (1999 amended 2013).*
  - ii. *NSW Contaminated Land Management Act 2008 No.11 a*
  - iii. *State Environmental Planning Policy (Resilience and Hazards) 2021*
- c. *Remediation works must ensure no unnecessary harm to human health or the environment.*

All other land contamination conditions found in *APPENDIX A – DEFERRED COMMENCEMENT* and *APPENDIX B – CONDITIONS OF CONSENT* of the assessment report dated 4 December 2022 are to be deleted, being the following:

- APPENDIX A – DEFERRED COMMENCEMENT condition 1
- APPENDIX B – CONDITIONS OF CONSENT conditions:
  - 34. REMEDIAL ACTION PLAN
  - 35. SITE CONTAMINATION - REMEDIATION WORKS
  - 36. REMEDIATION REQUIREMENTS
  - 37. SITE CONTAMINATION - VALIDATION REPORT

The full set of amended conditions are included at *APPENDEX 1 – CONDITIONS OF CONSENT* of this memo.

### **3. CONCLUSION**

The applicant has provided additional documentation to demonstrate that the site is suitable, or will be made suitable, for the intended use in terms of contamination and remediation of land.

Therefore, the recommendation of the Manager, Development Assessment on behalf of the Development and Building Unit to the Local Planning Panel is that the application be GRANTED APPROVAL subject to the conditions of consent at Appendix 1 of this memo, and that deferred commencement is no longer required.

**Memorandum prepared by:**



David Knight

**Senior Development Assessment Planner**

**Date:** 12 December 2022

**Memorandum reviewed and agreed upon  
(on behalf of Council's Development and  
Building Unit):**



Bridget McNamara

**Manager, Development Assessment**

**Date:** 12 December 2022

# APPENDIX 1 – CONDITIONS OF CONSENT

## **A. APPROVED DEVELOPMENT**

### **1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

- (a) Architectural Plans prepared by Bang Architecture including the following:

<b>Plan Number</b>	<b>Revision</b>	<b>Plan Name</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA103	B	Demolition plan	03/11/2022	25/11/2022
DA200	C	Ground	25/11/2022	25/11/2022
DA201	C	Level 1	25/11/2022	25/11/2022
DA202	C	Level 2	25/11/2022	25/11/2022
DA203	C	Level 3	25/11/2022	25/11/2022
DA210	C	Roof	25/11/2022	25/11/2022
DA300	C	North	25/11/2022	25/11/2022
DA301	C	East	25/11/2022	25/11/2022
DA302	C	South	25/11/2022	25/11/2022
DA303	C	West	25/11/2022	25/11/2022
DA310	C	A-A	25/11/2022	25/11/2022
DA311	C	B-B	25/11/2022	25/11/2022
DA312	C	C-C	25/11/2022	25/11/2022
DA313	C	D-D Driveway	25/11/2022	25/11/2022

- (b) BASIX and NatHERs Certificate/s
- (c) Stormwater Details and documentation prepared by Glen Haig & Partners dated 11/11/2022, and received by Council on 16/11/2022
- (d) National Construction Code Access Report and documentation prepared by Design Confidence dated 25/05/2022, and received by Council on 01/06/2022
- (e) Arborist Report prepared by L&Co dated 16/11/2022, and received by Council on 17/11/2022/
- (f) Schedule of external finishes and colours received by Council on 16/11/2022
- (g) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 17/11/2022
- (h) The Acoustical Assessment prepared by Koikas Acoustics dated 24/11/2022, and received by Council on 25/11/2022

Except where amended by the following conditions of consent.

### **2. GENERAL MODIFICATIONS**

The application is approved subject to the following plan amendments;

- (a) The trafficable area of the level 2 rear balcony must be set back a minimum of 3 metres from the edge of the level 2 building form (to the rear and the sides) to maintain amenity for neighbouring sites. The non-trafficable areas must be covered by landscaped planters.

- (b) An awning must be provided over the footpath, attached to the approved building between street level and first floor level. The awning must be set back 1.2m from the kerb to accommodate future street tree planting.
- (c) An access gate at the entrance to the pedestrian entry passageway must be provided to ensure security for the premises, and to ensure there is no recessed concealed area adjacent to the street.

The amendment above is to be approved by the **Executive Manager, Development Assessment or delegate** prior to the issue of any Construction Certificate. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

### **3. LANDSCAPE PLAN**

The application is approved subject to the following amendments to the landscape plan;

- (a) The landscape plan is to be amended to show all trees on site and trees on neighbouring properties that will be impacted on by the proposed.
- (b) The landscape plan is to be amended to show at least 3 trees that must be a local native of 45 litre pot size and grow to a minimum height of five metres at maturity.

The amendment above is to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

### **4. PUBLIC DOMAIN IMPROVEMENTS**

The public domain is to be upgraded on Curlewis Street frontage for the development site in accordance with the current Waverley Council Development Control Plan (DCP) and Public Domain Technical Manual (PDTM) at the time of engineering plan approval. A public domain plan for the following works shall be submitted to Council, and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

- Pedestrian footpath
- Vehicular crossing
- Kerb and gutter
- Stormwater infrastructure located within the Council kerb and/or footpath
- Street planting and landscaping

## **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **GENERAL REQUIREMENTS**

#### **5. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

## **6. SURRENDER OF DEVELOPMENT CONSENT**

Development consent DA-320/2018, as modified by modification A, is to be surrendered by the applicant, in accordance with the requirements of the Environmental Planning and Assessment Regulation 2021. The surrender is to be received by Council prior to the issue of any Construction Certificate for works associated with this development consent. The surrender of the consent takes effect when Council receives the notice.

## **7. GREEN ROOF LANDSCAPING DETAILS**

The construction certificate landscape plans are to comply with the controls for green roofs in Part B3.1 of the *Waverley Development Control Plan 2012* including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 – 1).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species;
- (c) The green roof is to be designed to be a non-trafficable area (with no balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

A qualified landscape architect must review the design and verify that it complies with the above requirements.

## **CONTRIBUTIONS, FEES & BONDS**

### **8. SECTION 7.12 CONTRIBUTION**

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
- (i) A development valued at \$100,000 or less will be exempt from the levy;
  - (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

## **9. SECURITY DEPOSIT**

A deposit (cash or cheque) for the amount of \$64,431.12 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

- 10. LONG SERVICE LEVY** long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

## **PLAN DETAILS**

### **11. PROVISION FOR SHAFT FOR FUTURE FOOD PREMISES**

Adequate provision shall be made within the confines of the building, for the installation of a mechanical exhaust system for future food/commercial use/s within the building.

## **CONSTRUCTION MATTERS**

### **12. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

### **13. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

#### **14. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

- (a) A detailed geotechnical report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.
- (b) The report must satisfy the recommendations of the Report on Desktop Study R.001.Rev3 prepared by Douglas Partners dated 18 November 2022, including:
  - A full geotechnical investigation of the site; and
  - Footing investigations of adjacent buildings.
- (c) The report must directly address how the structural stability of neighbouring properties including 15 Curlewis Street will be maintained, and how those properties will be protected from damage.
- (d) Must be submitted to approved by the Principal Certifying Authority prior to the issue of any Construction Certificate.
- (e) Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

#### **15. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

#### **TRAFFIC MANAGEMENT**

#### **16. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)



## **STORMWATER, FLOODING AND PUBLIC DOMAIN**

### **17. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted Water Management Plan prepared by Glen Haigh & Partners, Drawing No. H000, H101-H105, dated 11/11/2022 is considered concept only.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and address the following:

- a) An existing sewer owned by Sydney Water is located underneath the proposed building. Any works on or adjacent to Sydney Water assets require Sydney Water approval.
- b) Orifice incorrectly sized. Redesign to match OSD storage provided.
- c) Connection to Council's below ground drainage system (road reserve) has insufficient information. Requires pipe cut flush with internal wall of pit and pipe and enter pit perpendicular to pit wall.
- d) Non-return valve required at outlet pipe at connection point within Council's stormwater line.
- e) Prior to Construction Certification, long-section and detail (e.g., location of existing service crossings and clearances, existing surface levels, and invert of existing pipe and invert of outlet pipe) required for connection into Council's below ground drainage network.
- f) Pit deeper than 0.9m required to be 0.9m x 0.9m
- g) Unacceptable that stormwater at rear of property not collected with no overland flow path. Redesign accordingly.
- h) OSD tank has insufficient gratings cover (minimum 30% of area required). Redesign accordingly.
- i) Prior to construction certification, maintenance plan for Water Sensitive Urban Design (WSUD) assets to be provided.
- j) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- The checklist as set out on pages 68-76 on Council's Water Management Technical Manual (Oct 2021) available online shall be completed and submitted with any revision of Construction Certificate Plan Submission.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

## **18. PUBLIC INFRASTRUCTURE WORKS**

Public infrastructure works shall be designed and constructed as outlined in this condition of consent. The approved works must be completed to Council's satisfaction at no cost to Council.

Full design engineering drawings to be prepared by a suitably qualified and experienced engineering professional and be submitted to Council for the approval of the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The Applicant must submit plans and specifications for the following infrastructure works to Council's Public Infrastructure Engineer:

- Footpath, Kerb and Gutter: Replace all footpath, kerb and gutter traversing Curlewis Street frontage in accordance with the current DCP and PDTM. Any stormwater kerb lintel infrastructure within the extent of kerb and gutter works shall be replaced. Proposed kerb profiles are to be provided to ensure proper connections to existing kerb and gutter along the street frontage.
- Street Planting and Landscaping: The street planting and landscaping upgrade as per PDTM along the full development site frontage.
- Any existing or proposed utility pillars on the site frontages to be either underground or inside the property boundary of the proposed development. Applicant must liaise with the relevant authorities for their approval and communicate to Council with written confirmation, before executing any works.

- d) All mains electrical connections to the development must be routed underground. Council will not accept the erection of newly placed electricity columns within the Council's Public Domain to support the new development.

### **Notes**

The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.

Council's contact for public domain: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4.00pm Monday to Friday).

## **19. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

## **ENERGY EFFICIENCY & SUSTAINABILITY**

### **20. ENERGY EFFICIENCY**

An Energy Assessment Report is to be submitted in accordance with the *Waverley Development Control Plan 2012*, which recommends design solutions to reduce the predicted operational energy demand and greenhouse gas emissions of the proposed development by 30% less than a reference building (i.e. NCC, Section J compliant only). The report is to be submitted and be to the satisfaction of Council's Executive Manager, Environmental Sustainability (or delegate) prior to the issue of a Construction Certificate for any works above ground level.

The construction certificate plans are to incorporate the recommendations of the approved Energy Assessment Report.

### **21. GREEN TRAVEL PLAN**

An amended Green Travel Plan is required, which must include the:

- Requirement for secure bicycle parking for 14 bicycles, including cargo bikes and electric bikes
- Requirement for power access to all bicycle parking in design
- Requirement to provide end of trip facilities in addition to bike parking, including lockers, showers.
- Requirement to include further activities, encouragement to increase the use of sustainable and active transport journeys to work.
- Requirement to Identify how the management and monitoring of the Green Travel Plan post opening could be enforced

The report is to be submitted and be to the satisfaction of Council's Strategic Transport Manager (or delegate) prior to the issue of a Construction Certificate for any works above ground level.

## **WASTE**

## **22. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

## **23. WASTE STORAGE AREAS**

The development must have a bin storage area with sufficient space to accommodate the following minimum requirements.

- **Commercial** (850 m<sup>2</sup> for office use)
  - 1 x 660L Mobile Garbage Bins (MGBs) for general waste.
  - 1 x 660L MGBs for co-mingled recycling.
  - 1 x 660L MGBs for cardboard.
  - The frequency of collection must be monitored by the café staff and adjusted accordingly, particularly during summer.
  
- All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B1 of the *Waverley Council Development Control Plan 2012* to the satisfaction of the Principal Certifying Authority.

## **NOISE**

### **24. NOISE MANAGEMENT PLAN - DEMOLITION, EXCAVATION AND CONSTRUCTION**

A site specific Noise Management Plan, prepared by a suitably qualified acoustic consultant (as defined in the advisory section of this consent) must be submitted to the satisfaction of Council's Executive Manager, Compliance (or delegate) for demolition, excavation and construction works.

For further information on the requirements, refer to Council's website:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

### **25. NOISE – ACOUSTIC REPORT**

Once all mechanical plant has been selected, an Acoustic Assessment Report prepared by a suitably qualified acoustic consultant shall be prepared to assess the impacts of the development (internal and external areas) including any mechanical plant, refrigeration motors and air conditioning units and make recommendations to ensure that the noise from the development will be within the acceptable limits of the Protection of the Environment Operations Act 1997 and relevant legislation. The plan must be submitted to the satisfaction of Council's Executive Manager, Compliance (or delegate).

Note: Any management measures recommended in the acoustic report shall be incorporated into a Plan of Management, which will be required to be submitted to Council for approval prior to the issue of an Occupation Certificate.

For further information on the requirements, refer to Council's website:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications - conditions of consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

## **26. NOISE – ACOUSTIC TREATMENTS ON CONSTRUCTION PLANS**

The Construction Certificate plans must include the following noise mitigation measures, taken from the Acoustical Assessment prepared by Koikas Acoustics dated 24/11/2022, and received by Council on 25/11/2022:

- All balustrades attached to the rear outdoor areas (excluding the top rooftop level at 21 Curlewis Street) are to be no less than 1.2m high. This height can include any height provided by planter boxes, and are to be constructed with no gaps between the panels, post and balcony floors.
- The boundary walls at rear ground floor level are to be of a solid construction (timber or Colorbond fencing is not recommended). The boundary walls are to have absorptive panels installed on its face.
- The underside of concrete soffits in outdoor areas fronting Curlewis Street are to be lined with absorptive panels.

## **27. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE APPLICATION**

An application to obtain a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be made prior to the issue of the relevant Construction Certificate. The application must be made through an authorised Water Servicing Coordinator.

For more information about making an application to obtain a Section 73 Compliance Certificate, please consult Sydney Water's website.

Following this application, a "Notice of Requirements" will be provided by Sydney Water that outlines any requirements of works to be completed prior to the issue of the Section 73 Compliance Certificate. Please make early contact **with the Coordinator**, as building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

## **28. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

## **C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **PRIOR TO ANY WORKS**

#### **29. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

### **DEMOLITION & EXCAVATION**

#### **30. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- *Protection of the Environment Operations Act 1997*.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

#### **31. CONTROL OF DUST ON CONSTRUCTION SITES**

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high

efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

### **32. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste Classification Guidelines 2014.

### **33. EXCAVATION AND BACKFILLING**

- (a) All excavations and backfilling are to be managed by a practising structural engineer.
- (b) All excavations and backfilling are to be carried out in accordance with the detailed geotechnical report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, approved by the Principal Certifying Authority.
- (c) Any changes to the excavation methodology which deviate from the detailed geotechnical report must be reviewed by a suitably qualified and practising Structural Engineer/Geotechnical Engineer and approved by the Principal Certifying Authority.
- (d) All work associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

### **34. SITE CONTAMINATION**

Sampling data gaps currently exist namely: (i) potential undetected variations in contaminants in fill beneath inaccessible parts of the site, and (ii) potential impacts resulting from demolition of the existing structures on-site.

Therefore, the site must be made suitable for the proposed commercial development subject to the following prior to the commencement of any work, other than demolition or excavation in association with remediation of the site:

- (a) Conduct a data gap investigation (DGI), following demolition, by a suitably qualified environmental consultant, a CEnvP-SC qualified at minima, to provide an updated statement on suitability of the site for the proposed development to be submitted to and approved by Council. The DGI must comprise additional testing / inspection to meet NSW EPA recommended sampling densities and assessment of any potential demolition impacts; and
- (b) (If required) Preparation of a Remediation Action Plan (RAP) to manage the site in accordance with:

- i. Guideline on Investigation Levels for Soil & Groundwater : Schedule B1 – National Environment Protection (Assessment of Site Contamination) Measure (NEPM), (1999 amended 2013).
- ii. NSW Contaminated Land Management Act 2008 No.11 a
- iii. State Environmental Planning Policy (Resilience and Hazards) 2021

(c) Remediation works must ensure no unnecessary harm to human health or the environment.

### **35. REMEDIATION WORKS REQUIRED**

All exposed areas shall be progressively stabilised and revegetated on the completion of remediation works. Remediation work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am and 1pm on Saturdays with no work to be carried out on Sundays or public holidays.

### **CONSTRUCTION MATTERS**

#### **36. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

#### **37. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

#### **38. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002*, clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

#### **39. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

#### **40. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify



the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

#### **41. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

#### **TREE PROTECTION AND REMOVAL**

#### **42. TREE PROTECTION**

Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

Trunk protection as per AS 4970 – 2009, Section 4.5.3 is to be installed.

Padding to be used shall be non-absorbing or free draining to prevent moisture build up around the part being protected.

The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8 metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with 2mm galvanised wire or galvanised hoop strap. The timbers shall be wrapped around the trunk (over the carpet underfelt), but not fixed to the tree to avoid mechanical injury or damage to the trunk. Trunk protection must be installed prior to any site works including demolition and maintained in good condition for the duration of the construction period.

- TPZ – A 1.8m chain link wire fence or the like shall be erected around the above trees to be retained to protect them from damage during construction. Fencing is not to be removed until all building work has been completed. Fencing to be installed to the dimensions outlined in the table above.
- If any tree roots are exposed during any approved works then roots smaller than 30mm are to be pruned as per the specifications below. Any roots greater than 30mm are to be assessed by a qualified arborist before any pruning is undertaken.

- If tree roots are required to be removed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).
- It is the arborist's responsibility to determine if such root pruning is suitable. If there are any concerns regarding this process, then Waverley Council's Tree Management Officer is to be contacted to make final determination.
- If any trees on neighboring properties require pruning, then permission must be gained from the owner of the tree(s) and an Application to Prune or Remove Trees on Private Property is then to be presented to Council for processing.

#### **43. TREES PERMITTED TO BE REMOVED**

The following trees are permitted to be removed;

Tree number	Tree Species & approx height	Location
T 1	Syzygium paniculatum (Brush Cherry)	On site
T 2	Syzygium paniculatum (Brush Cherry)	On site
T 3	Viburnum sp. (Viburnum)	On site
T 4	Viburnum sp. (Viburnum)	On site
T 5	Syzygium paniculatum (Brush Cherry)	On site
T 6	Syzygium paniculatum (Brush Cherry)	On site
T 7	Syzygium paniculatum (Brush Cherry)	On site
T 8	Viburnum sp. (Viburnum)	On site
T 9	Viburnum sp. (Viburnum)	On site
T 10	Syzygium paniculatum (Brush Cherry)	On site
T 11	Nerium oleander (Oleander)	On site
T 12	Hymenosporum flavum (Native Frangipani)	On site

At least three replacement trees that must be a local native of 45 litre pot size and grow to a minimum height of five metres at maturity must be planted prior to the issuance of any Occupation Certificate.

#### **VEHICLE ACCESS & PUBLIC DOMAIN WORKS**

##### **44. NEW VEHICLE CROSSING**

A new vehicle crossing is to be provided to access the proposed basement car park. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

The crossing is to be 3.0 metres wide at the property boundary and 3.0 metres wide plus 0.45 metre splays at the street.

Note: Prior to the submission of the vehicle crossing application, works as executed drawings shall be submitted to Council for the approval of the Executive Manager Creating Waverley confirming the finished levels of the internal driveway between the property boundary and the garage floor comply with the approved driveway long sections.

##### **45. VEHICULAR ACCESS - FINISHED LEVEL TO FOOTPATH**

The finished level at the property boundary on both sides of each vehicle crossing is to match the existing concrete footpath.

#### **46. CAR PARKING**

A maximum of 5 car parking spaces are to be provided within the development, allocated in the following manner:

- (a) 4 standard commercial parking spaces; and
- (b) 1 accessible commercial parking space

All car spaces are to be appropriately marked.

#### **47. BICYCLE PARKING**

A minimum of 14 bicycle parking spaces are to be provided within the development.

The bicycle spaces are to be designed in accordance with Australian Standard AS2890.3 - 2015 Parking Facilities - Bicycle Parking.

#### **48. CONVEX MIRRORS**

Convex mirrors are to be placed inside the site at the vehicular access ramp for drivers when exiting the site to view pedestrians approaching from either direction along the adjacent roadway/footpath.

The purpose of the convex mirrors is NOT for drivers to identify moving vehicles on the public road as this distorts the location and speed of vehicles on the roadway, therefore the location of the mirrors is to be such that it provides sight to pedestrians as the priority.

Details are to be shown on the plans to be submitted to Council for the approval of the Executive Manager, Infrastructure Services, or delegate.

#### **49. ELECTRIC VEHICLE CHARGING POINTS**

One x 'Level 2' AC fast electric vehicle charging point is to be installed within the car parking area.

#### **50. HEADROOM CLEARANCE**

The headroom clearance on the driveway and within the carpark for access to car parking spaces is to be a minimum of 2.2 metres in general and 2.5 metres above the disabled parking spaces and shared zones for the car parking spaces.

#### **51. PRE-CONSTRUCTION DILAPIDATION REPORT**

To ensure Council's infrastructure is adequately protected a pre-construction dilapidation report on the existing public infrastructure within the vicinity of the proposed development and along the travel routes of all construction vehicles is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record (in colour) of any observable defects to the following infrastructure where applicable:

- Road pavement
- Kerb and gutter
- Footpath
- Drainage pits and lintels

- Traffic signs
- Any other relevant infrastructure

The report is to be dated, submitted to, and accepted by Council's Public Infrastructure Engineer, prior to any work commencing on the site. All fees and charges associated with the collation of this report shall be at the cost of the Applicant.

## **52. NOTICE OF INTENTION TO COMMENCE PUBLIC DOMAIN WORKS**

Prior to commencement of the public domain works notice shall be submitted to Council's Public Infrastructure Engineer. This notice shall include the name and insurance details of the Contractor who will be responsible for the construction works, and details of the managing site supervisor/engineer. The applicant is also responsible for obtaining all Road Activity Permits required for the works, from the respective authorities.

## **53. PUBLIC DOMAIN ENGINEERING INSPECTIONS**

To ensure all public infrastructure engineering works required by Council under this consent will be constructed to Council satisfaction, inspection(s) will be required and compliance certificates must be obtained from Council's Public Infrastructure Engineer for the footpath, kerb and gutter, stormwater, street planting and landscaping hold points.

## **NOISE – MECHANICAL PLANT**

### **54. REFRIGERATION UNITS & MECHANICAL PLANT**

Refrigeration motors/units and other mechanical plant (i.e. air conditioning) are not to be installed outside the building without the prior consent of Council's Executive Manager, Compliance (or delegate). In order to assess the cumulative impacts of noise to adjoining properties. All plant is to be acoustically treated to ensure that it is within the acceptable limits.

## **PRIVACY SCREENING**

### **55. PRIVACY SCREENING**

Fixed privacy screening at minimum angle of 45 degrees, angled away from neighbouring residential development, must be provided to the rear windows at 21 Curlewis Street.

## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

## **CERTIFICATION AND LICENCES**

### **56. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

#### **57. CERTIFICATION OF NEWLY CONSTRUCTED AND RETAINED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. Similarly, any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced to best practice. A copy of the certification must be submitted to Council.

#### **58. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM**

- a. A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared, stamped, and signed by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, basement pump-out facility, rainwater harvesting facility and other drainage-related infrastructure. An original or a color copy must be submitted to Waverley Council. Where changes have occurred, the Council-approved plans shall be marked-up in red ink and shall include levels and locations for the drainage structures and works.
- b. A suitably qualified and practicing Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works and basement pump-out facility were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards, and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

#### **59. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD**

Prior to the issue of an Occupation Certificate, a “Positive Covenant” and “Restriction on the Use of Land” shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

#### **60. SUPERVISING ENGINEER FINAL CERTIFICATE – PUBLIC DOMAIN**

Prior to the issue of any Occupation Certificate for the works, the Applicant shall submit to Council, a final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved plans and Waverley Council standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

#### **61. WORK-AS-EXECUTED PLAN – PUBLIC DOMAIN**

To ensure public infrastructure works required under the consent are completed in accordance with approved plans and specifications, a Work-as-Executed plan of the works, prepared by a registered surveyor is to be submitted to the Principal Certifying Authority and Council for review with any required rectification works completed and approved by Council prior to issue of any Occupation Certificate.

The W.A.E plans are to note all departures clearly in red on a copy of the approved Construction Certificate plans and certification from an experienced chartered civil engineer shall be submitted to support all variations from approved plans.

#### **62. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS**

To ensure public infrastructure works required under the consent are completed to Council's satisfaction a final inspection of the completed works is required from Council's Infrastructure Engineer. The Occupation Certificate shall not be issued until certification has been obtained from Council confirming the public infrastructure works have been constructed to Council's satisfaction.

##### **Notes**

- The issue of a Final Compliance Certificate from the Council Engineer will be withheld should there be any outstanding fees and charges applicable to the development. This includes but not limited to fees applicable for engineering plans assessment and work inspection fees.
- The refund of any damage and/or security deposits will be subject to satisfactory restoration and rectification of all civil infrastructure that have dilapidated as a result of the construction activities associated with this development consent.
- To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works completed by the applicant/developer following completion of the development. The defects liability period shall commence from the date of issue of the Occupation Certificate for the development. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period.

#### **63. CERTIFICATION OF ALL MECHANICAL PLANT**

A Certificate of Test of all mechanical plant together with a copy of the final test figures, conducted by a suitably qualified person, certifying that the system complies with the conditions of this consent, National Construction Code (NCC) and relevant Australian Standards.

#### **64. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE**

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of any occupation certificate.

## **MANAGEMENT PLANS**

### **65. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE**

A Waste Management Plan must be submitted to Council's Executive Manager, Environmental Sustainability (or delegate) and include including the following where relevant;

- (a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)
- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) Confer with Sydney Water regarding whether a Trade Waste Agreement is required. A copy of the agreement shall be forwarded to Council if one is entered into with Sydney Water.
- (d) The role and responsibility of managing composting facilities (if provided);
- (e) Clear signage identifying the different bin types, space for reusable items such as crates and pallets, bulky household waste and problem waste must be displayed.
- (f) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (g) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of bins, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.
- (h) All waste and recycling bins must only be placed out on Council footpath for collection no earlier than 5:30 p.m. on the day prior to the designated waste collection day and retrieved from the kerbside as early as possible.
- (i) The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan. An additional copy of the plan is be available on site when requested.
- (j) At no times shall bins be stored on the public domain (e.g. footpaths).

## **OTHER MATTERS**

### **66. ALLOCATION OF STREET NUMBER**

The redevelopment of the property has led to the following allocation of primary and sub-premises numbering:

- No. 17 - primary address site number
- Curlewis Street - primary address location.

The primary premises number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level, located near the pedestrian entry point and be clearly visible on the site boundary that fronts Curlewis Street.

- Shop G01 for the ground floor commercial sub-address site within the building,
- 101-102 for the commercial sub-address sites within the building correlating with Nos. 1.1 -1.2 on the floor plans for the building.
- 201-202 for the commercial sub-address sites within the building correlating with Nos. 2.1 -2.2 on the floor plans for the building

- 301-302 for the commercial sub-address sites within the building correlating with Nos. 3.1- 3.2 on the floor plans for the building

The address number for a sub-address site shall not consist of the primary address number on its own. Sub-address numbers shall be applied in a logical sequence and within a primary address site shall be unique regardless of the type of the address.

Level at ground and below ground shall also be identified by prefixes to distinguish these levels ie Ground =G, Lower Ground = LG etc

Commercial premises will be identified with an address identifier ie Shop G01, Shop 101.

The primary and sub-address numbers are to be positioned on the site prior to the issue of the Occupation/Subdivision Certificate and Council notified of the corresponding sub-address numbers to lot number prior to the issue of the Occupation/Subdivision Certificate.

Any variation to the above premises numbering requires a new application for a Change of street number and/or location to be lodged with Council.

## **67. ACOUSTIC ASSESSMENT RECOMMENDATIONS**

The various sections of the acoustic assessment conducted by Koikas Acoustics Pty Ltd reference number

5358R20220427kn17-21CurlewisStreetBondi\_DAv3.docx dated 25 November 2022 are to be implemented, these include:

- Section 4.2 EPA Noise Policy for Industry
- Section 5.4 Recommendations for Building use assessment
- Section 6 Mechanical Plant noise impacts

A certificate of compliance prepared by a suitably qualified acoustic consultant is to be submitted to Council certifying that all the recommendations made in the above assessment/report have been satisfied and Councils noise criteria has been met prior to the issue of an occupation certificate.

## **68. OUTDOOR AREA SIGNAGE**

Signs are to be installed in the outdoor area with the following information:

- The outdoor area must only be used between 7am and 6pm; and
- Users are reminded to manage their noise levels as there are residential premises nearby.
- No music is to be played within, or directed toward, the outdoor areas.
- The maximum capacity of the outdoor areas, being:
  - 8 people for each of the rear outdoor areas at first, second and third floor level
  - 20 people for the front open spaces at first and second floor level
  - 25 people for the rooftop open space at third floor level

## **E. OPERATIONAL MATTERS**

The following operational conditions must be complied with at all times, throughout the use and operation of the development or use.

## **69. MANAGEMENT OF OUTDOOR AREA**



The outdoor area must be managed and operated as follows:

Signs are to be installed in the outdoor area with the following information:

- The outdoor area must only be used between 7am and 6pm; and
- No music is to be played within, or directed toward, the outdoor areas.
- The maximum capacity of the outdoor area are:
  - 8 people for each of the rear outdoor areas at first, second and third floor level
  - 20 people for the front open spaces at first and second floor level
  - 25 people for the rooftop open space at third floor level
- The outdoor areas must not be used for any purpose other than ancillary to office use, unless prior approval is granted by Council.

## **70. COPIES OF CONSENTS AND MANAGEMENT PLANS**

A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Managements must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or ILGR Authorised Officers.

### **AMENITY & SAFETY**

#### **71. NOISE EMISSIONS**

The use of the premises shall not give rise to the transmission of "Offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.

#### **72. NOISE - MECHANICAL PLANT (COMMERCIAL PREMISES)**

Noise associated with mechanical plant shall not give rise to any one or more of the following:

- a. Transmission of "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.
- b. A sound pressure level at any affected property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use. The source noise level must be assessed as a LAeq, 15 minute.
- c. Notwithstanding compliance with (a) and (b) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.

#### **73. AIR EMISSIONS**

The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act, 1997.

#### **74. WASTE MANAGEMENT PLAN REVIEW**

After 5 years of operation under this development consent, the Approved Waste Management Plan is to be reviewed to ensure that the details including contracts, roles and responsibilities, commercial tenants (if relevant) are current. The updated plan is to supersede the previous plan.

#### **75. RAINWATER HARVESTING AND REUSE**

The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.

#### **76. CONTROL OF LEGIONNAIRES DISEASE**

All cooling towers, warm water systems and other regulated systems must be installed, operated and maintained in accordance with AS/NZS 3666 2011, the Public Health Act 2010, Public Health Regulation 2012 and NSW Health Code of Practice for the Control of Legionnaires Disease.

The occupier of the building must register and provide particulars of any water cooling, and warm-water systems as required under the provisions of the Public Health Act, 2010 and Regulation. Registration forms are available from Council.

#### **PARKING AND ACCESS**

##### **77. VEHICLE ACCESS**

All vehicles including service vehicles entering and exiting the building are to do so in a forward direction.

Any vehicle utilising a car, motorcycle or bicycle space is to be parked fully within the confines of the site and is not to park over the public footway at any time.

## **F. ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).

- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council’s standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

#### **AD2. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual’s responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### **AD3. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra’s network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra’s infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra’s assets in any way, you are required to contact: Telstra’s Network Integrity Team on Phone Number 1800810443.

#### **AD4. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

#### **AD5. BONDI - ROSE BAY SAND BODY**

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council’s Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

#### **AD6. SEPARATE APPLICATIONS FOR USEAGE OTHER THAN FOR OFFICE USE**

Specific development applications are to be lodged for the approval of Council in connection with the usage of any retail or commercial areas within the development other than for office use.

#### **AD7. SEPARATE APPLICATION FOR SIGNAGE**

No signage has been proposed in this application, therefore any advertising or signage requires the separate approval from Council, unless deemed Exempt Development under Division 2 of the SEPP (Exempt and Complying Development) 2008.

#### **AD8. TREE REMOVAL/PRESERVATION**

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

#### **AD9. SYDNEY WATER CERTIFICATE**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.**

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

#### **AD10. SIGNS/GOODS IN THE PUBLIC WAY**

No signs or goods are to be placed on the footway or roadway adjacent to the property.

#### **AD11. SUITABLY QUALIFIED ACOUSTIC CONSULTANT**

In these conditions, reference to a suitably qualified acoustic consultant means an individual who possesses the qualifications to render them eligible for membership of both the Australian Acoustics Society and Institution of Engineers Australia at the grade of member or an individual who is employed by a member firm of the Association of Australian Acoustic Consultants.

#### **AD12. NO COOKING ON SITE**

This approval does not permit cooking to be undertaken on the premises as there is insufficient cooking equipment/appliances/exhaust. Any proposal to change will require a separate application to ensure compliance with the Food Act 2003 and National Construction Code and *Australian Standard 1668 – The use of ventilation and air conditioning in buildings.*

#### **AD13. SITE RECTIFICATION WORKS**

The vacant site is to be maintained in a safe and secure manner. Fencing is to be erected around the perimeter of the site once demolition has been completed to secure the site. The site is to be protected from windblown soil loss and stormwater erosion at all times.

If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:

- (i) Require certain works including but not limited to:
  - (a) make the building/site safe and of an appearance acceptable to Council.

- (b) Allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
  - (c) For the hole to be covered to allow it to be landscaped and made attractive from any public vantage point.
  - (d) AND to call on such bank guarantee to cover the cost thereof.
- (ii) In the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the costs of the works.