

16 April 2026

Max Tran
Department of Planning, Housing and Infrastructure
Locked Bag 5022
PARRAMATTA NSW 2124

Via Major Projects Portal

Dear Mr Tran,

Request for Advice

Application No. **SSD-98068713**
Property Address **65 Muston Street, Mosman**

Thank you for your correspondence dated 31 March 2026 inviting Mosman Council (Council) to comment on the exhibition (EXH-110925988) of State Significant Development (SSD) Application No. SSD-98068713 for demolition of the existing building and ancillary structures, tree removal; and, the construction of a part 8 and part 10-storey residential flat building development comprising 13 residential apartments (including 3 in-fill affordable housing units), rooftop communal space, communal wellness centre, 29 car parking spaces (including 3 visitor spaces) over 2.5 levels of basement parking, and associated civil and landscaping works.

While Council is committed to supporting approvals of residential dwellings to contribute to housing stock, Council raises strong and clear objection to the exhibited development, primarily concerned with:

- Inadequate exhibition period and errors in the exhibiting of the application;
- An over-development that is not in keeping with the desired future character of the locality and the 'Balmoral Townscape';
- The 'walking distance' and nominated route from the site to the Spit Junction Town Centre;
- Contravention of the maximum building height non-discretionary development standard (SEPP Housing 2021), and wall height development standard (Mosman Local Environmental Plan 2012);
- Unacceptable impacts on neighbouring residential amenity including privacy, overshadowing, and view affectation ranging from severe to devastating impact;
- Inappropriate urban design response to the site's context including the siting of the development, failure to comply with spatial separation requirements (ADG), and adverse impacts on adjacent heritage listed items;
- Housing diversity and apartment mix;
- Traffic and parking issues including road safety concerns in Redan Lane and inefficient (and excessive) basement car park design;
- Unresolved engineering matters including civil, stormwater, and geotechnical;
- Lack of infrastructure works to support the development;
- Inadequate consideration of waste management; and
- Contrary to the public interest.

Having regard for the above, Council strongly **objects** to the application as currently proposed.

Council raises the following concerns for your consideration:

<p>1</p>	<p>Exhibition Period and Errors in the Public Exhibition of the Application</p> <p>Council raises concern with the short exhibition period of the subject SSD application, in that it has not provided sufficient time for members of the community to review and respond to a proposed development of this size and scale.</p> <p>Council is of the view that the exhibition period should have been extended to 28 days for the reasons outlined by Pikes and Verekers Lawyers in their letter issued to the Department of Planning, Housing and Infrastructure (DPHI) on 2 April 2026. This letter is attached for reference at Annexure A.</p> <p>By commencing a public exhibition period (of 14 days) only one day prior to four (4) public holidays over Easter, the public exhibition of the SSD application is considered to be contrary to several objectives of the DPHI 'Community Participation Plan' (dated September 2025) including but not limited to the following:</p> <ul style="list-style-type: none">• <i>Promote participation.</i>• <i>Seek community input and accurately capture views.</i>• <i>Ensure as many community members as possible can participate.</i>• <i>Start community participation as early as possible and continue for an appropriate period.</i>• <i>Ensure the community has reasonable time to provide input.</i> <p>Further concerns are raised with miscommunication and errors in the public exhibition of the SSD application as outlined in the letter issued to the DPHI on 16 April 2026, by Pikes and Verekers Lawyers who continue to act on behalf of Council. This letter is also attached for reference at Annexure B.</p> <p>In summary:</p> <ul style="list-style-type: none">• Council received email correspondence from the DPHI on 31 March 2026 as a 'Request for Advice' which indicated a due date of 15 April 2026. This was consistent with the 'Notice of Exhibition' correspondence received by mail which indicated an exhibition period of 2 April 2026 to 15 April 2026. The 'Notice of Exhibition' received by mail is attached for reference at Annexure C.• Once the application documents for SSD-98068713 became available for viewing and download on 2 April 2026 via the DPHI Major Projects Portal (URL: https://www.planningportal.nsw.gov.au/major-projects/projects/residential-development-fill-affordable-housing-65-muston-street-mosman), the published 'Notice of Exhibition' letter on the portal indicated an exhibition period of 1 April 2026 to 14 April 2026. This is attached for reference at Annexure C.• Council received further email correspondence from the DPHI on 13 April 2026 which was labelled as a 'Due Date Reminder' in relation to a response to the SSD application. Within this email, Council was advised of a 2 day extension to the public exhibition period (i.e., 17 April 2026) due to technical issue with the Major Project Portals countdown clock, namely the incorrect number of remaining exhibition days being displayed on the Portal. While Council received an email to notify it of an extended public exhibition period, it remains unclear how members of the community would have been made aware that a 2 day extension of the exhibition period had been made.
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- It is acknowledged that the 'Notice of Exhibition' on the DPHI Major Project Portal was updated to state the public exhibition period as **2 April 2026 to 17 April 2026**. This is attached for reference at Annexure C.

A legal opinion included in the letter by Pikes and Verekers Lawyers (dated 16 April 2026) indicates that legal proceedings for any challenge to the approval of the subject SSD application is likely to be successful as a consequence of both the misleading and inconsistent information provided by the DPHI, and the unreasonable timeframe provided for community participation to make submissions.

Council is of the view that the short exhibition period and the miscommunication and errors in the public exhibition of the SSD application may be remedied by undertaking a complete re-exhibition of the application. This would be in the public interest as it will provide the community with a reasonable opportunity to consider the proposed development and make submissions (if applicable).

2 Low and Mid-Rise (LMR) Housing Area and Walking Distance

Section 163 in Chapter 6 of the State Environmental Planning Policy (Housing) 2021 (SEPP Housing) defines the terms for the 'Low and Mid-Rise (LMR) Housing Areas'. The definition as amended on 12 December 2025 states the following for the 'inner' and 'outer' LMR housing areas:

low and mid rise housing inner area means—

(a) land within 400m walking distance of—

(i) land identified as "Town Centre" on the Town Centres Map, or

(ii) a public entrance to a railway, metro or light rail station listed in Schedule 11, or

(iii) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station, and

(b) if a site area contains land identified in paragraph (a)—the site area.

low and mid rise housing outer area means—

(a) land between 400m and 800m walking distance of—

(i) land identified as "Town Centre" on the Town Centres Map, or

(ii) a public entrance to a railway, metro or light rail station listed in Schedule 11, or

(iii) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station, and

(b) if a site area contains land identified in paragraph (a)—the site area, unless the site area is also in the low and mid rise housing inner area.

The term 'walking distance' is defined in the Dictionary at Schedule 10 of the SEPP (Housing) as—

"the shortest distance between 2 points measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings."

The application was accompanied by a surveyor's report which included a plan showing four different pedestrian travel distances from the rear edge (south-west) of 742 Military Road to Muston Street, Redan Lane, and Redan Street. Each route depicted, represents a travel distance of 400m, with an objective to demonstrate how far a 400m walking distance can take a pedestrian to and from the Town Centre and areas adjacent to 65 Muston Street.

Council raises the following issues with the applicant's Pedestrian Travel Distance Survey:

- The plan does not denote land identified as 'Town Centre' on the Town Centres Map referred to in Section 163 of SEPP Housing.
- Route 1 (red and cyan lines in image) documents a travel distance of 400mm from the north-west frontage of 63 Muston Street to the rear edge (south-west) of 742 Military Road. No measurement has been provided for the actual 'walking distance' between the Spit Junction Town Centre and the subject site.
- The walking route adopted in the plan does not satisfy the definition of 'walking distance', in that it does not use 'as far as reasonably practicable, public footpaths and pedestrian crossings.



Applicant's pedestrian travel distance survey depicting four different 400m walking distances from the rear edge (south-west) of 742 Military Road to areas adjacent to 65 Muston Street (Source: CMS Surveyors)

Council's Transport Engineering Consultant has reviewed the applicant's nominated walking route to the Spit Junction Town Centre and raises the following concerns:

- In order to reach the Mosman Town Centre within 400m, the adopted route suggests pedestrians will cross at the intersection of Muston Street and Almora Street. This crossing point offers no pedestrian crossing facilities or pram ramps, and has heavily obstructed sightlines to westbound traffic that may only be overcome by stepping into the road and potentially into the path of oncoming vehicles. An image is provided herein for reference.

- Conversely, there is a high-quality raised wombat crossing at the intersection of Almora Street and Military Road, only 100m beyond the adopted crossing point. It offers a safe crossing option, is within sight of the current proposed crossing point, and is directly en route to the town centre.
- Moreover, as pedestrians have right-of-way over the crossing and not at the adopted crossing point, the minor additional walking distance would be readily offset by the reduced crossing time at the wombat crossing.
- The total walking distance when utilising the wombat crossing is approximately 415m, lying just outside the 400m catchment, placing the site within the LMR housing outer area.
- Given that the wombat crossing is safer, would result in an equivalent travel time, and is en route to the same destination, any interpretation of using 'as far as reasonably practicable' must acknowledge that it is reasonably practical to use this wombat crossing in this case.
- By not utilising this crossing point, the walking route has not satisfied the SEPP Housing definition for 'walking distance'.



Obstructed sight lines looking right at the crossing point of Muston Street and Almora Street

	<p>The subject application should be refused on the following grounds:</p> <ul style="list-style-type: none"> • The nominated walking route fails to satisfy the ‘walking distance’ definition under SEPP Housing, as the adopted route does not, as far as reasonably practical, use public footpaths and pedestrian crossings. • The proposal is located on a site which is within the LMR housing outer area. The non-discretionary development standards for building height and floor space ratio (FSR) pursuant to Chapter 6 of SEPP Housing are substantially lower, and; to the extent that a complete redesign of the proposal would be necessary.
<p>3</p>	<p>Building Height and Wall Height</p> <p>The subject application should be refused as the height of the proposed development is excessive and contravenes the maximum building height (non-discretionary development standard) of SEPP Housing, and the maximum wall height (development standard) of Mosman Local Environmental Plan 2012 (MLEP).</p> <p>As noted in Item 2, Council is of the view that the location of the site is within the LMR housing outer area. In this regard, the proposal should be redesigned to comply with the maximum building height of 17.5m permissible for residential flat building developments on R3 Medium Density Residential zoned land, pursuant to Section 180(3)(b) of SEPP Housing.</p> <p>Notwithstanding the above, the commentary below is provided for the State Consent Authority in the event it is satisfied that the applicant demonstrated a safe and practical ‘walking distance’ that is within 400m to the town centre (i.e., benefiting from the LMR housing inner area provisions).</p> <p><u>Building Height</u></p> <p>In accordance with Section 180(2)(b) of SEPP Housing, the maximum height of buildings is 22m for development on land in a LMR housing inner area. The applicant nominates that the proposal provides 19% of its gross floor area (GFA) as affordable housing and is therefore eligible to utilise the full 30% uplift in building height available under Section 16(3) of SEPP Housing. This results in a maximum building height of 28.6m (non-discretionary development standard).</p> <p>The applicant has nominated a building height of 31.68m. The Clause 4.6 contravention request for building height and Drawing No. A-810-010 ‘Height of Building Diagram’ (prepared by Studio Johnston, Rev. 05, dated 10/02/2026) identifies the maximum departure to occur at the eastern edge of the of lift overrun (RL 99.500).</p> <p>The departure from the building height standard is therefore +3.08m or 10.8% above 28.6m as facilitated by the Housing SEPP, or +23.18m or 272.7% above the maximum 8.5m pursuant to Clause 4.3 of MLEP.</p> <p><u>Wall Height</u></p> <p>The subject site is zoned R3 Medium Density as identified on the ‘Land Zoning Map’ of MLEP where a maximum building height of 8.5m applies as identified on the ‘Height of Buildings Map’ of MLEP. Under MLEP, a building to which a maximum building height of 8.5m applies on R3 Medium Density zoned land must not have a wall height, at any point of the building (other than at a chimney, gable end or dormer window), that exceeds 7.2m.</p>

'Wall height' is defined in Clause 4.3A 'Height of Buildings (Additional Provisions)' of MLEP as:

“wall height means the vertical distance from ground level (existing) to—

(b) the underside of the eaves at the wall line, parapet or flat roof, whichever is highest, or

(a) for a building with a mansard roof—1.8m above the finished floor level of the roof space.”

The applicant's Clause 4.6 contravention request for wall height does not nominate the maximum wall height of the proposed development, nor do the wall height diagrams (elevations and 3D plane) included as attachments at the rear of the contravention request. The contravention request does however include one reference to a 19.9m (or 276%) variation which would equate to a wall height of 27.1m.

Council does not agree with the Applicants calculation of wall height.

- The wall height of the proposal has been calculated at 31.68m by Council. The variation to the wall height standard is assessed to be +24.48m or 340% above the maximum 7.2m wall height standard pursuant to Clause 4.3(4) of MLEP.

The subject SSD application should be refused as the building height is excessive and contravenes the maximum height prescribed in relation to the proposed development. Council strongly contends that there is absolutely no merit in allowing any variation to the height requirement and in fact the applicant should not be allowed to achieve the full extent of the in-fill affordable housing bonus given the location of the site in a highly sensitive area, the development's likely impacts and the suitability of the site for the development.

The consent authority is reminded that the 'In-fill Affordable Housing Practice Note' (December 2023), states:

Flexible application of in-fill affordable housing provisions

The full extent of the in-fill affordable housing bonuses may not be achieved on all sites, due to site constraints and local impacts. The in-fill affordable housing bonuses should not be treated as an entitlement. DAs that propose in-fill affordable housing will be subject to merit assessment by the consent authority. The application of the bonuses does not affect a consent authority's responsibility to consider the requirements of relevant EPIs, a development's likely impacts or the suitability of the site for the development.

In this respect, the site is inappropriate for the full extent of the in-fill affordable housing bonuses for the following reasons:

- The building mass fails to provide appropriate transitions to adjoining and adjacent properties which are of significantly lower scale, including the Scenic Protection Area which commences approximately 20m eastward of the rear boundary of the site.
- Situated immediately opposite the site and on the eastern side of Redan Lane is a heritage listed (I262) pair of semi-detached dwellings at 36-38 Redan Street. This neighbouring property will continue to be the subject of the MLEP planning provisions which allow a maximum building height of 8.5m, a wall height of 7.2m, and an FSR of 0.55:1.

- Adjacent properties situated further to the east are zoned C4 Environmental Living and outside the LMR housing area. As such, they will be developed under the provisions of MLEP with a maximum building height of 8.5m and a wall height of 7.2m.

The proposal does not satisfy any of the objectives relating to wall height as set out in Clause 4.3A(1A) of MLEP, including:

- (a) to provide for view sharing,*
- (b) to minimise the adverse effects of the bulk and scale of buildings,*
- (c) to encourage 2-storey buildings consistent with the desired future character of the area.*

Council, standing in the shoes of the consent authority, cannot be satisfied that the applicant has adequately demonstrated the following matters required to be demonstrated under clause 4.6 of MLEP:

- That compliance with the non-discretionary development standard is unreasonable or unnecessary in the circumstances, and
- That there are sufficient environmental planning grounds to justify the contravention of the non-discretionary development standard.

4 Gross Floor Area

As noted in Item 2, Council is of the view that the location of the site is within the LMR housing outer area. In this regard, the proposal should be redesigned to comply with the maximum FSR of 1.5:1 permissible for residential flat building developments on R3 Medium Density Residential zoned land, pursuant to Section 180(3)(a) of the SEPP (Housing).

Notwithstanding the above, the commentary below is provided for the State Consent Authority in the event it is satisfied that the applicant has demonstrated a safe and practical 'walking distance' that is within 400m to the town centre (i.e., benefiting from the LMR housing inner area provisions).

In accordance with Section 180(2)(a) of SEPP Housing, a maximum floor space ratio (FSR) of 2.2:1 applies for development on land in a LMR housing inner area. The applicant nominates that the proposal provides 19% of its GFA as affordable housing. As defined under Section 15B of SEPP Housing, the affordable housing component of a development means the percentage of the GFA used for affordable housing. The proposal is therefore eligible to utilise the maximum 30% additional FSR available under Section 16 of SEPP Housing, thus equating to a maximum FSR of 2.86:1.

The application proposes an FSR of 2.58:1 (3470.69sqm GFA), with 657.53sqm of GFA (or 19%) attributed to affordable housing. Council's review of Drawing No. A-710-010 'GFA Calculations' (prepared by Studio Johnston, Rev. 05, dated 10/02/2026) raises the following concerns:

- GFA calculations have not been undertaken in accordance with the GFA definition in the Standard Instrument, in so far as areas that should have been included have been excluded (e.g., horizontal circulation areas and excess parking);

- Excessive allocation of basement storage within basement garage areas. The proposal includes garages which are in excess of 105sqm in floor area, where 36sqm is attributed to parking, and 69sqm is attributed to storage.

With these areas included, the GFA and FSR of the proposed building is further increased, beyond the 2.86:1 maximum FSR prescribed by Sections 16 and 180(2)(a) of SEPP Housing in relation to residential flat buildings within the LMR housing inner area.

The applicant has not sought to vary the 2.86:1 maximum FSR non-discretionary development standard prescribed by Sections 16 and 180(2)(a) of SEPP Housing.

Accordingly, development consent cannot be granted, as the consent authority has no power to approve the application in contravention of the maximum FSR non-discretionary development standard.

In circumstances where the proposed development exceeds the non-discretionary maximum FSR development standards of SEPP Housing, the consent authority may refuse the application based on inconsistency with the maximum FSR development standards and associated objectives of MLEP.

The proposal does not satisfy any of the objectives relating to FSR set out in Clause 4.4(1)(a) of MLEP, including:

- (i) to ensure that buildings are compatible with the desired future character of the area in terms of building bulk and scale, and*
- (ii) to provide a suitable balance between landscaping and built form, and*
- (iii) to minimise the adverse effects of bulk and scale of buildings,*
- (iv) to limit excavation of sites and retain natural ground levels for the purpose of landscaping and containing urban run-off.*

Accordingly, the consent authority cannot be satisfied that the applicant has adequately demonstrated the following matters required to be demonstrated under clause 4.6 of MLEP:

- That compliance with the non-discretionary development standard is unreasonable or unnecessary in the circumstances, and
- That there are sufficient environmental planning grounds to justify the contravention of the non-discretionary development standard.

5 Urban Design Review

The application was referred to Council's Urban Design Consultant. The following matters of concern were raised:

Principle 1: Context and Neighbourhood Character

The subject SSD application is one of the first in the area to seek to benefit from both affordable housing and LMR housing provisions of SEPP Housing, which result in increase to the height, bulk and scale of development anticipated in the area pursuant to the MLEP. As such, the proposed development will set a precedent for other developments to follow.

Site Analysis

An analysis of the local context has been provided. The analysis identifies the local character and provides a future context study that provides to 2-dimensional site plans that specify setbacks and building heights. Limited analysis of how the three-dimensional building forms proposed relate to one another to provide amenable residential developments, particularly with regard to solar access and street character.

It is not clear how design decisions made in response to the site analysis have resulted in the current design proposal. Objective 3A-1 of the Apartment Design Guide (ADG) states:

Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.

It is not clear how site analysis has informed fundamental design decisions with regards to street setbacks and building massing.

Muston Street Interface

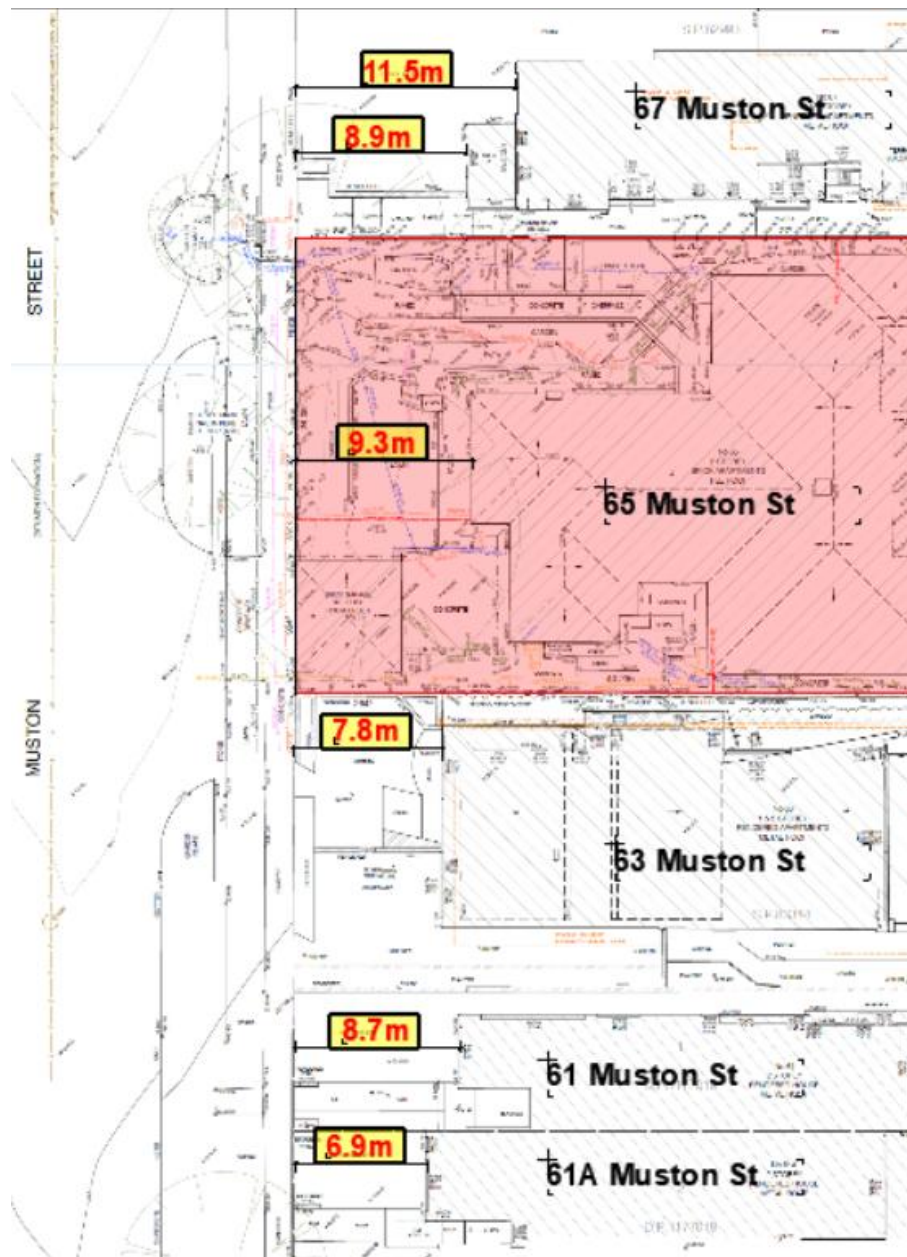
In reference to Part 4.2 'Siting and scale' of the Mosman Residential Development Control Plan (MRDCP), the proposed development should demonstrate adequate consideration of the following:

- Objective O4 aims "*To have front setbacks complementing existing setbacks in the street.*"
- Planning Control P3 states "*If a new development is to take place in a street with an established pattern of development, new buildings should be setback a similar distance from the street.*"

Muston Street is currently characterised by generous landscape setbacks that vary between 11.5m and 6.9m. A marked-up extract of the survey plan is provided herein to establish the pattern of front setbacks for adjoining and adjacent development.

The proposed development provides a 3m setback for the first 4 levels and a 6.9m setback for the upper levels. The current proposal does not respond to the existing street character or set a desirable precedent for the future character of the street.

To maintain the garden landscaped character of the street it is recommended that the existing building setback of 9.3 be maintained to the Muston Street site frontage. Walls and fences within the street setback should be largely restricted in height (1m maximum recommended) to allow landscaping to contribute to the quality of the street.



Extract of survey plan with mark-up (Source: Drawing 24328Edetail, CMS Surveyors)

Views from the Street towards the Harbour

The existing street typically provides minimal separation (between 2-3m) between buildings on neighbouring sites. Even with the relatively modest gaps currently provided between buildings, the topography of the area allows iconic and much prized public views from Muston Street down to the Harbour.

When the street is developed with higher density buildings the gaps between neighbouring buildings will increase significantly (between 9-12m), creating opportunities to provide a visual connection between Muston Street and the Harbour. Further development of the current proposal is recommended to embrace this opportunity and improve public sightlines through the site towards the Harbour.

Redan Lane Interface

Redan Lane is a narrow lane currently utilised to provide vehicle access to residential properties, fronting Redan Street and Muston Street. As the surrounding area develops in response to increased densities provided by State Planning Controls, the use of this lane by pedestrians (seeking access to the Town Centre) and vehicles will significantly increase.

The combination of both significantly increased pedestrian and vehicular traffic (as both sides of the lane develop) is a safety concern. A cohesive strategy must be developed to accommodate vehicle access and servicing (particularly waste collection) whilst providing a safe and pleasant environment for pedestrians. To achieve this goal, consideration should be given to on-site waste collection with forward truck ingress and egress. This may not be a practical solution for smaller sites, where a layby to accommodate waste collection trucks may be considered. To improve pedestrian safety consideration should be given to either the introduction of a dedicated pedestrian path or the development of the lane as a shared way.

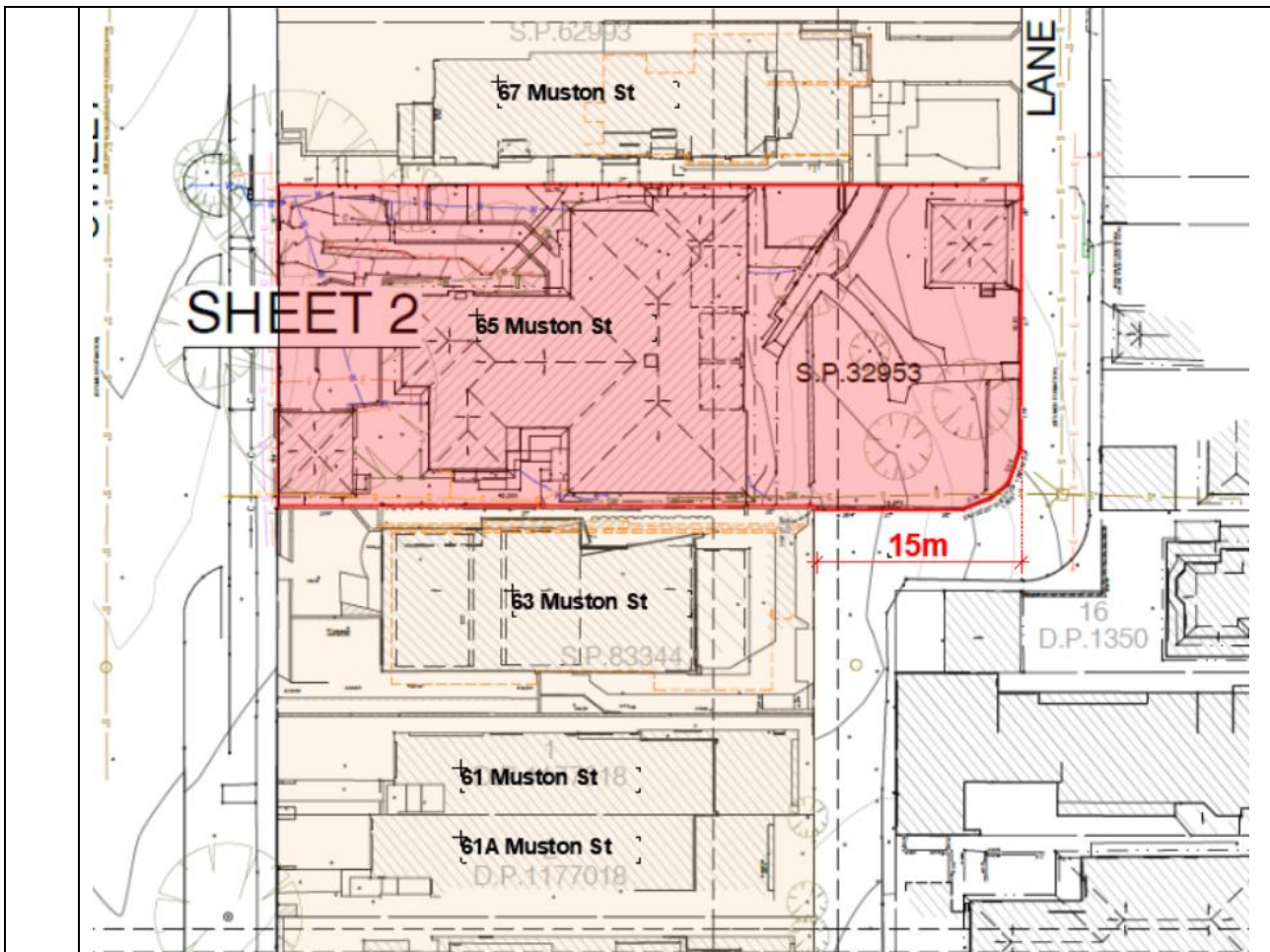
The sharp turns within the lane also create a potential traffic safety issue, that will increase as densities within the street increase. The proposed building on the subject site should be set back (south-east corner of the site) from the lane to accommodate sight-lines between vehicles, as outlined by Council's Transport Engineering Consultant in Item 10 'Transport, Access and Parking'.

Waste collection is currently proposed from the lane. However, there are concerns that this will detrimentally impact on the functionality of the lane. This issue will likely be compounded when neighbouring sites are developed with increased densities.

Lot Pattern

The existing subdivision pattern has been created to accommodate low density dwellings that sit within a garden landscape setting. The subject site extends approximately 15m further east than its southern neighbour (refer to survey extract mark-up). The eastern portion of the site currently accommodates a landscaped garden that complements the low scale residential building and provides amenity to its occupants. This configuration allows the eastern building line on the subject site to align with its southern neighbour, which in turn provides an equitable level of solar access for the subject site and its southern neighbours.

When much larger scale buildings are considered in this context the impact of the lot configuration must be taken into account. A future built form on the subject site must be developed to minimise its impact upon the amenity of southern neighbours and accommodate an equitable and amenable pattern of development on neighbouring sites. It is a concern that the current proposal prevents solar access to the neighbouring sites immediately to the south.



Extract of survey plan with mark-up (Source: Drawing 24328Edetail, CMS Surveyors)

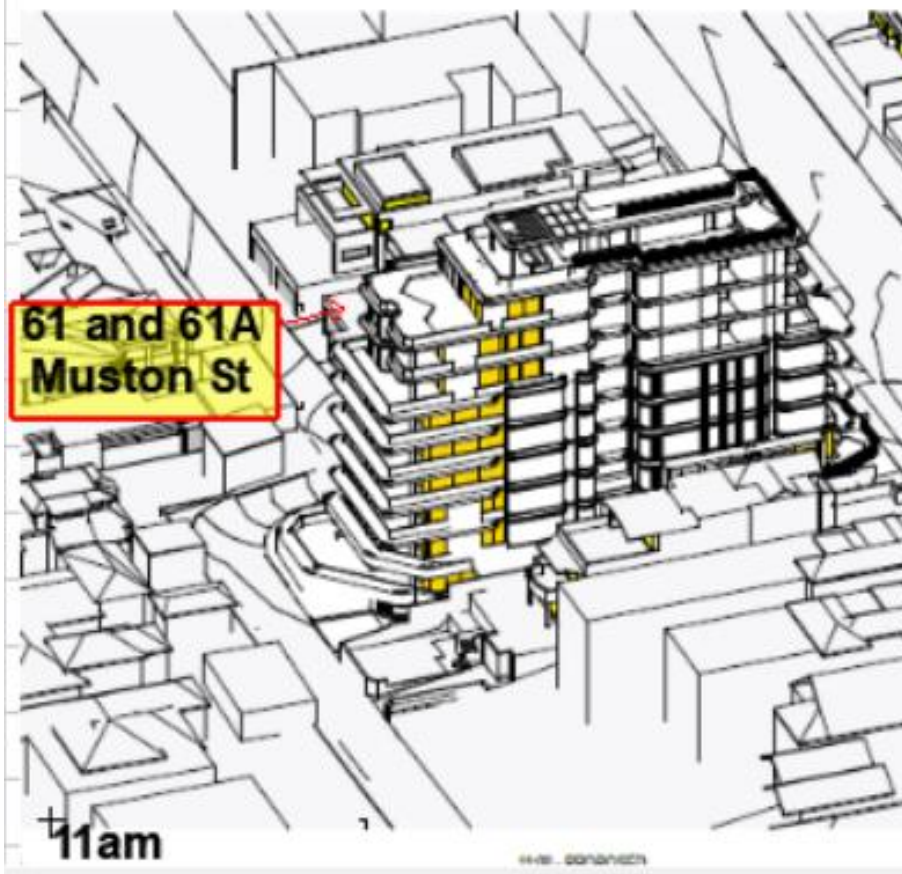
Overshadowing

Existing development to the south (Nos. 61, 61A, and 63 Muston Street) currently receive in excess of 2 hours of solar access to their living areas and private open space (POS).

Sun eye-view diagrams in Drawing Nos. A-730-010, A-730-020, A-730-030 (prepared by Studio Johnston, Rev. 05, dated 10/02/2026), demonstrate that solar access to the east facing living rooms and POS of the southern neighbour (63 Muston Street) is blocked prior to 10am. Existing dwellings located further down the street (61 and 61A Muston Street) are also over shadowed from 11am onwards.

No sun eye-view diagrams have been provided to demonstrate the proposal's impact upon future development to the south. From the 2D shadow diagrams provided it appears unlikely that ADG compliant solar access can be provided to a future development to the south.

Further analysis and refinement of the building form, particularly its eastern profile is required to establish how the proposal can respond to its context to provide an equitable pattern of development.



Extract from Solar Access Drawing A-730-010 (Source: Studio Johnston)

Potential Mid-Block Through Site Link

The subject site is located on a residential block that spans approximately 440m between Almora Street and Raglan Street and is in a relatively central location in the street. To assist in developing a more permeable and pedestrian friendly residential neighbourhood it is recommended that a cross-site pedestrian link be provided as outlined by Council's Transport Engineering Consultant in Item 10 'Transport, Access and Parking'.

Principle 2: Built Form and Scale

Height

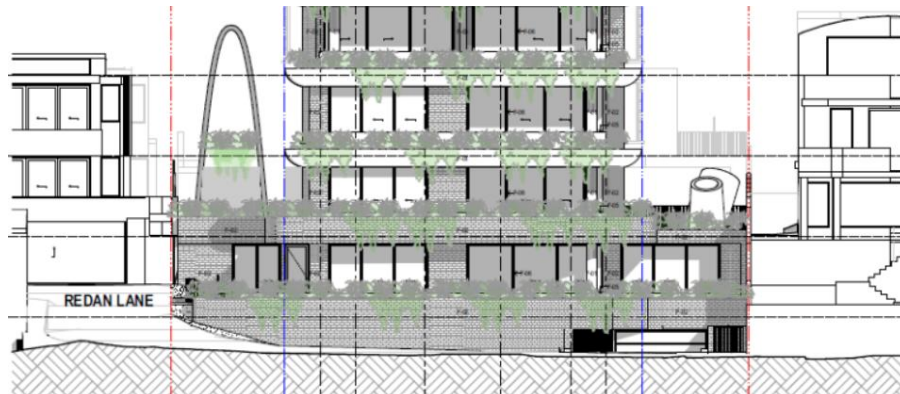
The current proposal is 3.08m above the 28.6m maximum building height non-discretionary development standard. No convincing rationale has been provided to justify why it is desirable or necessary to contravene the height standard.

It is also noted that the proposal provides 3.5m floor to floor heights on all of the eight residential levels proposed. This is 300mm in excess of the industry standard of 3.2m, which will allow ADG compliant ceiling heights (2.7m) to be accommodated. If industry standard ceiling heights were applied, the building could be lowered by up to 2.4m.

Built Form

Further development of the building form is required to better respond to the immediate context of the site:

- Increase the front setback of the development from Muston Street to contribute to the landscaped character of the street.
- Increase the rear setback of the development from Redan Lane to accommodate waste collection, contribute to pedestrian safety, and improve traffic safety sight-lines.
- Further modelling of the eastern extent of the building to facilitate solar access to neighbouring sites to the south (both existing and potential future built form).
- Further refinement of side boundary setbacks to accommodate views from Muston Street towards the Harbour. To achieve that goal the 2.5 storey high arch located in the southern side boundary setback, should be deleted and replaced with a more modest and contextually responsive pedestrian entry.



Extract from East Elevation Drawing A-210-030 depicting 2.5 storey high arch within southern side setback (Source: Studio Johnston)

Principle 3: Density

Further refinement of the proposed building form is recommended, to provide an improved contextual response, and to ensure the proposed development does not present as an over-development of the site.

Principle 4: Sustainability

Solar access

Objective 4A-1 of the ADG states:

living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.

The current proposal meets ADG objectives for solar access.

Natural cross ventilation

Objective 4B-3 of the ADG states:

at least 60% of apartments are naturally cross ventilated in the first nine storeys of the building

The current proposal meets ADG objectives for natural cross ventilation.

Environmental Commitments

Given the scale the development and expenditure of resources that are being attributed to providing homes for a relatively small number of residents, this development cannot claim to be sustainable. The proliferation of developments of this nature is not a sustainable way to accommodate housing for the future population. The proposal is clearly aimed at the luxury housing market. Given this factor, every effort must be made to incorporate other environmental initiatives, including:

- Opportunities to harvest rainwater for use in maintaining any plantings established on the building or the site should be explored. Other water minimisation measures (re-use of rainwater for toilet flushing and washing machines) should also be considered.
- The use of solar power and solar water heating, as well as general electrification, is strongly encouraged, particularly to service communal circulation and parking areas.
- Landscape plantings should address aims for biodiversity protection, weed minimisation and low water use.
- Provision for electric vehicle charging stations in the different carpark levels and provision for car-sharing vehicles.
- Low embodied energy should be a consideration in material and finish selections.

Principle 5: Landscape

Communal Open Space (COS)

The proposal provides 450.16sqm (33.5%) COS over three different areas of the development. More specifically:

- Lower Ground 02 - Wellness centre, gym, sauna, steam room, and golf simulator;
- Lower Ground 01 - Swimming pool, spa, and associated terrace; and
- Level 7 - Rooftop terrace.

The combination of these COS areas provides an adequate level of amenity for residents of the proposed development.

Public Domain Interfaces

Further development of both Muston Street and Redan Lane interfaces are recommended, as outlined previously (refer to Principle 1 and Principle 2 comments).

Principle 6: Amenity

The residential units proposed provide a high level of amenity, however, are significantly in excess of the design objectives and spatial requirements of the ADG. Further consideration should be given to the refinement of the design to minimise potential privacy issues.

Objective 3F-1 of the ADG requires windows to habitable rooms and balconies, for a building in excess of 4-storeys to be setback a minimum of 9m from side boundaries.

Upper levels windows facing the northern and southern side boundaries (highlighted in red in the elevation drawing extracts) are setback between 6m and 7.7m from the side boundary.



Extract from North Elevation Drawing A-210-010 with red mark-up of windows not meeting ADG requirements (Source: Studio Johnston)



Extract from South Elevation Drawing A-210-020 with red mark-up of windows not meeting ADG requirements (Source: Studio Johnston)

The northern private garden servicing unit LG01 is assumed to be set at a similar level to the unit RL67.400, which in turn sits at a similar level (RL67.550 living and 67.240 terrace) to the terrace and living areas of the northern neighbour (67 Muston Street). The wall separating the neighbours is set at RL68.660, this would provide a 1.26m high screen between neighbours. It is a concern that the height of the wall is not sufficient to mitigate potential privacy issues between neighbours

The southern private garden servicing unit LG01 is set at RL 67.400. The lawn of the eastern neighbour (63 Muston Street) is elevated approximately 1m higher at a level of RL 68.380. Further detail information is required to demonstrate how potential privacy issues with the neighbour are being addressed.

Further development of the northern and southern edges of the communal rooftop terrace is required to mitigate potential privacy issues with future neighbours. To meet ADG setback design criteria a minimum setback of 9m is required from both side boundaries. The drawing extract of the communal rooftop terrace level shows areas highlighted in red that do not meet ADG design criteria.

Further detail refinement is required to meet the objectives of Part 3F of the ADG, and the design criteria set out for Privacy.

Principle 9: Aesthetics

An appropriate material palette has been adopted to assist in providing a high-quality aesthetic. However, further development of the building form is required to provide an appropriate response to the immediate context of the site.

Summary

Council strongly recommends design changes be undertaken as refinement of the proposal is considered necessary to provide an appropriate contextual urban design response. The following amendments are recommended:

- A reduction in height to comply with building height (non-discretionary development standard) set out for development in the LMR housing outer area (excluding in-fill affordable housing provisions).
- Increase the front setback of the development from Muston Street to contribute to the landscaped character of the street.
- Increase the rear setback of the development from Redan Lane to accommodate waste collection, contribute to pedestrian safety, and improve traffic safety sight-lines.
- Further modelling of the eastern extent of the building to facilitate solar access to the neighbouring sites to the south (both existing and potential future built form).
- Further refinement of side boundary setbacks to accommodate views from Muston Street down towards the Harbour.
- Detail refinement of side elevations and the rooftop communal open space to mitigate potential privacy issues.
- Refinement of the rooftop communal terrace is required to meet the objectives and design criteria of Part 3F of the ADG.
- Apartment typology is to be redeveloped to provide a greater mix of dwelling types that can be leased at a more affordable price.
- Consideration of the incorporation of a cross-site pedestrian link, connecting Muston Street to Redan Lane.

Section 20(3) of the SEPP (Housing) states that the *'Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—*

- (a) the desirable elements of the character of the local area, or*
- (b) for precincts undergoing transition—the desired future character of the precinct.'*

For the reasons outlined, the proposal in its current form fails both (a) and (b).

Section 147(1) of SEPP Housing states that 'Development consent must not be granted to residential apartment development, and a development consent for residential apartment

development must not be modified, unless the consent authority has considered the following—

- (a) *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- (b) *the Apartment Design Guide’.*

For the reasons outlined, the proposal in its current form fails both (a) and (b).

6 In-fill Affordable Housing

The ‘In-fill Affordable Housing Practice Note’ (December 2023), states:

Flexible application of in-fill affordable housing provisions

The full extent of the in-fill affordable housing bonuses may not be achieved on all sites, due to site constraints and local impacts. The in-fill affordable housing bonuses should not be treated as an entitlement. DAs that propose in-fill affordable housing will be subject to merit assessment by the consent authority. The application of the bonuses does not affect a consent authority’s responsibility to consider the requirements of relevant EPIs, a development’s likely impacts or the suitability of the site for the development.

Residential amenity of affordable housing

It is important that amenity is maximised across a development, and that affordable dwellings are not subject to a lower standard. For example, if 70% of dwellings across a development achieve the ADG criteria for solar access (minimum 2 hours to living areas), then a similar percentage of the affordable dwellings should meet that standard.

The affordable housing proposed in the development comprises 3 x 3 bedroom apartments, each with their own media room which could be easily utilised as a 4th bedroom, 4 bathrooms each, and access to an exclusive wellness centre which includes a gym, sauna, steam room, golf simulator, swimming pool, and spa. The letter of support (dated 2 February 2026) provided by Link Wentworth, a Tier 1 Community Housing Provider, states that they are “deeply committed to the success of this project and are satisfied with the location and current affordable housing mix in place.”

Council does not agree that the affordable housing mix provided is satisfactory. The proposed affordable housing provision does not provide diversity for affordable housing tenants and is more aligned with an extremely high-end luxury development.

The proposed affordable housing provision comprises 651.49sqm (internal apartment area), basement parking for 6 x cars (2 each), and storage that is well in excess of the 10m³ ADG requirement for 3 bedroom apartments. A breakdown is provided below:

Apartment No.	Bedrooms	Internal Area	Storage (m³)	Parking
LG01	3 + media	216.82sqm	19.99m ³ internal 9.48m ³ external 29.47m³ total	2 cars + 1 bike
G02	3 + media	216.82sqm	19.99m ³ internal 32.23m ³ external 52.22m³ total	2 cars + 1 bike
102	3 + media	217.85sqm	11.56m ³ internal 22.68m ³ external 34.24m³ total	2 cars + 1 bike

Having regard to the above, it is unclear how the proposed affordable housing provision will make any meaningful contribution to the affordable housing needs of Mosman. The areas provided for each apartment, are excessive in every respect to ADG requirements.

Council recommends the redesign and redistribution of the affordable dwellings to align with ADG objectives and design criteria set out in Part 4D 'Apartment Size and Layout' and 4K 'Apartment Mix' of the ADG. This would facilitate an affordable housing provision of at least eight (8) apartments if the 651.49sqm of affordable housing GFA was redistributed as 3 x 3 bedroom apartments (at 90sqm ADG size), and an additional 5 x 2 bedroom apartments (at 70sqm ADG size). Off-street parking to service additional affordable housing dwellings can be accommodated utilising a similar basement footprint to the current proposal, particularly considering the excessive and inefficient design of the current basement carpark layout and surplus basement storage areas (refer to Item 10 'Transport, Access and Parking for details).

The proposed development's affordable housing provision should be broadened to include a greater variety of dwelling types that are more affordable and better aligned with the diverse needs of the community.

Section 20(3) of the SEPP (Housing) states that the Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—

- (a) *the desirable elements of the character of the local area, or*
- (b) *for precincts undergoing transition—the desired future character of the precinct.*

It is recommended that all affordable housing apartments within the development be operated by a Community Housing Provider in perpetuity (beyond the 15-year minimum requirement) as the loss of affordable housing after 15 years will result in the displacement of that resident population raising the key issues of social isolation with people having to establish their social and support networks elsewhere. Loss of the resident population returns the issue of loss of local workforce and thus impacts on the local community reliant on those workers.

7 Heritage

The application was referred to Council's Heritage Advisor for review where a number of concerns were raised.

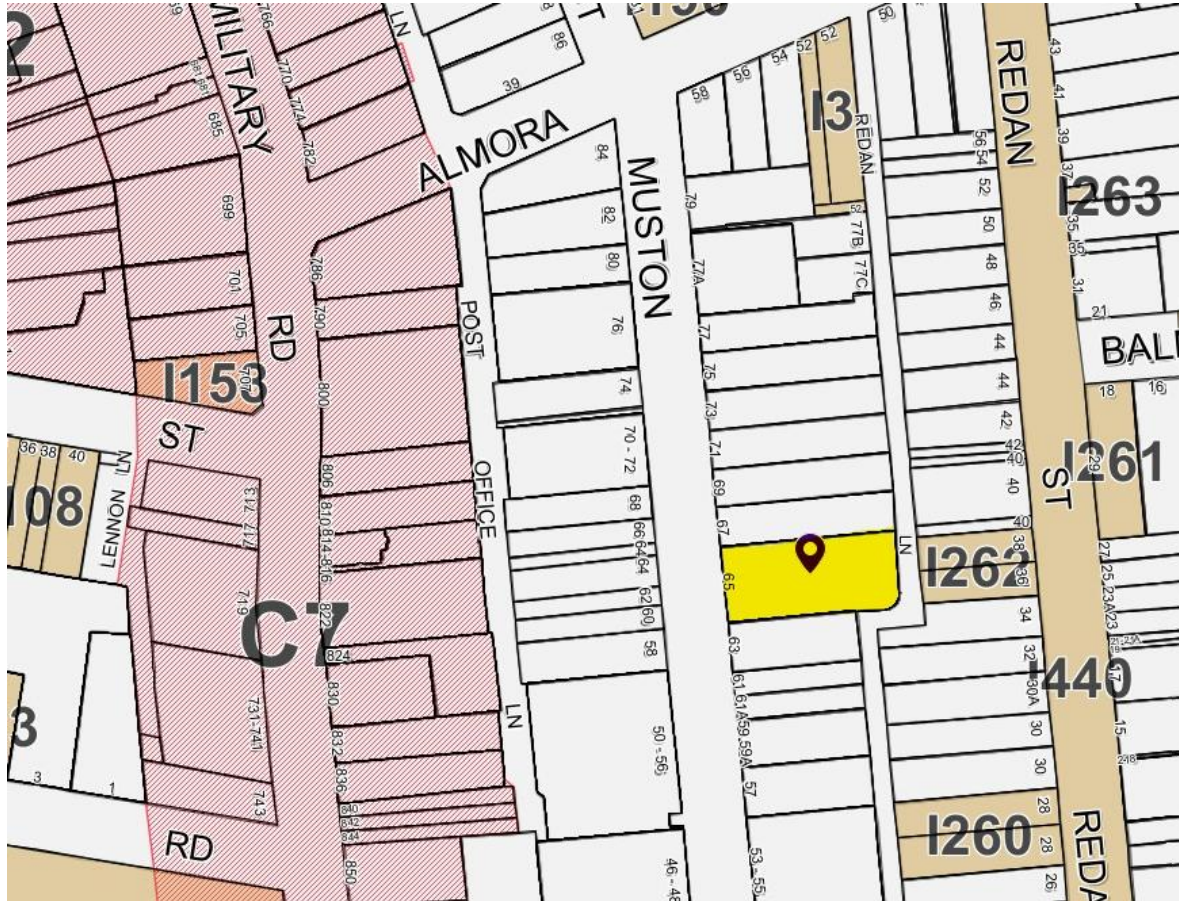
The proposed development is located within the vicinity of several heritage items including:

- Item I262 - 'Pair of semi-detached houses', 36-38 Redan Street (directly to the east)
- Item I440 - 'Divided Road', Redan Street (to the east)
- Item I3 - 'House', 52 Almora Street (to the north)
- Item I260 - 'House', 28 Redan Street (to the south)

The development site is also within the vicinity of the 'C7 Military Road Conservation Area' to the west.

The streetscape surrounding the heritage items is characterised by generally one and two storey dwellings with established gardens. The proposed development will have an unacceptable impact on the setting and views of the heritage items in the vicinity, due to its excessive height, bulk and scale.

The proposed building is substantially higher than surrounding development, including the identified heritage items. It will be a much higher structure that will be highly visible within the setting of the items. It will particularly be visible in views of the heritage item at 36-38 Redan Street. The applicant's Visual Impact Assessment has omitted to provide view studies of the proposal within views of the heritage items in the vicinity.



Extract from the 'Heritage Map' of MLEP with the subject site shaded yellow

The proposal is an inappropriate response to the adjacent heritage listed building at 36-38 Redan Street and heritage items within the vicinity of the site. In this regard, the application has not provided adequate justification or mitigation measures for these impacts, and as such, the proposal is considered inconsistent with relevant heritage conservation objectives and planning controls set out in Clause 5.10 'Heritage conservation' of MLEP and Part 5.6 'Heritage conservation' of MRDCP.

The proposed development is not supported on heritage grounds and requires a substantial reduction in scale to be supportable.

8 Landscaping

The proposed development does not comply with the requirements under the 'NSW Tree Canopy Guide for Low and Mid Rise Housing', nor does it meet the numerical requirements or objectives of Clause 6.6 MLEP 'Landscaped areas'.

NSW Tree Canopy Guide for Low and Mid Rise Housing

Section 177(2) of SEPP (Housing) states that 'Development consent must not be granted for development for the purposes of residential flat buildings or shop top housing unless

the consent authority has considered the *Tree Canopy Guide for Low and Mid Rise Housing*, published by the Department in February 2025.' (Tree Canopy Guide for LMR Housing).

The Tree Canopy Guide for LMR Housing provides as relevant, that for residential flat buildings, the deep soil and tree planting in Table 6 should be applied across the whole development:

- Table 6 applies where Apartment Design Guide applies, however LMR Guide encourages enhanced deep soil by using Table 7 where possible.
- Table 6 provides that all lots shall provide 15% tree canopy and 7% minimum deep soil.

The Glossary within the Tree Canopy Guide for LMR Housing defines 'Deep Soil' as:

A landscaped area connected horizontally to the soil system and local ground water system beyond and is unimpeded by any building or structure above or below ground with the exception of minor structures.*

Deep soil zones with a minimum dimension of 3m allows sufficient space for the planting and healthy growth of new trees that provide canopy cover and assist with urban cooling and infiltration of rainwater to the water table. Deep soil also allows for the retention of existing trees.

** Minor structures are defined as:*

- a. path, access ramp or area of paving with a maximum width up to 1.2m*
- b. essential services infrastructure (such as stormwater pipes) with a maximum diameter up to 300mm*
- c. landscape structures (such as lightweight fences, light poles or seating) requiring a footing with a maximum size of up to 300mm x 300mm in cross section.*

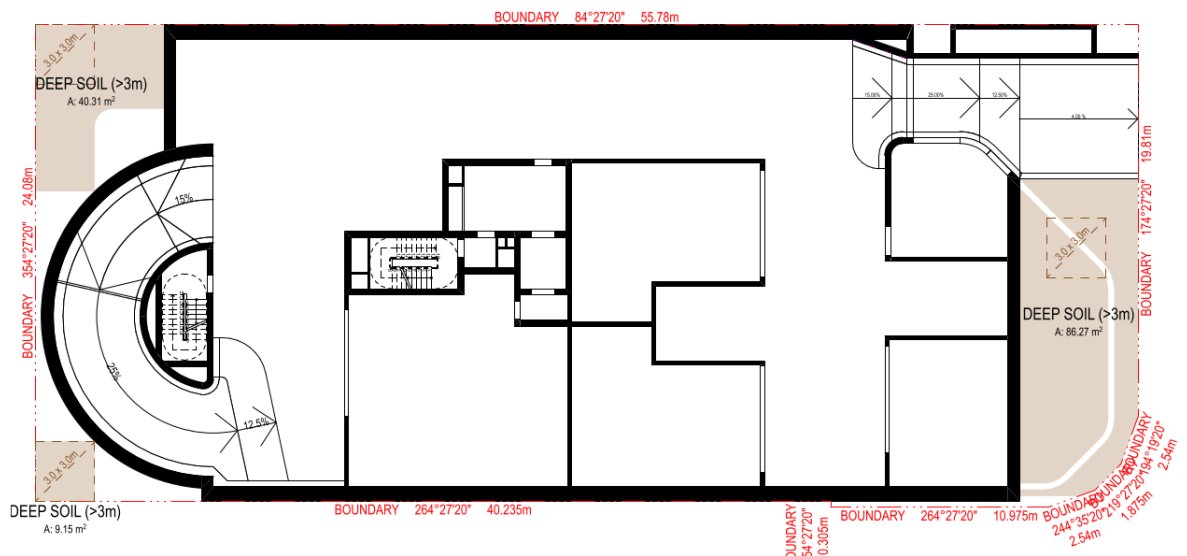
The 3m dimension in deep soil refers to 3m in every horizontal direction (length and width). This means deep soil is a minimum 9m² (3m x 3m).

The applicant's deep soil calculations state a deep soil zone of 10.1% (135.73sqm). The methodology undertaken for the calculation of deep soil fails to comply with the above definition as it includes areas that do not meet the minimum 3m x 3m (9sqm area) requirement. More specifically,

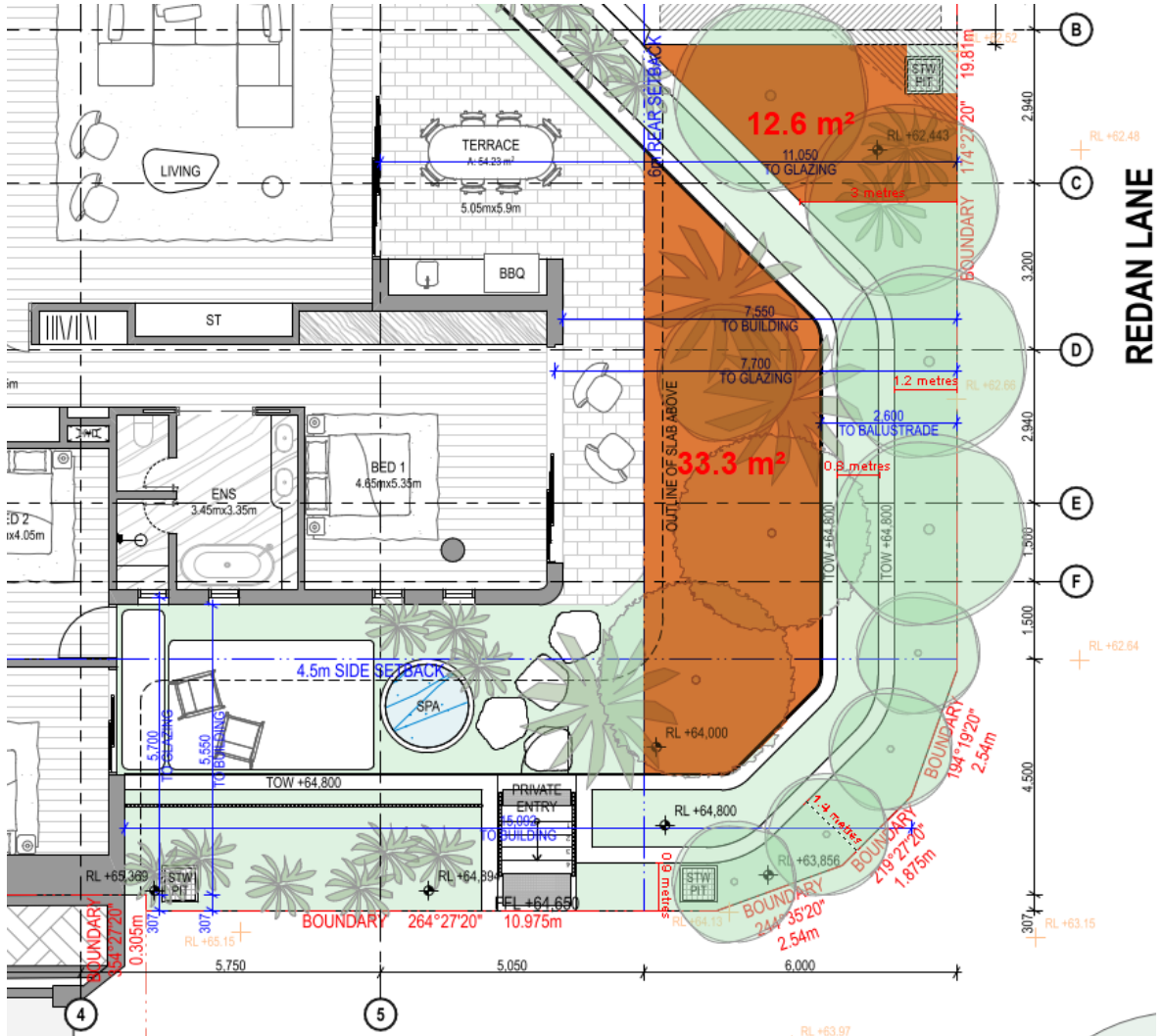
- The garden area adjacent to the Redan Lane frontage includes retaining walls in response to level changes and site topography and does not meet the 3m dimension (in every horizontal direction). This area is documented as contributing 86.27sqm of deep soil which is incorrect.
- The garden bed adjacent to the Muston Street frontage and water meters, does not meet the 3m dimension (in every horizontal direction). This area is documented as contributing 9.15sqm of deep soil which is incorrect.

Having regard to the above, Council has calculated the deep soil zone to be 6.4% (86.21sqm) which is below the minimum 7% (93.94sqm) requirement of the Tree Canopy Guide for LMR Housing.

Extracts from the architectural plans (with mark-up) and deep soil zone calculation diagrams are provided herein for reference.



Extract from Drawing A-711-010 documenting areas included in the 3m x 3m deep soil zones (Source: Studio Johnston)



Extract from Drawing A-110-030 depicting retaining walls and mark-up dimensions and deep soil zones calculated by Council which can be included in the 3m x 3m deep soil zones (Source: Studio Johnston)

Clause 6.6 'Landscaped areas' (MLEP)

Clause 6.6 MLEP provides as relevant 'The consent authority may refuse to grant development consent to development involving the erection of a building unless at least the following minimum landscaped area of a site (as a percentage of the site area) is provided for the development: (b) for development resulting in more than one dwelling per lot - 50%, for land identified on the Floor Space Ratio Map as having a maximum floor space ratio of 0.6:1 or less.

The objectives of Clause 6.6(1) are as follows—

- (a) *to have the landscape and townscape area character of Mosman's residential areas maintained and enhanced by requiring landscaping of sites in conjunction with other development,*
- (b) *to have a general visual dominance of landscape over buildings maintained, particularly on harbour foreshores, while recognising the difficulty of achieving this on small lots where there are existing buildings such as semi-detached dwellings,*
- (c) *to have adequate and usable ground level open space for recreation, landscaping and containing urban run-off.*

'Landscaped area' is defined in the dictionary of MLEP as:

"landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area".

The applicant's landscaped area calculation diagram (Drawing A-711-020, prepared by Studio Johnston, Rev. 05, dated 10/02/2026) presents a landscaped area of 49.2% (659.87sqm) which includes 498.93sqm of landscaped area over structures (e.g., over slabs and rooftop planting). The areas included in the landscaped area diagrams are not agreed. The inclusion of areas over structures is inconsistent with the definition of 'landscaped area' pursuant to MLEP.

The exclusion of landscaped area (over structures) results in a development that is considerably below the minimum 50% MLEP landscaped area provision. The shortfall in landscaped area presents a poor landscape outcome for the proposal and the locality, and; failure to achieve the objectives of the landscaped area requirement.

Part 4.4 'Landscaping' (MRDCP)

The proposed development does not satisfy objectives and planning controls set out in Part 4.4 'Landscaping' of MRDCP, in particular:

- (a) Objective O4 aims *"to have the existing canopied and vegetated landscaped character of Mosman protected and enhanced."*
- (b) Objective O6 aims *"to have front gardens and areas forward of the front building alignment include vegetation and landscaping that makes a positive contribution to the streetscape."*
- (c) Planning Control P4 requires *"Vegetation and landscaping should:*
 - (a) *soften the built form;*
 - (b) *be consistent with the theme of vegetation in the streetscape, if a predominant theme exists;*

(c) form part of the overall streetscape, and therefore contribute as a unifying element within the street.

The application was referred to Council's Landscape Department who did not support the proposed development for reasons outlined above. Furthermore, the following comments were provided for consideration.

- The proposal does not provide a suitable contribution to public space, a through site link should be considered to provide public access between Redan Lane and Muston Street.
- The landscape treatment at the south-east corner of the site should be amended to remove retaining walls and planters that impinge on sight-lines and traffic safety within Redan Lane.

For the reasons outlined above, the proposal is inconsistent with the landscape design principle outlined within the Schedule 9 of SEPP Housing, Design Principles for Residential Apartment Development.

9 Visual and Amenity Impact

The application must be refused as the proposed development does not maintain adequate amenity for neighbouring properties. In this regard:

- The applicant has not demonstrated that the proposed development has been designed to minimise view loss to adjacent (upslope) properties, as required by Planning Control P4 of Part 4.3 'View sharing' of MDCP. The impacts upon private and public views will range between severe to devastating. Extracts from the applicant's Visual Impact Assessment are provided herein for reference.
- The application has not demonstrated that adequate measures have been taken to minimise the visual impact of the proposed development to and from Middle Harbour and the surrounding foreshore area.
- The proposal results in significant overshadowing of adjoining and adjacent neighbouring properties including heritage listed items of local significance. The site extends approximately 15m further east than adjoining and adjacent properties to the south. As such, future built form on the site should be developed to minimise its impact upon the amenity of southern neighbours and accommodate an equitable and amenable pattern of development on neighbouring sites.
- The proposed development and intensification of land use will adversely compromise visual and acoustic privacy levels of neighbouring residents. The proposal fails to meet the objectives and design criteria set out in Part 3F 'Privacy' of the ADG.
- Insufficient spatial separation is afforded to neighbouring properties, resulting in unreasonable impacts with respect to visual dominance. The proposed development does not comply with the minimum spatial separation requirements of the ADG.
- The failure to provide appropriate transitions to low scale residential properties within the surrounding environment exacerbates visual dominance impacts.

- The incorporation of a 3m front setback from the Muston Street property boundary results in tree removal and restricts opportunities for the incorporation of canopy trees and landscaping which can help soften the presence of built form and make a positive contribution to the streetscape. The inappropriate siting of the development does not respond to the existing Muston Street character of generous front gardens and front setbacks (up to 11.5m). Accordingly, the proposal gives rise to adverse visual amenity impacts, and results in an undesirable precedent for the future character of the street.

10 Transport, Access and Parking

The application was referred to Council’s Transport Engineering Consultant for review. Several contentions relating to unresolved road safety issues, servicing issues, walking route measurements and parking design issues were identified. Collectively, these matters indicate that the application does not achieve satisfactory traffic or parking outcomes consistent with SEPP Housing, - Part 5.10 ‘Transport, access and parking’ of MRDCP and certain design criteria of AS2890 Parts 1, 2 and 3.

Additional information is required and the following concerns are raised:

Redan Lane - Road Safety

The current design results in a substantial road safety impact on Redan Lane users, eliminating sightlines through the road curvature, or ‘dog leg’, located immediately to the south of the site.

- The site lies immediately north of a particularly tight dog-leg alignment on Redan Lane, with two 90-degree bends, no pedestrian footpaths and no ability for vehicles to pass either within the dog-leg, or for approximately 10m on either end.
- Two environmental features have been attributed to the laneway’s ability to operate safely with this constraint:
 - Most critically, the sightlines between opposing movements at the dog-leg of Redan Lane currently pass through the south-east corner of the subject site, enabling drivers to safely perceive oncoming vehicles. Within this sight splay, the existing site levels closely match road levels, there are no internal structures present, and landscaping is kept to a minimum. This arrangement has enabled visibility through the dog-leg for well over 15 years; and
 - Traffic and pedestrian volumes through the laneway have historically been minimal, characteristic of a laneway serving primarily domestic properties.
- Under this proposal, the sightlines described above will be completely obstructed by landscaping and retaining walls. Vehicles and pedestrians will no longer have any means of safely perceiving on-coming traffic. The presence of convex mirrors is acknowledged; however, reliance on such devices is now recognised by both Transport for NSW (TfNSW) and Local Councils to, in fact, result in greater road safety issues than not having them, as they direct drivers’ attention away from the road, and create difficulties in perceiving approaching obstacles through distorted images. They are a legacy device, noting Council no longer approves of the installation of new convex mirrors on public roads. They cannot be relied upon as a substitute for the lost sightlines.

- Secondly, this development is contributing to a fundamental shift in the character of Redan Lane, as a result of the recent LMR housing policy. This shift in character will inevitably lead to significant cumulative growth in traffic and pedestrian volumes along Redan Lane.
- Therefore, the critical features attributed with maintaining a minimum level of service through this dog-leg are being either removed in the case of sightlines, or worsened due to the substantial cumulative growth in traffic utilising it.
- This site is unique from other potential developments along Redan Lane, in that it alone has the ability to address the safety issues at this dog-leg. Therefore, the following options are recommended, in order of preference (i.e., effectiveness):

Option 1:

- Provide a land dedication in the form of a 10m x 10m triangular sight splay at the south-east corner of the site, for the purposes of improving the road alignment of Redan Lane; and
- A land dedication of 1.5m along the south and eastern frontages to Redan Lane for the purposes of improving pedestrian safety. This land would overlap the triangular splay described above, rather than be in addition to it.

Option 2:

- A land dedication of 1.5m along the south and eastern frontages to Redan Lane for the purposes of widening Redan Lane and improving pedestrian safety; and
- Provision of a 10m x 10m triangular sight splay within the southeast corner of the site. All features within this splay must not exceed 1.1m in height, measured from the existing boundary level, unless it is clearly demonstrated that they do not substantially reduce visibility, such as a narrow, isolated tree trunk, or a high permeability fenceline.

Off-Street Car Park - Inefficient and Excessive Design

The development seeks to provide oversized garages with excessive storage space that, in practice, could readily be utilised for additional car parking, in some cases up to 4 cars, beyond the permissible parking rates stipulated within the MRDCP.

Importantly, this results in an extremely inefficient car parking layout over 4 levels. It can be easily demonstrated that compliant car parking provisions could be accomplished with just 1.5-2 parking levels whilst still complying with AS2890.1:2004. On this basis, the development appears to be fundamentally at odds with the objectives of 'Affordable Housing', given the significant costs of the extensive and unnecessary scale of excavation and construction for the car park.

An example of alternate and more efficient arrangement is provided herein, and is intended to be informative, showing at a very high level how these same basement footprints could achieve approximately 18-20 spaces per floor, as opposed to 10-12, whilst still providing space for storage, services, bin rooms, and other features.



Extract from Drawing A-110-020 depicting a high-level demonstration of an 18-space arrangement (in red) overlaid onto the proposed 10-space arrangement within the current Basement 01 footprint (Source: Studio Johnston)

Off-Street Car Park - Pedestrian Safety

The proposed car park arrangement results in a poor design outcome for pedestrian access and safety.

- The main lobby door at Basement 01 and Basement 02 opens directly into the vehicle path of travel on the main circulating roadway. There is no physical separation and no provision of sight splays. The lobby interface must be redesigned to improve pedestrian safety.
- The current structural design results in numerous blind corners en route between the lobby and key features such as garages, visitor bays, wash bays and the bin room.
- The car park should be reviewed and amended to consider and accommodate pedestrian desire lines, including measures such as marked paths.

Off-Street Car Park - Potential for Vehicle Scraping

The proposed development is targeted towards a luxury market, and, as such, it can reasonably be expected that the car park will cater for a higher proportion of luxury vehicles with lower ground clearance. The reliance on minimum-gradient transitions, whilst complying with AS2890.1, will be problematic for such vehicles and could increase reliance on on-street parking.

All internal gradients should be reviewed to ensure that they not only comply but also align with the anticipated demands of future residents, where reasonably practical.

Servicing Requirements

The application seeks to rely on on-street waste collection servicing via Redan Lane. This arrangement is not acceptable to Council on the grounds of public and staff safety, and the functionality of the lane.

- The proposed collection point is within a 'No Stopping' zone at the Redan Lane dog-leg.
- As such, aside from being in breach of the Road Rules, a waste collection vehicle stopping at this location would restrict all through movement along Redan Lane. Given the number of bins and the need to remove and return them to a narrow, single-entrance temporary bin-holding area, this will result in unreasonable delays to through traffic on Redan Lane.
- More importantly, visibility at this location is already constrained by the dog-leg. The development in its current form will substantially exacerbate this issue (refer to previous comments in relation to Redan Lane - Road Safety). Standing the waste collection vehicle immediately beyond a blind corner will materially increase the risk of rear-end collisions. It is an unacceptable safety risk to impose on Council staff or contractors, who will be operating around and behind the waste collection vehicle.
- Therefore, the Redan Lane access should be modified to enable a Council waste collection vehicle to stand wholly off-street, within the first 10m of the property setback. This standing area must not exceed a grade of 5%.
- The bin room must be appropriately sized to accommodate a bin tug, to enable safe transport of bins up the 25% grade driveway ramp. This must be reflected in both the plans and within the Waste Management Plan.

LMR Inner Housing Walking Catchment

The walking route adopted in the Travel Distance Survey submitted by the applicant does not satisfy the definition of '*walking distance*', in that it does not use 'as far as reasonably practicable, public footpaths and pedestrian crossings'. Refer to Item 2 'Low and Mid-Rise (LMR) Housing Area and Walking Distance' for details.

Public Benefit - New Pedestrian Link

Council is in the process of developing the Mosman Masterplan, focussed on the town centre, to address the rapid densification surrounding the Mosman Town Centre in response to the State Government's LMR housing policy controls.

As part of this on-going exercise, it has been identified that a mid-block public pedestrian link is needed between Redan Street and Military Road to address a missing pedestrian desire line and improve connectivity between the town centre and the densifying neighbourhood.

This site (65 Muston Street) is ideally located for such a link. A pedestrian link in this location would be of significant public benefit because it would improve connectivity between the town centre and local neighbourhood. Consideration should be given to a land dedication along the southern boundary of the site for the purpose of a public pedestrian link between Redan Lane and Muston Street.

<p>12</p>	<p>Stormwater Management</p> <p>The application was referred to Council’s Engineering Department for review. The following concern is raised:</p> <ul style="list-style-type: none"> • The width of the proposed development utilises the full width of the lot at the basement and lower ground levels. This impedes surface and ground water flows, with probable detrimental effects on drainage patterns, soil stability and hydrostatic pressures against the building, unless mitigated.
<p>13</p>	<p>Excavation, Site Management and Geotechnical Impact</p> <p>The application was referred to Council’s Engineering Department who do not support the proposal in its current form. The following concerns are raised:</p> <ul style="list-style-type: none"> • The earthworks necessitated by the proposed development evidently affects the amenity of the neighbouring residential properties at Nos. 63 and 67 Muston Street. <ul style="list-style-type: none"> ○ The applicant’s geotechnical investigation (prepared by Douglas Partners, Rev. 4, dated 12 February 2026) found shallow depths of soil on moderately and slightly weathered rock to depths of 4m and cracked brickwork on exposed rock outcrops; ○ The width of excavation required by the submitted design would necessitate vertical cuttings along the side boundaries and temporary removal of boundary fences with both adjoining properties; and ○ The width of excavation required by the submitted design has probable unacceptable impacts on soil stability and paved areas within both neighbouring property’s side setbacks. • The width of excavation required by the submitted design potentially has unacceptable impacts on the building foundations of both neighbouring properties. • The width of excavation required by the submitted design potentially has unacceptable impacts on the Redan Lane road reserve. • Anchoring that extends into neighbouring land is not supported. If anchoring into neighbouring properties is required, owners consent will be required and the proximity of excavation from the boundary may need to be increased. <p>For the reasons above, the proposed development does not satisfy the objectives set out at Clause 6.7 ‘Earthworks’ of MLEP, nor the objectives and planning controls outlined in Part 5.14 ‘Excavation and site management’ in MRDCP.</p>
<p>14</p>	<p>Waste Management</p> <p>The application was referred to Council’s Waste Department for review. An amended waste management solution is required. The following concerns are raised:</p> <ul style="list-style-type: none"> • The proposed development seeks to utilise Redan Lane for kerbside waste collection and servicing. On-street waste collection for the proposal is deemed unacceptable as it will cause traffic interruptions, safety risks, reduced lane capacity, and potential adverse cumulative impacts over time.

- An amended waste management solution is required. Provision is to be made for on-site for waste collection.
- The waste generation rates for the proposed development will require the following quantity of bins:
 - 7 x 240 litre (general waste)
 - 5 x 240 litre (recycling - paper/cardboard)
 - 5 x 240 litre (recycling - commingled)
- Food Organics and Garden Organics (FOGO) will commence in 2030, and necessary adjustments to the bin quantities are to be actioned accordingly.
- The size of the waste storage room will satisfy bin storage requirements.

The proposed method of waste collection will unreasonably impact on Redan Lane and is not supported. The proposal fails to satisfy the objectives and planning controls set out in Part 5.15 'Waste management' in MRDCP.

15 Balmoral Townscape

The townscape area and character description outlined in Part 7.4(1) 'Balmoral Townscape' of MRDCP describes the townscape as *"an amphitheatre sloping east and north-east down from the Spit/Military Roads ridgeline to the foreshore at Hunters Bay in Middle Harbour, with dramatic views down main access roads. The subdivision pattern is a cylindrical grid following the contour alignment, creating the amphitheatre form. The topography and development create an enclosed feeling to the harbour."*

"The ridgeline and upper slopes typically contain medium sized lots with large one and two storey Federation and bungalow housing of a similar scale and design including roof pitch and building material. Detached and semi-housing styles on small to medium sized lots exist on the lower slopes."

The proposed development does not comply with planning controls set out in Part 7.4(1) 'Balmoral Townscape', namely Planning Controls (e), (f), (h), and (m).

Part 7.4(1) MRDCP

- (a) Planning Control (e) requires development to *"avoid excessive excavation across entire allotments, and of rock faces and stone walls"*.
- (b) Planning Control (f) encourages *"low open style front fences which allow views/vistas"*.
- (c) Planning Control (h) requires development to *"maintain light tree cover and leafy character"*.
- (d) Planning Control (m) requires development to *"maintain the sense of dramatic entry to Balmoral and views to Middle Harbour and foreshore area"*.

The introduction of a non-compliant and incongruous part 8 and part 10-storey residential flat building development on the Balmoral slopes will not maintain the sense of an amphitheatre or dramatic entry to Balmoral. Furthermore, the proposed development will give rise to devastating impacts on views to and from Middle Harbour and the foreshore area.

	<p>The proposed built form fails to incorporate appropriate transitions to low scale residential properties, or respect view sharing from adjoining and adjacent land. This undermines both local character and broader scenic and amenity values.</p> <p>The proposal represents an over-development of the site by contravening development standards and planning controls that regulate building envelope and inform the desired future character of the area. The excessive quantum of development proposed is not in keeping with the desired future character of the locality and the Balmoral Townscape.</p>
16	<p>Public Interest</p> <p>The development application should be refused as the proposed development is not in the public interest. In this regard:</p> <ul style="list-style-type: none"> • The development application should be refused having regard to the broader public interest of providing development that is compliant with relevant controls and standards and provides adequate residential amenity. • The proposed development will establish an undesirable precedent for future development in the locality. • The proposed development is not in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 as it does not achieve appropriate affordable housing delivery and it does not promote the orderly development of land.

In the event the proposal is approved, it is recommended that the conditions of consent provided, without prejudice to Council's advice, at Annexure D as a minimum, are included as part of any development consent.

In the event any amendments are made, Council requests that it and the community be notified and consulted.

Should you wish to speak with a Council officer about the above, please contact Payarm Eskandari, Executive Town Planner, on 9978 4021 or p.eskandari@mosman.nsw.gov.au.

Yours sincerely,

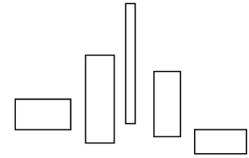
Vivienne Albin
Director Environment and Planning

ANNEXURE A

Suite 1.02
201 Elizabeth Street
Sydney NSW 2000

T 02 9262 6188
E info@pvlaw.com.au

W www.pvlaw.com.au
ABN 77 357 538 421



PIKES & VEREKERS
LAWYERS

2 April 2026

Department of Planning, Housing and Infrastructure
Locked Bag 5022
PARRAMATTA NSW 2124

BY EMAIL ONLY max.tran@dpie.nsw.gov.au

Dear Sir/Madam

SSD-98068713 - 65 MUSTON STREET, MOSMAN
Our ref TAW:37660
Your ref SSD-98068713

We act for Mosman Municipal Council (**Council**).

We are instructed to write to the Department of Planning, Housing and Infrastructure (**Department**) in relation to State Significant Development Application SSD-98068713 (**SSD Application**).

We note that Council received correspondence from the Department on 27 March 2026 which stated that the SSD Application would be placed on public exhibition from Thursday 2 April 2026 until Wednesday 15 April 2026.

It is unclear to Council why the Department has determined to commence public exhibition (for a period of only 14 days) the day before four public holidays. When accounting for these public holidays and weekends, the actual number of days the SSD Application is "on exhibition" is in effect only 8 business days.

For a development of this size and scale such a short public exhibition period is clearly insufficient and deprives both Council and the community from:

1. properly considering the SSD Application – including its compliance (or otherwise) with the relevant planning controls and its impacts; and
2. being able to submit meaningful submission(s) to the Department.

For a development of this scale, it is likely that experts in numerous areas of expertise will need to review and consider the SSD Application. A period of 8 business days is clearly not sufficient for this to be undertaken.

Furthermore such a short period of public exhibition is contrary to a number of the stated objectives contained within the Department's Community Participation Plan (**CPP**). These include to:

- Promote participation

- Seek community input and accurately capture views
- Ensure as many community members as possible can participate
- Start community participation as early as possible and continue for an appropriate period
- Ensure the community has reasonable time to provide input.

Whilst the 14 day notification period may strictly comply with the timeframes contained within the CPP, for the reasons detailed above, we consider that in these particular circumstances this timeframe is clearly insufficient.

We are therefore instructed to seek that the Department extend the notification period to 28 days. Such an extension would not in our opinion cause any prejudice to the Applicant and would permit both Council and the community to properly assess the SSD Application and prepare submissions.

We look forward to hearing from you in relation to the above.

Yours faithfully



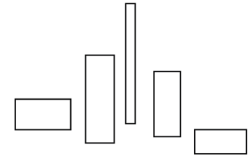
Tom Ward
Partner
Accredited Specialist Planning & Environment Law

ANNEXURE B

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PIKES & VEREKERS
LAWYERS

16 April 2026

Department of Planning, Housing and Infrastructure
Locked Bag 5022
PARRAMATTA NSW 2124

BY EMAIL ONLY max.tran@dpie.nsw.gov.au

Dear Sir/Madam

SSD-98068713 - 65 MUSTON STREET, MOSMAN

Our ref TAW:37660

Your ref SSD-98068713

1. Background

- 1.1. We continue to act for Mosman Municipal Council (**Council**).
- 1.2. We refer to our correspondence of 2 April 2026 which raised concerns with the exhibition period for State Significant Development Application SSD-98068713 (**SSD Application**).
- 1.3. We note that we received a response from you on the same date which dismissed Council's concerns and indicated that objections received outside the formal exhibition period would be considered by the Department of Planning, Housing and Infrastructure (**Department**).
- 1.4. Since our earlier correspondence we have been made aware of the following matters:
 - a) Council received correspondence from the Department on 31 March 2026 which indicated that the exhibition period was **2 April 2026 to 15 April 2026**.
 - b) On 2 April 2026 when the SSD Application documents were made available for download from the Department's website, the exhibition letter stated that the exhibition period was **1 April 2026 to 14 April 2026**.
 - c) On 13 April 2026 Council received an email from the Department reminding it of the due date for a response in relation to the SSD Application. Within this email the Department advised that there was a technical issue with the Major Projects Portals countdown clock and therefore a 2 day extension was being provided for the exhibition period (being until **17 April 2026**).

- d) We note that the exhibition documentation on the Department's website has recently been updated and now states that the exhibition period ends on **17 April 2026**.

2. Validity of the notification period

- 2.1. As has been demonstrated by the above, the Department has released misleading and conflicting documentation in relation to the exhibition period for the SSD Application.
- 2.2. It has also sought to extend the exhibition period (by some two days) in circumstances where it is entirely unclear how members of the community would become aware that such an extension has been made.
- 2.3. Furthermore this limited extension does not address the concerns raised in our earlier correspondence nor does it account for the inconsistent dates previously provided by the Department.
- 2.4. It is important to note that the exhibition material expressly states that submissions are to be made prior to the close of the exhibition period. It is not in our opinion sufficient for the Department to merely state that it will consider submissions received outside the exhibition period.
- 2.5. In our opinion as a consequence of both the misleading and inconsistent information provided by the Department and the fact that a clearly unreasonable period of time has been provided by the Department to make submissions, then it is highly likely that were the SDD Application to be approved by the Department then legal proceedings challenging its validity would be successful.
- 2.6. The importance of properly undertaking public exhibition was outlined by Chief Justice Preston of the Land and Environment Court in *Simpson v Wakool Shire Council* [2012] NSWLEC 163, where his Honour stated:

85 Compliance with mandatory, statutory requirements for notification and advertisement is in the public interest. As Stein J noted in Curac v Shoalhaven City Council at 128: '[r]easonable opportunities for public participation in plan making and in the development process are crucial to the integrity of the planning system provided under the Environmental Planning and Assessment Act.' Statutory provisions requiring notification and advertising of development applications, such as ss 79 and 79A of the EPA Act, are 'requirements intended to ensure public participation in the planning process. They are, in effect, statutory requirements to service the public interest inherent in the objective contained in s 5(c)' of the EPA Act. See also Broomham v Tallaganda Shire Council (Unreported, Land and Environment Court of NSW, Stein J, 31 October 1986) at 5; Johnson v Lake Macquarie City

Council at 341; Boral Resources (Country) Pty Ltd v Clarence Valley Council (No 2) [2009] NSWLEC 133 at [18].

2.7. The Courts have consistently held that notices which are misleading will lead to the invalidity of a development consent (see for example *Litevale Pty Ltd v Lismore City Council* (1997) 96 LGERA 91 and *Castle Constructions Pty Limited v North Sydney Council & Anor* [2008] NSWLEC 137).

3. Nex steps

3.1. The commencement of costly legal proceedings (were the SSD Application to be approved) can be simply avoided by the Department undertaking the exhibition period of the SSD Application again.

3.2. Such an approach will ensure that the community is provided with a reasonable opportunity to consider the SSD Application and make submissions. Furthermore it would clearly be in the public interest to undertake such a course.

Yours faithfully



Tom Ward
Partner
Accredited Specialist Planning & Environment Law



EXHIBITION OF STATE SIGNIFICANT DEVELOPMENT APPLICATION RESIDENTIAL DEVELOPMENT WITH IN-FILL AFFORDABLE HOUSING AT 65 MUSTON STREET, MOSMAN

Application No	SSD-98068713
Location	65 Muston Street, Mosman
Applicant	Prosker Property Pty Ltd
Council Area	Mosman
Consent Authority	Minister for Planning and Public Spaces

Description of proposal

Construction of a part 8/part 10 storey residential development, with in-fill affordable housing, comprising:

- demolition of existing structures, site preparation and excavation
 - 13 apartments (including 3 affordable housing apartments)
 - lower-ground and basement parking for 29 cars with access from Redan Lane
 - communal facilities and rooftop communal open space
 - associated civil and landscaping works.
-

About the exhibition

An exhibition process allows any individual or organisation to have their say about a proposed development.

The Department of Planning, Housing and Infrastructure (the Department) has received a State significant development (SSD) application for the abovementioned proposal. The application, environmental impact statement (EIS) and accompanying documents are on exhibition from **Thursday 2 April 2026** until **Wednesday 15 April 2026**. You can view these documents online at www.planningportal.nsw.gov.au/major-projects.

At the time of publishing this advertisement, the Minister for Planning and Public Spaces has not directed that a public hearing should be held.

Have your say

To have your say on this project, you must lodge a submission online through the NSW Planning Portal before the close of exhibition.

To do this, search for this project at www.planningportal.nsw.gov.au/major-projects and click on 'Make a submission'. You will need to log in or create a user account.

Resources to help you use the NSW Planning Portal are available at www.planningportal.nsw.gov.au/major-projects/help including a step-by-step [guide](#) on how to make a submission. If you require further assistance, please contact Service NSW on 1300 305 695.

If you think you'll need help making a submission using the portal, it's a good idea to contact Service NSW sooner rather than later. Ensure you give yourself plenty of time to make a submission before the project's exhibition end date.

Before making your submission: You should read the department's:



Department of Planning, Housing and Infrastructure

- Disclaimer and declaration at www.planningportal.nsw.gov.au/major-projects/help/disclaimer-and-declaration, and
- Privacy statement at www.planning.nsw.gov.au/privacy.

Your submission will be published on the NSW Planning Portal in accordance with our privacy statement and disclaimer and declaration. You can elect to have your name withheld from the published list of submitters. If you choose this option, do not include personal information in the body of your submission or in any attachments as your submission will be published in full.

When making a submission you will be required to include:

- your name and address
- the name of the application and the application number
- a statement on whether you 'support' or 'object' to the proposal or if you are simply providing comment
- the reasons why you support or object to the proposal
- a declaration of any reportable political donations you have made in the last two years (visit www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Planning-Approval-Pathways/Donations-and-Gift-Disclosure or phone 1300 305 695 to find out more)
- an acknowledgement that you accept the department's [disclaimer and declaration](#).

For more information, including the department's submissions policy, please go to www.planningportal.nsw.gov.au/major-projects/have-your-say.

For more information about the project: Contact Max Tran, Planning Officer, on 8275 1606

If you require assistance to use the NSW Planning Portal or you are having difficulty making a submission online, please call Service NSW on 1300 305 695.



**Department of Planning,
Housing & Infrastructure**

Return undelivered mail to
GPO Box 9898
In your capital city



007 R 3
929468023

Mosman Council
PO BOX 211
SPIT JUNCTION NSW 2088





EXHIBITION OF STATE SIGNIFICANT DEVELOPMENT APPLICATION RESIDENTIAL DEVELOPMENT WITH IN-FILL AFFORDABLE HOUSING AT 65 MUSTON STREET, MOSMAN

Application No	SSD-98068713
Location	65 Muston Street, Mosman
Applicant	Prosker Property Pty Ltd
Council Area	Mosman
Consent Authority	Minister for Planning and Public Spaces

Description of proposal

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- lower-ground and basement parking for 29 cars with access from Redan Lane
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- associated civil and landscaping works.

About the exhibition

An exhibition process allows any individual or organisation to have their say about a proposed development.

The Department of Planning, Housing and Infrastructure (the Department) has received a State significant development (SSD) application for the abovementioned proposal. The application, environmental impact statement (EIS) and accompanying documents are on exhibition from **Wednesday 1 April 2026** until **Tuesday 14 April 2026**. You can view these documents online at www.planningportal.nsw.gov.au/major-projects.

At the time of publishing this advertisement, the Minister for Planning and Public Spaces has not directed that a public hearing should be held.

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Application No	SSD-98068713
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-

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At the time of publishing this advertisement, the Minister for Planning and Public Spaces has not directed that a public hearing should be held.

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For more information about the project : Contact Max Tran, Planning Officer, on 8275 1606

If you require assistance to use the NSW Planning Portal or you are having difficulty making a submission online, please call Service NSW on 1300 305 695.

ANNEXURE D: Without Prejudice Conditions of Consent

APPROVED PLANS AND DOCUMENTATION

1. The development shall be carried out in accordance with the following stamped approved plans and documentation, except where amended by later conditions of consent.

Drawing	Date	Prepared By
< Insert >	< Insert >	< Insert >

Document	Date	Prepared By
< Insert >	< Insert >	< Insert >

Detailed Site Investigation Required (Pre-Construction)

2. Prior to the commencement of any works, a Detailed Site Investigation (DSI) must be prepared by a suitably qualified and experienced contaminated land consultant in accordance with:
 - *SEPP (Resilience and Hazards) 2021 – Contaminated Land Requirements,*
 - *Contaminated Land Planning Guidelines (2021), and*
 - *NSW EPA Guidelines for Consultants Reporting on Contaminated Sites (2020).*

The DSI must:

- Further delineate the nature, extent, and concentrations of contamination across the site;
- Specifically assess:
 - Heavy metals including lead and zinc,
 - Polycyclic aromatic hydrocarbons (including benzo(a)pyrene),
 - Asbestos in soil and fill materials,
 - Groundwater quality and variability,
- Provide a refined conceptual site model (CSM); and
- Assess risks to human health and the environment in the context of the proposed residential land use with basement excavation.

The DSI must include sampling, laboratory analysis and a full risk assessment to determine whether the land is suitable for the proposed residential use.

Development must not commence (other than minor site survey and investigative works) until the DSI is submitted to and accepted by Council.

Remediation Action Plan (If Required)

3. If the Detailed Site Investigation (DSI) identifies contamination exceeding criteria for the proposed land use, a Remedial Action Plan (RAP) must be prepared and submitted to Council for approval.

The RAP must:

- Identify remediation objectives consistent with residential land use;

- Detail remediation methodologies, validation requirements, and quality assurance procedures;
- Include a soil management hierarchy (avoid, remove, treat, dispose);
- Address management of contaminated groundwater, if encountered; and
- Include a staging plan aligned with demolition and excavation works.

The RAP must be submitted to the Accredited Certifier and Council (where applicable) prior to commencement of remediation works.

Remediation Works (If Required) (Prior to Construction)

4. All remediation works must be undertaken in accordance with the approved RAP and must be supervised by a suitably qualified contaminated land consultant.

All waste arising from remediation must be classified and disposed of in accordance with the *Protection of the Environment Operations Act 1997* and relevant NSW EPA guidelines.

Validation Report (During Demolition)

5. Upon completion of any remediation work, a Validation Report must be submitted to Council demonstrating that the land is suitable for the approved residential use.

The Validation Report must comply with NSW EPA guidelines and confirm:

- all remediation has been completed,
- the site meets human health and ecological criteria, and
- the land is suitable for the proposed use without restriction.

No Occupation Certificate may be issued until the Validation Report is accepted by Council.

Hazardous Materials - Site Assessment

6. Prior to the commencement of any demolition, excavation or construction works on the site, the applicant must engage a suitably qualified and experienced hazardous materials consultant to undertake a comprehensive Hazardous Materials Survey and Assessment of all existing buildings, structures and site surfaces.

The assessment must identify the presence, type and extent of any hazardous materials, including but not limited to asbestos-containing materials, lead-based paints, polychlorinated biphenyls (PCBs), chemical residues or other hazardous substances that may pose a risk to human health or the environment during demolition or construction.

The Hazardous Materials Report must include recommendations for the safe handling, removal, containment and lawful disposal of any identified hazardous materials in accordance with applicable legislation and guidelines, including the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2017*, relevant SafeWork NSW requirements, and the *Protection of the Environment Operations Act 1997*.

All hazardous materials identified in the report must be removed and managed in accordance with the recommendations of the report prior to or during demolition works. Evidence confirming the safe removal and lawful disposal of hazardous materials must be retained and made available to Council upon request.

Should any hazardous materials not identified in the report be encountered during demolition or site works, all works in the affected area must cease immediately, and a suitably qualified consultant must be engaged to assess the material and provide management

recommendations. Council must be notified prior to the recommencement of works.

PRESCRIBED CONDITIONS

The following prescribed conditions apply in accordance with Part 4, Division 2 of the *Environmental Planning and Assessment Regulation 2021*.

Building Code of Australia

7. Any building work must be carried out in accordance with the requirements of the Building Code of Australia.

Home Building Act

8. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor; and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder; and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

Erection of Signage

9. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work; and
 - (b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - (c) stating that unauthorised entry to the work site is prohibited.

Any such sign shall be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

Shoring and Adequacy of Adjoining Property

10. Development involving excavation that extends below the level of the base of the footings of

a building, structure or work (including any structure within a road corridor) on adjoining land, the person having the benefit of the development consent must at the person's own expense:

- (a) protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the adjoining premises to prevent any such damage.

Insurance Under the Home Building Act

11. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

BASIX

12. Under Section 75 of the *Environmental Planning & Assessment Regulation 2021*, it is a condition of this development consent that all the commitments listed in the BASIX Certificate for the development are fulfilled.

PRIOR TO THE RELEASE OF THE CONSTRUCTION CERTIFICATE

The following conditions must be satisfied prior to the release of the Construction Certificate.

Conditions may require the submission of additional information with the Construction Certificate application. Applicants can now book a time with customer service staff to pay the fees that are required to be paid before a Construction Certificate can be issued via [Book It 'DA fee payment appointment'](#) on Council's website.

Applicants should also familiarise themselves with conditions in subsequent sections and provide plans in accordance with any design requirements contained therein.

Construction Certificate Application Plans

13. Architectural and Structural Engineer's plans must be submitted with the Construction Certificate application. The structural engineering plans must be signed by a qualified practicing Structural Engineer with membership of the Institute of Engineers Australia or who is eligible to become a member and has appropriate experience and competence in the related field.

The plans are to incorporate and note any changes from the approved development application plans as required by conditions of this consent.

Where Council is nominated as the Principal Certifying Authority, two copies of the architectural and structural engineer's plans must be submitted and for applications involving alterations and additions, one set of plans should be coloured which indicate the extent of new works.

Geotechnical Endorsement

14. As the site contains a cliff or is located in an area susceptible to landslip, the Construction Certificate application plans must be endorsed or countersigned by a qualified practicing Geotechnical Engineer with membership of the Institute of Engineers Australia or who is

eligible to become a member and has appropriate experience and competence in the related field.

Dilapidation Report – Council Assets

15. To assist with an assessment of claims for the refund of the security deposit over Council's property, a dilapidation report must be submitted. The dilapidation report shall be submitted as a PDF in Adobe format or in A4 format. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development. Any damage not shown in this manner will be assumed to have been caused as a result of the site works undertaken and must either be rectified at the applicant's expense or compensated by deduction from the security deposit.

Dilapidation Report – Private Assets

16. The applicant shall supply Council with a dilapidation report for the adjoining and adjacent properties at Nos. 58, 60, 61, 62, 63, 64, 66, 67, 68, and 69 Muston Street and Nos. 34, 36, 38, and 40 Redan Street which documents and photographs the condition of buildings and improvements on those properties. The dilapidation report shall be submitted as a PDF in Adobe format or in A4 format. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of nominated properties. Council shall be provided with a list of owners to whom a copy of the report has been provided.

Excavation, Backfilling and Support for Neighbouring Buildings

17. Excavation works shall not commence before the issue of the Construction Certificate or the issue of any relevant notices to adjoining owners, the Principal Certifying Authority or Council as required by other conditions of this consent.

Excavation, Backfilling and Support for Neighbouring Buildings

18. A report shall be prepared by a practicing Geotechnical Engineer or Structural Engineer and submitted to Council or the Accredited Certifier detailing the structural condition of adjoining structures / property and their ability to withstand the proposed excavation, backfilling and construction. The report must investigate site and soil conditions and outline any recommended measures to ensure that no damage will occur to the structures / property during or subsequent to the carrying out of works.

Retaining Walls

19. If soil conditions require it, retaining walls or other approved methods necessary to prevent the movement of soil, together with associated stormwater drainage measures, shall be designed by a Civil Engineer or other appropriately qualified person. Details of any retaining walls shall accompany plans and specifications submitted with the Construction Certificate application.

Council Property

20. Two copies of Structural Engineer's plans, signed by a qualified practicing Structural Engineer with membership of the Institute of Engineers Australia or who is eligible to become a member and has appropriate experience and competence in the related field, must be submitted with the Construction Certificate application for the proposed retaining wall/s which provide structural support to Council's road.

The design load of the retaining wall shall consist of the following:

- A minimum surcharge load (UDL) of 5.0 kPa;
- A minimum point load of 31 kN acting on an area of 0.025 m² at a maximum distance of 0.5 metres from the site boundary.

The plans are also to demonstrate adequate shoring works during all stages from the removal of the existing structural support until the construction of the new wall is complete

Council Property

21. Two copies of Structural Engineer's plans, signed by a qualified practicing Structural Engineer with membership of the Institute of Engineers Australia or who is eligible to become a member and has appropriate experience and competence in the related field, must be submitted with the Construction Certificate application for the proposed retaining wall/s which provide structural support to Council's footpath. The plans are also to demonstrate adequate shoring works during all stages of construction including the demolition of the existing retaining wall.

Any excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must at the person's own expense:

- (a) protect and support the adjoining premises from possible damage from the excavation; and
- (b) where necessary, underpin the adjoining premises to prevent any such damage.

Construction Works on Council Property

22. As the development involves works on Council property, prior to the issue of the Construction Certificate the applicant shall submit and pay the applicable fees for an Application for Construction Works on Council Property. The form is available on Council's website.

Drainage

23. All surface and subsurface stormwater drainage associated with the development shall be connected to Council's underground stormwater drainage system. Detailed engineering design for all surface and subsurface stormwater drainage associated with the development shall be prepared by a suitably qualified and experienced hydraulic engineering consultant.

The design must be certified as being compliant with Council's adopted plans, policies, and relevant engineering standards.

The certified drainage design documentation shall be submitted to Council and approved prior to the issue of a Construction Certificate.

All costs associated with the construction, connection and any required infrastructure works, including upgrades or extensions to Council's stormwater network, shall be borne entirely by the applicant.

Drainage

24. To ensure drainage works are undertaken without adversely affecting Council property, Council's approval must be obtained following the lodgement of an "*Application For*

Construction Works on Council Property". This form is available from Council's website.

Rainwater Re-Use System/Onsite Detention

25. Having regard to hard surface areas proposed, the capacity of the stormwater system and the need to retard the flow of stormwater in peak flow periods, an on-site detention (OSD) system shall be provided. Detailed plans shall be submitted with the Construction Certificate application and certified as complying with Council's Policy "Stormwater Management in Mosman" by a Civil Engineer with corporate membership of the Institute of Engineers Australia or who is eligible to become a corporate member and has appropriate experience and competence in the related field. Where located below a driveway or built structure, the engineer is to certify that the OSD system has been designed to withstand all loads likely to be imposed on it.

Alternatively the applicant has the option to utilise rainwater reuse tanks in lieu of or in conjunction with OSD tanks. Rainwater reuse tanks can be used to offset the volume requirements of the OSD tanks in accordance with Council's Policy "Stormwater Management in Mosman". The offset ratio for OSD to rainwater tanks is: 1 cubic metre of OSD is equivalent to 3 cubic metres of rainwater storage. It should be noted that these tanks are to be at a minimum connected to the toilet and washing machine to achieve this offset.

Permanent Post-Construction Stormwater Quality Controls

26. To minimise adverse impacts of water quality on Sydney Harbour, waterways, bushland and drainage systems, permanent post-construction stormwater quality controls shall be provided. Detailed plans shall be submitted with the Construction Certificate application and certified as complying with Council's Policy "Stormwater Management in Mosman" by a Civil Engineer with corporate membership of the Institute of Engineers Australia or who is eligible to become a corporate member and has appropriate experience and competence in the related field. Where located below a driveway or built structure, the engineer is to certify that the permanent post-construction stormwater quality control system has been designed to withstand all loads likely to be imposed on it.

Sydney Water - Building Plan Approval

27. The approved plans must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to sydneywater.com.au/tapin to apply.

Driveway

28. The internal driveway and parking area shall be designed in accordance with "Australian Standard/New Zealand Standard 2890.1 Parking Facilities – Off-Street Car Parking" and the relevant Council Development Control Plan. Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway shall be provided with the Construction Certificate application demonstrating that vehicles will not scrape their undercarriage.

Driveway

29. To ensure the vehicle crossing is properly completed, an "Application for Vehicular Crossing" shall be made and paid for prior to the issue of the Construction Certificate. The

form can be accessed and fees paid from Council's website.

Driveway

30. To improve safety, the driveway exiting the property shall be modified to provide adequate sight distance. Modified plans shall be submitted with the Construction Certificate and certified by a qualified engineer or architect as complying with "Australian Standard/New Zealand Standard 2890.1 Parking Facilities – Off-Street Car Parking".

Easements, Covenants and Restrictions on Title

31. A restriction on the use of land for the property shall be created under the *Conveyancing Act 1919* prohibiting the owner from removing or modifying any retaining wall or other structure which gives structural support to the road unless an alternate method of support has been approved by Council. Mosman Municipal Council shall be identified as the authority able to modify, vary or release the restriction. Evidence that the restriction on the use of land has been registered with NSW Land and Property Information is to be provided to Council.

A fee applies for the checking, approval and execution of the restriction on the use of land by Council and must accompany the restriction on the use of land when lodged with Council. For details refer to Council's current Fees and Charges Schedule at the time of lodgement.

Construction Certificate

32. Before the construction of the approved development, it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the development consent.

Materials and Finishes

33. Materials and finishes shall be complementary to the character and streetscape of the area. Highly reflective roofing materials shall not be used. Details of finished external surface materials, including colours and texture, must be submitted to the satisfaction of the Accredited Certifier.

Tree Replacement

34. To ensure the preservation of the landscape character of the area, an amended landscape plan shall be submitted with the Construction Certificate application. The landscape scheme shall incorporate three (3) additional native canopy trees (i.e. *Angophora costata* and/or *Eucalyptus botryoides*) to achieve a minimum height of 10 metres. The canopy trees shall be planted at a minimum 100 litre pot size. All new trees must comply with *Australian Standard 2303:2018 Tree stock for landscape use*.

Geotechnical Endorsement

35. As the site contains a cliff or is located in an area susceptible to landslip, a "Landslide Risk Management Assessment" (LRM) in terms of the "Australian Geomechanics Society Guidelines" published in 2000 and 2007 is required.

Appointment of a Site Auditor

36. Prior to the issue of any Construction Certificate the Principal Certifier and Council

Compliance Team shall be advised in writing of the appointment of a suitably qualified contaminated land consultant to undertake the required investigations and site validation. The suitably qualified consultant must be a Certified Environmental Practitioner under the Environment Institute of Australia and New Zealand (EIANZ) scheme or a Soil Scientist, Certified as a Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM), by the NSW EPA.

Construction Environmental Management Plan (CEMP) - Soil Classification, Waste Management and Transport

37. Prior to the issue of any Construction Certificate, the Applicant shall prepare and submit a Construction Environmental Management Plan (CEMP) to the satisfaction of the Principal Certifier (and Council where required). The CEMP must address, but not be limited to, the following:

a) Soil Classification:

All excavated material must be assessed and classified in accordance with the NSW EPA Waste Classification Guidelines (as in force at the time of classification). Classification shall be undertaken by a suitably qualified environmental consultant.

b) Waste Management:

Details of the handling, storage, reuse, and disposal of all excavated soils and waste materials generated on-site, including measures to:

- prevent contamination of land and water,
- minimise stockpiling duration, and
- segregate waste streams where practicable.

c) Transport of Waste Soils:

All waste soils and materials removed from the site must be transported to a facility lawfully permitted to accept that waste. Transport shall be undertaken by a licensed waste contractor (where required) and must comply with the requirements of the Protection of the Environment Operations Act 1997.

d) Tracking and Documentation:

Maintain accurate records of all waste generated, classified, and removed from the site, including waste classification reports, transport dockets, and disposal receipts. Documentation must be made available to Council upon request.

e) Erosion and Sediment Controls:

Appropriate measures must be implemented to prevent sediment runoff, dust generation, and material tracking onto public roads during excavation and transport activities.

f) Compliance:

All works must be carried out in accordance with the approved CEMP for the duration of construction.

Fire Safety

38. To enable the issuing of a fire safety schedule, information required by Part 10 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* must be submitted with the Construction Certificate application.

Long Service Levy

39. In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant shall pay a long service levy at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Corporation or Mosman Municipal Council for any work costing \$250,000 or more. To pay the levy online go to <http://www.longservice.nsw.gov.au/>. To pay the levy in person at either the Long Service Corporation or Mosman Municipal Council you will need to complete the Levy Payment Form available online from <http://www.longservice.nsw.gov.au/>.

Security Deposit

40. A cash deposit or bank guarantee to the value of \$835,000 in favour of Council shall be provided for the making good of any damage caused to Council property and to ensure the satisfactory completion of any works required to be undertaken outside the property boundary. The value of the Security Deposit is based on Council's estimate of the cost of works and will not be varied. A request for a refund of unused funds (less an inspection fee) may be made following the completion of all works, both inside and outside the property boundary, and an inspection of the site by Council.

Security Deposit

41. A cash deposit or bank guarantee to the value of \$40,000 in favour of Council shall be provided for the completion of the retaining wall that supports Council's road / road embankment. A request for a refund of unused deposit or guarantee funds may be made following the submission of a Structural Engineer's certificate which certifies that the wall has been completed in accordance with approved Construction Certificate plans and all relevant Australian Standards, or where any variation has been made, that the wall will provide adequate structural support for Council's property.

Security Deposit

42. To encourage works to be undertaken in an appropriate manner such that significant trees are preserved, a cash deposit or bank guarantee for \$20,000 shall be lodged with Council for the following trees:

Species	Location
<i>Glochidion ferdinandi</i>	Planter bed located in Muston Street

The security deposit will not be released until Council has inspected the tree upon request (and no earlier than 12 months after the release of the Occupation Certificate) and is satisfied that the tree is in a sound and healthy condition.

Development Consent Levy

43. Pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979*, a monetary contribution must be paid to Council for the purpose of provision, extension or augmentation of public amenities or public services if the value of works exceeds \$100,000.00. The contribution must be paid before a Construction Certificate is issued.

To enable Council to determine whether a contribution is payable and if so what amount, a 'Development Contribution Cost Summary Report (less than \$1,200,000)' form must be completed if the value of work is less than \$1,200,000.00 or a 'Development Contribution Cost Summary Report (\$1,200,000 or more)' form must be completed by a member of the

Australian Institute of Quantity Surveyors if the value of work is \$1,200,000.00 or greater. These forms are available from Council's website.

This condition is imposed under Council's contributions plan. A levy of 4% of the value of works will be charged on this specific development given the substantial nature of the development and the impact it will have on the provision of public services.

Details of Site Arborist

44. Prior to the issue of the Construction Certificate, Council's Tree Management Officer must be provided in writing with the name, qualifications and contact details of the Site Arborist. Should the Site Arborist change prior to the issue of an Occupation Certificate, Council's Tree Management Officer must be provided with details of the new Site Arborist.

Construction Traffic Management Plan

45. To minimise disruption to and ensure reasonable safety for surrounding public and private property during site works, a Construction Traffic Management Plan shall be submitted to and approved by Council's Traffic Committee. The plan is to address matters raised in Council's "Guide for Construction Traffic Management Plans" which is available on Council's website at www.mosman.nsw.gov.au.

Note: An application fee per site for Construction Traffic Management Plans applies. Fees are reviewed annually. For details refer to Council's current Fees and Charges Schedule at the time of payment.

EV Chargers

46. To encourage and support the use of electric vehicles, a Type 2 EV charging unit is to be provided for each dwelling that is allocated a car parking space. Details are to be included in the Construction Certificate application.

Works Zone

47. An application for a works zone on Muston Street must be submitted to, and approved by Council. The works zone is to remain in effect for the duration of the construction works.

State Environmental Planning Policy (Housing) 2021

48. A certifying authority must not issue a Construction Certificate for residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Schedule 9 'Design Principles for Residential Apartment Development' of *State Environmental Planning Policy (Housing) 2021*.

Waste Management

49. To allow for sustainable waste management, a completed Site Waste Minimisation and Management Plan (SWMMP) shall be submitted in accordance with the Mosman Waste Minimisation Policy 2012. A copy of the Mosman Waste Minimisation Policy 2012 including a SWMMP template can be found on Council's website.

Erosion and Sedimentation Control Plan

50. An erosion and sedimentation control plan in accordance with the NSW Government's policy *Managing Urban Stormwater: Soils and Construction* (also known as *The Blue Book*) is to be submitted and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.

BASIX Certificate

51. Where any conditions of this consent affect the commitments specified in the submitted BASIX Certificate, a revised BASIX Certificate is to be prepared to ensure energy efficiency targets are still achieved.

Car Parking

52. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities shall comply with the minimum requirements of *Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking*. The details must be submitted to and approved by the Accredited Certifier prior to a Construction Certificate being issued.

On-Site Waste Collection and Loading

53. The Construction Certificate plans shall detail on-site waste collection and loading in accordance with the following:
- (a) The loading area should be designed to accommodate a Medium Rigid Vehicle (MRV) in accordance with AS2890.2:2018; and
 - (b) The waste collection area should be designed to accommodate a Heavy Rigid Vehicle (HRV) in accordance with AS2890.2:2018.

It is recommended that consultation occurs with Council's Waste Team prior to finalising the design.

Housing and Productivity Contribution

54. Before the issue of the first Construction Certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	< INSERT >
Total housing and productivity contribution	< INSERT >

The HPC must be paid using the NSW planning portal. At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the *Environmental Planning and Assessment Act 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the HPC Order exempts the development from the contribution.

Reason: To require contributions towards the provision of regional infrastructure

Universal Design

55. To provide for flexible housing for all community members, all dwellings must be designed to meet or exceed the Silver Level under the Liveable Housing Design Guideline. Details demonstrating compliance by an independent, suitably qualified person must be submitted with the Construction Certificate application.

Construction Noise & Vibration Management Plan

56. A Construction Noise and Vibration Management Plan (CNVMP) must be prepared prior to the commencement of any construction works and must be implemented for the duration of construction. The CNVMP must incorporate the management and mitigation measures recommended in the Acoustic Report, and must include:
 - predicted noise levels at all sensitive receivers;
 - procedures for monitoring and validating construction noise;
 - site-specific mitigation strategies;
 - community notification and consultation protocols; and
 - a complaints-handling and response procedure.

No high-noise impact works may be undertaken outside the approved hours of construction.

Waste Room

57. Certification is to be provided prior to the issue of the Construction Certificate confirming that the waste room is able to accommodate bins of sufficient volume to contain the quantity of waste generated by the whole development between collections. The waste requirements are to be confirmed with Council's Team Leader Open Space and Service Contracts.

Access, Mobility & Adaptable Housing

58. A continuous and accessible path of travel, designed in accordance with "Australian Standard 1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work", shall be provided between the entrance to the premises and any disabled car parking space. Details demonstrating compliance must be submitted with the Construction Certificate.

Building Code of Australia – Alternative Solution

59. Any alternative solution to the requirements of the Building Code of Australia must not result in any change to the detail the important aspects of the development that should not be changed.

Infrastructure and Restoration Administration

60. Prior to the issue of the Construction Certificate a fee for the inspection of damage to Council's roads and footpaths from building and demolition work must be paid to Council. The fee is to be paid at the Customer Service Centre at Mosman Council to ledger number 1040210.3207.028. The inspection will be carried out after the Occupation Certificate has been issued.

Note: A fee of \$420 is payable with CPI adjustment to be applied per annum from the date of this consent.

Photovoltaic Electricity Generating System

61. To minimise glare to surrounding properties, the photovoltaic electricity generating system is not to involve mirrors or lenses to reflect or concentrate sunlight. Details are to be included in the Construction Certificate application

PRIOR TO THE COMMENCEMENT OF SITE WORKS

The following measures must be satisfied prior to the commencement of site works, including any works relating to demolition, excavation or vegetation removal.

Notice of Intent to Commence Site Works

62. In accordance with Section 6.6 of the *Environmental Planning and Assessment Act 1979*, no site works (including building works, demolition, excavation or the removal of vegetation) are to commence until:
- (i) the Construction Certificate has been issued;
 - (ii) the person benefiting from the consent has appointed a Principal Certifying Authority (PCA);
 - (iii) in instances where Council is not the PCA, the PCA has no later than two days before the building work commences, notified Council of his or her appointment and notified the person benefiting from the consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work;
 - (iv) the person benefiting from the consent, if not carrying out the work as an owner-builder, has:
 - appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the PCA of any such appointment, and
 - unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work;
 - (v) the person benefiting from the consent has given Council at least two days' notice of the person's intention to commence the erection of the building.

Construction Hoarding or Fencing

63. If site or building works will:
- cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or unsafe; or
 - have the potential to damage adjoining private land by way of falling objects;

then the site must be fenced throughout construction and must comply with SafeWork NSW requirements and be a minimum of 1.8 metres in height.

The hoarding/fence must be removed when the work has been completed.

Where construction requirements or site constraints necessitate the hoarding or fencing being located on Council land, a Footpath/Nature Strip/Roadway Occupation form is to be lodged with Council and all fees paid prior to the hoarding/fencing being erected. A copy of the form is available on Council's website.

Hoarding or fencing on Council land must maintain a minimum of 1.5 metre clear footpath width at all times (lesser distances may be considered in exceptional circumstances).

Erosion and Sedimentation Control Plan

64. Erosion and sedimentation controls shall be installed prior to commencement of any works on the site in order to prevent the discharge of sediment from the site. The controls shall be installed in accordance with the Erosion and Sedimentation Control Plan for the site and the NSW Government's policy Managing Urban Stormwater: Soils and Construction (also known as The Blue Book).

Tree Protection - Detailed Measures

65. To limit the potential for damage to the tree/s to be retained, tree protection measures are to be installed in accordance with "Australian Standard 4970 Protection of Trees on Development Sites" prior to the commencement of site works, in accordance with the following:
- (a) No construction or excavation (including trenching for drainage or other services) shall occur within the Structural Root Zone (SRZ) of any retained and protected tree. Protective fencing at a minimum 1.8 metres in height along the perimeter of the Tree Protection Zone (TPZ) (outside of approved works) is to be installed. The TPZ is to be identified by signage placed around the edge of the TPZ which is visible from within the development site. The lettering on the sign is to comply with "Australian Standard 1319 Safety Signs for the Occupational Environment" and include the following wording '*Tree Protection Zone – Access Prohibited*' and is to have the name and contact details of the appointed site arborist. Where protective fencing is deemed not practicable by an Australia Qualification Framework (AQF) level 5 arborist, tree trunk and branch protection is to be installed.
- (b) The building contractor shall ensure that at all times during site works no activities, including but not limited to the following:
- machine excavation including trenching;
 - excavation for silt fencing;
 - storage;
 - preparation of chemicals, including preparation of cement products;
 - parking of vehicles and plant;
 - refuelling;
 - dumping of waste;
 - wash down and cleaning of equipment;
 - placement of fill;
 - soil level changes;
 - temporary or permanent installation of utilities and signs; and
 - physical damage to the tree;
- will be carried out in the TPZ of any tree to be retained.
- (c) Landscape works in the vicinity of the tree/s must be sympathetic to tree retention and existing ground levels within the TPZ must remain unchanged. Where tree roots are uncovered that are between 20-50mm diameter they shall remain in place until they are cleanly pruned by an AQF level 5 qualified arborist.
- (d) All pruning works including the removal of deadwood is to be undertaken in accordance with "Australian Standard 4373 Pruning of Amenity Trees" and the work is to be undertaken by a minimum AQF level 3 qualified Arborist.

Geotechnical Report

66. All works shall be carried out in accordance with the recommendations contained in the geotechnical report prepared by Douglas Partners dated 12 February 2026, noting that anchoring systems extending into neighbouring lands are not approved.

Strict adherence to inspections and further assessment as required and any subsequent reports are to be abided by.

DURING SITE WORKS / CONSTRUCTION

The following conditions must be satisfied during site and construction works.

Demolition

67. All demolition work must be carried out in accordance with the provisions of Australian Standard 2601: The Demolition of Structures.

Asbestos Material

68. Where asbestos material shall be removed or disturbed as a result of any proposed demolition, alteration or addition, all work must be carried out by a person licensed under the *Work Health and Safety Regulation 2017* and undertaken in accordance with the requirements of the *Protection of the Environment Operations (Waste) Regulation 2014*. All asbestos to be removed must be disposed of at a tip recommended by the NSW Environment Protection Authority and under no circumstances shall be re-used or sold.

Construction within Boundary

69. The development must be constructed wholly within the boundaries of the premises.

Site Work Hours

70. In order to maintain the amenity of adjoining properties, audible site works shall be restricted to between 7.00am and 6.00pm, Monday to Friday and 8.00am to 1.00pm Saturday. Inaudible site works may also take place between 7.00am and 8.00am on Saturdays. No site works shall be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials shall not be delivered to the site outside the approved hours of site works.

Erosion and Sedimentation Controls

71. Erosion and sedimentation controls must be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Dust Control

72. Appropriate measures (e.g. fine water spray) shall be employed during demolition, excavation and construction works to prevent the emission of dust and other impurities into

the surrounding environment. All such measures shall be co-ordinated with site sedimentation controls to ensure polluted waters do not leave the site.

Council Property

73. All works undertaken on Council property as a result of or required of this development on Council land is to be borne by the applicant.

Waste Management

74. Waste management during the construction phase shall be undertaken in accordance with the Site Waste Minimisation and Management Plan and in accordance with the Mosman Waste Minimisation Policy 2012. A copy of the Mosman Waste Minimisation Policy 2012 can be found on Council's website.

Council Property

75. The land and adjoining areas shall be kept in a clean and tidy condition at all times. No construction vehicles, building materials, waste, machinery or related matter shall be stored on the road or footpath for the duration of works unless separate approval has been obtained from Council's Traffic Committee for the establishment of a Construction Zone. Under no circumstances will any person be allowed to mix or dispose of concrete, mortar or slurry within Council property.

Council Property

76. Any works carried out to Council owned property or infrastructure as a result of this consent are to be undertaken in accordance with Council specifications; i.e "Standard details and specifications for concrete kerbs and gutters, footpaths, vehicle and kerb crossings and converters", "Public Domain Improvement Program", "Specification For Brick Paving", "Specification For Stormwater Drainage Construction" or "Specification For Asphalt Pavement Construction".

Construction Traffic Management Plan

77. All works and traffic movements must be carried out in accordance with the approved Construction Traffic Management Plan (CTMP) except where amended by any conditions stipulated within Council's letter of CTMP Approval. A copy of the CTMP and Council's letter of CTMP Approval must be kept on site at all times and made available to the Principal Certifying Authority or Council officers on request.

Utility Services

78. To reduce the extent of overhead cabling, all low voltage distribution and service mains to the development must be underground for the full length of the service both inside and outside the property boundary.

Utility Services

79. To reduce the extent of overhead cabling, cabling for the extent of the frontage must be located underground to the requirements of Ausgrid.

Utility Services

80. If an electrical sub-station is required, it must be located wholly within the boundaries of the site and landscaped in such a manner to complement the remainder of the site and the street.

Car Parking

81. To ensure reasonable safety and manoeuvrability, all parking dimensions and access aisles must satisfy the requirements of "Australian Standard / New Zealand Standard 2890.1 – Parking Facilities – Off-Street Car Parking" and the relevant provisions of Council's Development Control Plan, including where applicable dimensions for any disabled parking spaces.

NB – The Principal Certifying Authority may require a compliance certificate from a qualified architect, engineer or town planner certifying that this condition has been satisfied.

Materials and Finishes

82. The finished external surface materials, including colours and texture of any building and/or hard paved areas, shall blend with the surrounding environment and shall be non-reflective.

Materials and Finishes

83. To minimise glare nuisance, the reflectivity index of the glass is not to be more than 20%.

Materials and Finishes

84. External materials and colour finishes shall be in accordance with the sample submitted with the development application.

Private Open Space Areas

85. Natural ground levels of private open space areas must not be altered to ensure adjoining properties are not adversely affected in terms of stormwater runoff or privacy.

Protection of Landscape Features

86. All natural landscape features including trees and other vegetation, natural rock outcrops, soil and watercourses shall remain undisturbed except where affected by necessary works detailed on approved plans.

To minimise impacts upon trees to be retained, no permanent fill or storage of building materials, excavated fill or topsoil during site works shall take place within their driplines.

Tree Protection - Excavation in Root Zones

87. To minimise disturbance to retained tree identified as Tree #5 *Eucalyptus haemastoma* from Arborist's report prepared by Growing My Way updated February 2026, no excavation shall take place within the structural root zone, measured as a radius from the trunk of the tree. Excavation may occur between the structural root zone and tree protection zone but only by hand under the supervision of an Australia Qualification Framework level 5 arborist.

In the event that major structural or feeder roots (>50mm diameter) are encountered within the tree protection zone, the site arborist is to recommend and/or implement appropriate measures to ensure the retention of the tree. If these measures involve structural alterations to the building or work, such measures must be certified by a practising Structural Engineer that the modified plans/details comply with the relevant Building Code of Australia and/or Australian Standards. (Note: Council's Tree Management Officer may be contacted for advice regarding appropriate tree protection measures).

Tree Preservation

88. All street trees and trees on private property are protected under Chapter 2 'Vegetation in non-rural areas' of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*. Approval is granted for the removal of only those trees located within the area occupied by the approved works as detailed in this development consent. Requests for the removal (or pruning) of any other trees must be the subject of a separate permit granted by the Council.

Leighton Green Cypress

89. To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity, Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, shall not be planted on the site for the life of the development. Further information on Leighton Green Cypress may be obtained from Council and are available on Council's website. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Street Tree

90. A minimum of two (2) street trees, *Tristaniopsis laurina*, must be installed and maintained through establishment in keeping with Council's Street Tree Master Plan. The street tree shall be planted at a minimum pot size of 75 litres on the Council verge in front of the subject property. Written certification must be provided from the plant supplier that the tree complies with *Australian Standard 2303:2018 Tree stock for landscape use*.

To ensure the street tree planting is adequately undertaken in an appropriate manner, a cash deposit or bank guarantee for \$20,000 shall be lodged with Council for the above tree. The security deposit will not be released until Council has inspected the trees upon request (and no earlier than 12 months after the release of the Occupation Certificate) and is satisfied that the trees have established to a suitable size and are in a healthy condition.

Siting, Height and View Loss

91. To ensure that siting, height and view loss objectives are achieved, all wall locations, finished floor levels and ridge levels shall be in accordance with that approved under this consent.

NB – The Principal Certifying Authority may require a compliance certificate from a registered surveyor prior to the pouring of a concrete floor or the fixing of roof cladding to verify compliance.

Construction Hoarding or Fencing

92. Any construction hoarding or fencing is to be maintained in good order throughout the life of the fence.

Shoring and Adequacy of Adjoining Property

93. All excavations and backfilling shall be limited to that required in accordance with the approved plans only and must be executed safely and if necessary properly guarded in accordance with appropriate professional standards to prevent them from being dangerous to life or property. At least 7 days before commencement of excavation, the applicant must give notice of an intention to excavate to the adjoining owner and furnish particulars to the owner of the proposed work.

Waste and Recycling Storage Area

94. For safety, amenity and maintenance reasons, the waste and recycling storage area must be constructed to the following standards:
- Designed to accommodate separate general waste bins and recycling bins which are of sufficient volume to contain the quantity of waste generated between collections;
 - Designed so that bins for recyclable materials are kept separate from (but close to) general waste bins - so that the potential for contamination of recyclable materials is minimised;
 - The gradient of the floors and the gradient of any associated access ramps must be sufficiently level for the purpose of emptying containers;
 - The floor must be graded so that any water is directed to a Sydney Water approved drainage connection located upon the site;
 - Designed to prevent vermin from entering;
 - Doors/gates must be durable, openable from both inside and outside and must be wide enough to allow for the easy passage of waste/recycling containers. There must be a sign adjacent to the door/gate that indicates that the door/gate is to remain closed when not in use;
 - Must have a smooth, durable floor and be enclosed with durable walls/fences that extend to the height of any containers which are kept within;
 - Must be serviced by hot and cold water provided through a centralised mixing valve. The hose cock must be protected from the waste containers and must be located in a position that is easily accessible when the area is filled with waste containers; and
 - Designed with signage that clearly describes the types of materials that can be deposited into recycling bins and general garbage bins.

Lighting

95. To maintain amenity for adjoining properties, all external lighting installed shall comply with Australian Standard 4282 – ‘Control of the obtrusive effects of outdoor lighting’.

Construction Noise and Vibration Management

96. All demolition, excavation and construction works associated with the development must be carried out in accordance with the recommendations of the Construction Noise Management Plan (CNMP) that has been approved by the Accredited Certifier.

a) Acoustic Barriers

Acoustic barriers (e.g. plywood hoarding or equivalent) with a minimum height of 1.8 metres must be installed along the full perimeter of the site prior to the commencement of demolition works and maintained for the duration of high-noise generating activities, including demolition and excavation.

b) Community Notification

The Principal Contractor must notify surrounding residents in writing (e.g. letterbox drop) prior to the commencement of demolition and piling works. The notification must include:

- the nature of the works,
- the expected duration, and
- contact details for site management.

c) Complaints Management

A clearly visible sign must be erected at the site boundary displaying a 24-hour contact telephone number for complaints. All complaints must be managed in accordance with the procedures outlined in Construction Noise Management Plan (CNMP) that has been approved by the Certifier and Council, including the implementation of additional noise mitigation measures where required.

d) Noise Monitoring

Long-term noise monitoring must be undertaken during demolition, excavation and construction works in accordance with the NSW Interim Construction Noise Guidelines and the recommendations in the Construction Noise Management Plan (CNMP). Monitoring results must be made available to Council upon request.

e) Vibration Monitoring

In the event that complaints regarding vibration are received, vibration monitoring must be undertaken at the nearest affected receivers. Monitoring results must be made available to Council upon request. Where exceedances are identified, additional mitigation measures must be implemented to the satisfaction of Council.

f) Records

All records of noise monitoring, community consultations, complaints diaries and mitigation responses must be kept on site and produced on request for Council Officers.

Site Facilities

97. The following facilities must be provided on the site:

- (a) Toilet facilities in accordance with SafeWork NSW requirements, at a ratio of one toilet per every 20 employees; and
- (b) A garbage receptacle for food scraps and papers, with a tight fitting lid.

Construction Noise Criteria

98. All construction activities must comply with the construction noise criteria and Noise Management Levels (NMLs) identified in the 'DA Acoustic Report' (prepared by West and Associates, Rev. C, dated 11/02/2026) and 'Demolition, Excavation, & Construction Noise & Vibration Management Plan' (prepared by West and Associates, Rev. C, dated 11/02/2026), that has prepared in accordance with the NSW EPA Interim Construction Noise Guideline (ICNG).

Construction noise at all noise-sensitive receivers does not exceed the applicable ICNG NMLs for the relevant time period and activity type. The construction program, equipment selection, and work methods must be managed to achieve compliance.

Where construction noise is predicted or measured to exceed the NMLs, the applicant must implement all feasible and reasonable noise mitigation measures, consistent with the Acoustic Report and the ICNG, including but not limited to scheduling of noisy works, use of quieter plant, acoustic shielding, and adherence to respite periods for high-noise activities.

Council or its appointed representative may require the applicant to undertake attended noise monitoring at any time to demonstrate compliance. Any exceedance must be rectified

immediately to the satisfaction of Council.

The site manager must maintain a register of all noise and vibration complaints from residents, including:

- Date/time of complaint
- Nature of complaint
- Mitigation measures (adjusting work methods, temporary cessation, barriers) must be implemented where necessary.
- Outcome or follow-up
- Complaints must be responded to within 24 hours.
- The register must be kept on site at all times and available for Council inspection.

Unexpected Finds Protocol

99. If contamination or unexpected materials (e.g., asbestos, hydrocarbons, odorous soils) are encountered during works:

1. works must cease in the affected area immediately;
2. the site must be made safe;
3. a qualified contaminated land consultant must be engaged; and
4. Council must be notified.

An addendum report or updated RAP must be submitted to Council where required.

Approved Plans

100. A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

Critical Stage Inspections

101. Critical stage inspections are to be carried out in accordance with Part 8 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*. To allow a Principal Certifying Authority (PCA) or another certifying authority time to carry out critical stage inspections required by the PCA, the principal contractor for the building site or the owner-builder must notify the PCA at least 48 hours before building work is commenced and prior to further work being undertaken.

Council Property

102. Upon completion of the retaining wall supporting the embankment adjacent to the public footpath and prior to further works, a works-as-executed plan must be provided to Council together with a Structural Engineer's certificate that states the Structural Engineer has inspected the work during the course of construction and that such work complies with the design and specification submitted to and approved with the Construction Certificate application, or where any difference exists, details shall be highlighted and certified as being structurally sound and consistent with the minimum design loads required under this consent.

Driveway

103. The levels at the boundary alignment of the property along the Redan Lane frontage shall be defined by the existing levels.

Materials and Finishes

104. Roofing materials must be of low glare and reflectivity.

Maintenance of Tree Protection Measures

105. To minimise disturbance to the trees to be retained, for the duration of site works the tree protection measures are to be maintained in good order.

Arborist Inspections

106. The applicant must engage a suitably qualified and experienced arborist (Australian Qualification Framework level 5 or above) to assess the impact of the proposed works and employ best practices (e.g. minimise compaction, soil build up and/or excavation within tree protection zones *) to ensure the longevity of trees to be retained/the trees specified below. The arborist is to attend on site during critical stages of excavation and construction works within the vicinity of trees to be retained and is to photograph and record the following information:

- the date and time of inspection;
- the methods of excavation or construction used to carry out works;
- any damage sustained by the tree/s as a result of the works;
- any subsequent remedial works required to be carried out by the arborist as a result of the damage; and
- any future or on-going remedial work required to be carried out to ensure the long term viability of the tree/s.

PRIOR TO THE RELEASE OF THE OCCUPATION CERTIFICATE

The following conditions must be satisfied prior to the issue of the Occupation Certificate.

Where a condition of consent is precedent to the issue of an Occupation Certificate in either part or full that condition shall be satisfied prior to the issue of the certificate.

Record of Inspections Carried Out

107. In accordance with Section 63 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, the Principal Certifying Authority (PCA) responsible for critical stage inspections must make a record of each inspection as soon as practicable after it has been carried out. Where Council is not the PCA, the PCA is to forward a copy of all records to Council.

Car Parking

108. A car parking line-marking and signage plan shall be prepared by a suitably qualified transport engineer and implemented, identifying appropriate directional markings, give-way markings, signage and traffic control devices (including convex mirrors) as needed to guide users within the off-street car park. Parking spaces must be line marked and allocated to units.

Car Parking

109. To satisfy user demand, a minimum of **< INSERT NUMBER OF APPROVED SPACES >** car spaces shall be provided on site in accordance with the approved plan.

Car Parking

110. In order to avoid vehicular conflict, the ingress and egress crossings shall be suitably signposted.

Bicycle Parking

111. To encourage and promote the use of sustainable transport modes, secure bicycle parking/storage must be provided to accommodate a minimum of three (3) bicycles. The facility must be provided in a suitable location which allows safe and easy access and should be designed and installed in accordance with *Australian Standard 2890.3:2015 - Parking Facilities - Bicycle Parking Facilities*. Details are to be submitted to the satisfaction of the Accredited Certifier.

Council Property

112. Upon completion of the retaining wall supporting Council's road or road reserve and prior to further works progressing or the release of the Occupation Certificate, a work-as-executed plan must be provided to Council together with a Structural Engineer's certificate that states the Structural Engineer has inspected the work during the course of construction and that such work complies with the design and specification submitted to and approved with the Construction Certificate application, or where any difference exists, details shall be highlighted and certified as being structurally sound and consistent with the minimum design loads required under this consent.

Sydney Water

113. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. This development may have impacts upon water and sewer pipes to be built, other services, building and driveway and landscape design. The Certificate assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met.

Applications must be made through an authorised Water Servicing Coordinator. Refer to www.sydneywater.com.au or phone 13 20 92 for further information.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development or release of the Subdivision Certificate, whichever occurs first.

State Environmental Planning Policy (Housing) 2021

114. A certifying authority must not issue an Occupation Certificate to authorise a person to commence occupation or use of residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles for residential apartment development set out in Schedule 9 of *State Environmental Planning Policy (Housing) 2021*.

Fire Safety

115. A final fire safety certificate prepared in accordance with Part 11 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*

must be issued by or on behalf of the owner. Copies of both the final fire safety certificate and the fire safety schedule must be (1) supplied to Council, (2) forwarded to the Fire Commissioner and (3) prominently displayed in the building.

Consolidation

116. All allotments involved in this proposal must be consolidated into one allotment prior to the issue of the Occupation Certificate.

Accessibility

117. To ensure the provision of equitable access, prior to the issue of an Occupation Certificate a suitably qualified Accessibility Consultant must certify that the development meets all relevant access requirements, that all dwellings have been designed to meet or exceed the Silver Level under the Liveable Housing Design Guideline and that three (3) dwellings are adaptable in accordance with *AS4299:1995 - Adaptable housing*.

Visitor Parking Sign

118. A sign legible from the street, shall be permanently displayed to indicate that visitor parking is available on the site. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Affordable Housing Units

119. To ensure the provision of affordable housing in accordance with this consent, prior to the release of any Occupation Certificate a public positive covenant shall be registered on the title of the land, the terms of which restrict the occupancy of the nominated units as affordable housing units under *State Environmental Planning Policy (Housing) 2021* for a period of 15 years from the date of the final Occupation Certificate. The terms of the covenant shall include a requirement that the affordable housing units shall be managed by a registered community housing provider, and that Mosman Municipal Council shall be identified as the authority able to modify, vary or release the restriction.

A fee applies for the checking, approval and execution of the restriction on the use of land by Council and must accompany the covenant when lodged with Council. For details refer to Council's current Pricing Policy at the time of lodgement.

Reinstate Council Verge

120. The Council verge located along the Muston Street frontage must be reinstated, including the removal of the redundant vehicle crossover, installation of kerb, gutter and planting bed as per Council standards. Works are subject to relevant conditions of this Consent and an approved application for works on Council property.

All works undertaken on Council land as a result of or requirement of this development is to be borne by the applicant.

Follow-up Arborist's Report

121. As part of the ongoing assessment of the tree/s to be retained, an Australian Qualification Framework level 5 arborist engaged by the applicant is to assess their health and any impacts suffered by them as a result of the approved development. Findings are to be compiled in a detailed report to be provided to Council at the completion of construction and prior to the release of the Occupation Certificate which documents the following:

- The methods of excavation or construction used to carry out works;
- Any damage sustained by the tree/s as a result of the works;
- Any subsequent remedial works required to be carried out by the Aborist as a result of the damage; and
- Any future or on-going remedial work required to be carried out to ensure the long term viability of the tree/s.

PRIOR TO THE RELEASE OF THE SUBDIVISION CERTIFICATE

The following conditions must be satisfied prior to the issue of the Subdivision Certificate. Subdivision Certificate

122. A Subdivision Certificate under Section 6.4(d) of the *Environmental Planning and Assessment Act 1979* must be obtained prior to the registration of plans under the *Conveyancing Act 1919*. All conditions of the development consent must be completed prior to the issue of the Subdivision Certificate.

PRIOR TO OCCUPATION

The following conditions must be satisfied prior to occupation of the development.

Compliance Certificates and Inspection Records

123. Where Council is not the Principal Certifying Authority (PCA), a copy of any compliance certificates received by the PCA shall be forwarded to Council prior to occupation or commencement of the use.

Occupation Certificate

124. Occupation or use, either in part or full, shall not take place until an Occupation Certificate has been issued. The Occupation Certificate must not be issued unless the building is suitable for occupation or use in accordance with its classification under the Building Code of Australia and until all preceding conditions of this consent have been complied with.

Where Council is not the Principal Certifying Authority, a copy of the Occupation Certificate together with registration fee must be provided to Council.

Site Suitability Confirmation

125. Prior to the issue of any Occupation Certificate or commencement of residential occupation, the applicant must provide to Council a Type A Contaminated Land Certificate issued by a NSW EPA-accredited Contaminated Land Auditor. The Certificate must confirm that:
- a) The land is suitable for the approved residential use.
 - b) All investigations, including any Detailed Site Investigation (DSI), have been completed in accordance with the requirements of the Contaminated Land Management Act 1997, SEPP (Resilience and Hazards) 2021, and relevant NSW EPA contaminated land guidelines.

- c) Any required remediation works identified during the investigation have been undertaken in accordance with an approved Remediation Action Plan (RAP).
- d) All validation and verification works have been completed, demonstrating that the land now meets applicable human health and environmental criteria.

No Occupation Certificate may be issued and no residential occupation may occur until Council has formally accepted the Type A Certificate.

Domestic Waste Service Agreement

- 126. Residents must complete a Domestic Waste Service Agreement available on Council's website prior to occupation.

Application for Green Waste Bin

- 127. Green waste bins may be purchased by completing the Application for Green Waste Bin available on Council website

DURING OCCUPATION

The following condition must be satisfied during occupation of the development.

Occupation

- 128. The site shall be occupied solely for the approved use. No change of use or additional use of any part of the premises shall take place without prior development consent (other than for exempt development). Car Parking
- 129. Parking and maneuvering areas shall be used solely for such purposes.

Acoustic

- 130. To ensure reasonable acoustic amenity for surrounding properties is maintained, the level of noise emanating from the premises (LA10 measured for at least 15 minutes) shall not exceed the background level (LA90) by more than 5dB(A) when measured at all property boundaries in the absence of that noise source. This condition does not apply to noise generated during demolition and construction activities.

Fire Safety

- 131. An annual fire safety statement (and where necessary supplementary fire safety statements) prepared in accordance with Part 12 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* must be issued by the owner. Copies of each of the annual final fire safety statement, supplementary fire safety statements and the fire safety schedule must be (1) supplied to Council, (2) forwarded to the Fire Commissioner and (3) prominently displayed in the building.

Fire Safety

- 132. Fire safety measures provided within the building must be maintained in good working order.

Operational Noise - Waste Collections

133. Waste collection must use Council-approved vehicles within approved hours and must not unreasonably affect neighbouring amenity.

Operational Noise - Traffic Noise

134. Additional traffic generated by the development must not increase existing road noise at nearby residences by more than 2 dB(A).

Operational Noise - Verification and Reporting

135. A qualified acoustic consultant must submit a post-construction verification report confirming:

- a) Operational mechanical plant noise complies with NSW Noise Policy for Industry (NPI) criteria.
- b) Mechanical plant and building services associated with the development must be designed, installed, and operated so that noise emissions do not exceed the applicable project noise levels determined in accordance with the NPI when measured at any nearby residential premises. Noise from the development must not be audible within any habitable room of nearby residential premises.

For the purposes of this condition, “nearby residential premises” excludes the subject development site.

- c) If noise from mechanical plant or building services is found to exceed the applicable NPI criteria or is audible within a habitable room of a nearby residential premises, the operator must immediately implement all feasible and reasonable mitigation measures to achieve compliance to the satisfaction of Council.
- d) Testing of lower ground and rooftop communal open spaces must be undertaken for Council. Operational noise controls (including any time restrictions) must be implemented. Any required acoustic treatments must be installed and verified.

Council may require attended noise monitoring at any time to verify compliance.

Fencing

136. Fences and gates are not to open onto the public way.

Operational Noise - Air Conditioning

137. Any air conditioning installed shall be designed so as not to operate:

- (a) during peak time (7.00am – 10.00pm) at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or
- (b) during off peak time (10.00pm - 7.00am) at a noise level that is audible in habitable rooms of adjoining residences.

Resident Parking Permits

138. Residents will not be eligible to receive parking permits for any existing or future Resident Parking Permit Schemes, unless otherwise specified by Council.

Waste Management Audit

139. A waste management audit is to be completed 12 months after the issue of Occupation Certificate and every five (5) years thereafter. The audit must assess waste generation rates, waste and recycling infrastructure, servicing arrangements, and overall performance to confirm that waste management remains adequate for the development. Where an audit identifies deficiencies, appropriate actions must be implemented to address the findings within a reasonable time frame.