

# Development Consent

## Section 4.16 of the *Environmental Planning and Assessment Act 1979*

The Independent Planning Commission (the Commission), as delegate of the Minister for Planning under delegation executed on 14 September 2011 and pursuant to clause 5.6 of the State Environmental Planning Policy (Transport and Infrastructure) 2021, approves the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.



Professor Richard Mackay AM  
Member of the Commission

Sydney

Date

23 December 2022

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### SCHEDULE 1

<b>Application Number:</b>	DA 22/8565
<b>Applicant:</b>	Barr Property and Planning Pty Ltd
<b>Consent Authority:</b>	Independent Planning Commission as delegate of the Minister for Planning
<b>Site:</b>	150 Cormorant Road, Kooragang Lot 33 DP 1184229
<b>Development:</b>	Construction and display of a double sided 'Super 8' sign with one digital and one static sign

## DEFINITIONS

<b>Aboriginal Object</b>	Has the same meaning as the definition of the term in section 5 of the <i>National Parks and Wildlife Act 1974</i>
<b>Applicant</b>	Barr Property and Planning Pty Ltd or any person carrying out any development to which this consent applies
<b>BCA</b>	Building Code of Australia
<b>Certifying Authority</b>	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
<b>Conditions of this consent</b>	Conditions contained in Schedule 2 of this document
<b>Construction</b>	All physical work to enable operation including but not limited to the demolition and removal of buildings or works, the carrying out of works for the purpose of development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
<b>Council</b>	Newcastle City Council
<b>Day time</b>	All periods except morning and afternoon twilight and night time
<b>Department</b>	NSW Department of Planning and Environment
<b>Development</b>	The development described in the SEE and RtS including the works and activities comprising construction, operation and post commencement of use as modified by the conditions of this consent.
<b>Environment</b>	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2021</i>
<b>Evening</b>	The period from 6pm to 10pm
<b>Feasible</b>	Means what is possible and practical in the circumstances
<b>Guidelines</b>	Transport Corridor Outdoor Advertising and Signage Guidelines 2017
<b>Incident</b>	An occurrence or set of circumstances that causes, or threatens to cause material harm and which may or may not be or cause a non-compliance Note: "material harm" is defined in this consent
<b>Land</b>	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
<b>Management and mitigation measures</b>	The management and mitigation measures set out in this development consent.
<b>Material harm</b>	Is harm that: a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or b) results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
<b>Minister</b>	NSW Minister for Planning (or delegate)
<b>Non-compliance</b>	An occurrence, set of circumstances or development that is a breach of this consent

<b>Night time</b>	The period from 10pm to 7am on Monday to Saturday and 10pm to 8am on Sundays and public holidays.
<b>Operation</b>	The carrying out of the approved purpose of the development upon completion of construction.
<b>Operator</b>	The person or company responsible for the carrying out of the approved purpose of the development upon completion of construction.
<b>Planning Secretary</b>	Planning Secretary under the EP&A Act, or nominee
<b>Reasonable</b>	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.
<b>Rehabilitation</b>	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting.
<b>Relic</b>	Has the same meaning as the definition of the term in Part 1 of the <i>Heritage Act 1977</i> .
<b>Request for Additional Information</b>	The Applicant's response to issues raised in submissions received in relation to the application and by the Department of Planning, Industry and Environment for consent for the development under the EP&A Act.
<b>RMS</b>	Any references to Roads and Maritime Services will be legally taken to mean TfNSW automatically.
<b>SEE</b>	Statement of Environmental Effects prepared by Barr Planning (on behalf of Ooh! Media) dated 23 May 2022.
<b>Subject site</b>	The site as described in Schedule 1
<b>TfNSW</b>	Transport for NSW

**SCHEDULE 2**  
**PART A ADMINISTRATIVE CONDITIONS**

**OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT**

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development.

**TERMS OF CONSENT**

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
  - (b) in accordance with all written directions of the Planning Secretary;
  - (c) in accordance with the approved plans and reports in the tables below:

<b>General Arrangement Plans by Arcadis</b>				
<b>Job No.</b>	<b>Sheet No.</b>	<b>Issue</b>	<b>Name of Plan</b>	<b>Date</b>
30086453-19A	DA.01	3	General Arrangement – Sheet 1	21/03/2022
30086453-19A	DA.02	3	General Arrangement – Sheet 2	21/03/2022
<b>Surveys by Monteath &amp; Powys</b>				
<b>Job No.</b>	<b>Sheet No.</b>	<b>Issue</b>	<b>Name of Plan</b>	<b>Date</b>
21/0488	2	1	Detail Surveys for Proposed Billboards Teal Street & Cormorant Road Kooragang Island	20/12/2021

<b>Technical Report</b>	<b>Revision</b>	<b>Author</b>	<b>Date</b>
Statement of Environmental Effects	Final	Barr Planning	23/05/2022
Response to Submissions	-	Barr Planning	29/09/2022
Structural Design Statement	-	Arcadis	07/09/2022
Structural Feasibility Assessment Calculations	1	Arcadis	June 2022
Lighting Impact Assessment	B	Electrolight Australia Pty Ltd	20/05/2022
Geotechnical and Contamination Report	0	GHD Pty Ltd	09/03/2022
Traffic Assessment (Digital Sign)	-	Bitzios Consulting	16/05/2022
Traffic Assessment (Static Sign)	-	Bitzios Consulting	16/05/2022

- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and

- (b) the implementation of any actions or measures contained in any such document referred to in condition A2(a) above.

A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

#### **LIMITS OF CONSENT**

A5. This consent will lapse five years from the date of consent unless the signage works associated with the project have physically commenced.

#### **EVIDENCE OF CONSULTATION**

- A6. Where conditions of this consent require consultation with an identified party, the Applicant must:
- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for consent; and
  - (b) provide details of the consultation undertaken including:
    - (i) the outcome of that consultation, matters resolved and unresolved; and
    - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

#### **DURATION OF CONSENT**

A7. This development consent is issued for a limited period of 15 years. The consent will cease to be in force/expire 15 years after the date of consent.

*Note: a new Development Application must be submitted prior to that date for assessment and determination if it is intended to continue the use beyond the cessation date.*

#### **CONTRIBUTIONS TO COUNCIL**

A8. Before the issuing of a construction certificate for any part of the development, a payment of a levy of 1% of the proposed cost of carrying out the development must be paid to Council under section 7.12 of the EP&A Act.

#### **STRUCTURAL ADEQUACY**

A9. All new structures, and any alterations or additions to existing structures, that are part of the development, must be constructed in accordance with the relevant requirements of the BCA.

**Notes:**

- *Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.*

#### **WIND LOADING**

A10. The approved sign must meet wind loading requirements as specified in Australian Standard AS 1170.1: Structural Design Actions – Permanent, Imposed and Other Actions and AS 1170.2:- Structural Design Actions – Wind Actions.

#### **REFLECTIVITY**

A11. The visible light reflectivity from the proposed LED screen and materials used on the signage structure shall not exceed 20 per cent and shall be designed so as to minimise glare.

#### **OPERATION OF PLANT AND EQUIPMENT**

- A12. All plant and equipment used on site, or to monitor the performance of the development must be:
- (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.

#### **APPLICABILITY OF GUIDELINES**

- A13. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.
- A14. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

## DEVELOPMENT NEAR BUSY ROADS

A15. The sign must comply with all relevant requirements of the NSW Department of Planning Development Near Rail Corridors and Busy Roads – Interim Guidelines, December 2008 (DNRCBR 2008).

## ADVERTISEMENTS GENERALLY

A16. Advertisements displayed on the LED advertising screen must be in accordance with the guidelines for sign content outlined in Section 3.6 of the Transport Corridor Outdoor Advertising and Signage Guidelines, dated November 2017.

## ADVERTISEMENTS – DWELL TIME

A17. Static digital advertisements are to be displayed on the digital LED with a minimum dwell time of 25 seconds.

## ADVERTISEMENTS – TRANSITION TIME

A18. The transition time between different static digital advertisements displayed on the digital LED screen must be no longer than 0.1 second.

## PERMITTED LUMINANCE LEVELS

A19. The luminance levels of the LED advertising screen must comply with Australian Standard AS 4282-1997 Control of the obtrusive effects of outdoor lighting, and the below table:

Lighting Conditions	Permitted Luminance (Sign 1 – Static Sign)	Permitted Luminance (Sign 2 – Digital Sign)
Full Sun on Face of LED Advertising Screen	0	Maximum output
Day time	0	6000 cd/sqm
Morning and Evening Twilight and Inclement Weather	0	700 cd/sqm
Night time	200 cd/sqm	350 cd/sqm

The LED advertising screen must include a light sensor to be capable of automatically adjusting the luminance levels.

A20. The level of reflectance of an advertisement, and its content, is not to exceed the 'Minimum coefficients of Luminous intensity per unit area for Class 2A Material', as set out in Australian Standard AS/NZS 1906.1:2007.

## ADVERTISEMENTS – STATIC ADVERTISEMENTS

A21. Advertisements displayed on the LED advertising screen must be displayed in a completely static manner, without any motion, for the approved dwell time in Condition A17.

## ADVERTISEMENTS - TEXT

A22. Advertisements displayed on the LED advertising screen must minimise the amount of text and information displayed (for example no more than a driver can read at a short glance). Text shall be displayed in the same font and size (Condition A24 provides further guidance).

## ADVERTISEMENTS – MESSAGE SEQUENCING

A23. Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.

## ADVERTISEMENTS – TRAFFIC CONTROL DEVICE OR DRIVING INSTRUCTIONS

A24. Advertisements displayed on the LED advertising screen must not be capable of being mistaken:

- (a) for a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device; or
- (b) as text providing driving instructions to drivers.

## ADVERTISEMENTS – DAZZLE OR DISTRACT DRIVERS

A25. Advertisements displayed on the LED advertising screen must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.

## **ROAD SAFETY AUDIT**

- A26. The Applicant shall prepare an independent Road Safety Assessment (RSA) after 12 months of operation of the digital signage but within 18 months of the sign's installation. The road safety check must be carried out by an independent TfNSW accredited road safety auditor. A copy of the report is to be provided to TfNSW and any safety concerns identified by the auditor relating to the operation or installation of the sign must be rectified by the Applicant.
- A27. In the event the findings and/or recommendations of the RSA cannot be addressed by the Applicant, the sign is to be removed at no cost to TfNSW or Council.

## **ELECTRONIC LOG**

- A28. An electronic log of the signs' activities must be maintained by the operator for the duration of the development consent and be available to the consent authority and TfNSW to allow a review of the signs' activity in case of a complaint.

## **INCIDENT NOTIFICATION, REPORTING AND RESPONSE**

- A29. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one) and set out the location and nature of the incident.
- A30. Subsequent notification must be given and reports submitted in accordance with the requirements set out in **Appendix 2**.

## **NON-COMPLIANCE NOTIFICATION**

- A31. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after the Applicant becomes aware of any non-compliance. The PCA must also notify the Department in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after they identify any non-compliance.
- A32. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
- A33. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

## **PRE-CONSTRUCTION COMPLIANCE REPORT**

- A34. A Pre-Construction Compliance Report must be prepared for the development and submitted to the Certifier for approval before the commencement of construction. A copy of the endorsed compliance report must be provided to the Planning Secretary at [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) before the commencement of construction.
- A35. The Pre-Construction Compliance Report must include:
- details of how the terms of this consent that must be addressed before the commencement of construction have been complied with; and
  - the expected commencement date for construction.

## **CONSTRUCTION COMPLIANCE REPORTS**

- A36. Construction Compliance Reports must be submitted to the Planning Secretary at [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) for information every six months from the date of the commencement of construction, for the duration of construction. The Construction Compliance Reports must provide details on the compliance performance of the development for the preceding six months and must be submitted within one month following the end of each six-month period for the duration of construction of the development, or such other timeframe as required by the Planning Secretary.
- A37. The Construction Compliance Reports must include:
- a results summary and analysis of environmental monitoring;
  - the number of any complaints received, including a summary of main areas of complaint, action taken, response given and proposed strategies for reducing the recurrence of such complaints;
  - details of any review of the CEMP and the Environmental Management Plan and associated sub-plans as a result of construction carried out during the reporting period;
  - a register of any modifications undertaken and their status;
  - results of any independent environmental audits and details of any actions taken in response to the recommendations of an audit;
  - a summary of all incidents notified in accordance with this consent; and

- (g) any other matter relating to compliance with the terms of this consent or requested by the Planning Secretary.

**MAKE GOOD**

- A38. At the conclusion of the working life of the development, the Applicant must restore the land subject to this consent to a state commensurate with that prior to the development the subject of this consent to the satisfaction of the Planning Secretary.

**PRESCRIBED CONDITIONS**

- A39. The Applicant shall comply with all relevant prescribed conditions of development consent under Part 4, Division 2 of the EP&A Regulation.

**LEGAL NOTICES**

- A40. Any advice or notice to the consent authority shall be served on the Planning Secretary.

**END OF PART A**



## **PART B PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

### **NO WORKS PRIOR TO CONSTRUCTION CERTIFICATE**

B1. Work must not commence until a Construction Certificate in respect of the work has been issued.

### **ALL CONDITIONS UNDER THIS SECTION TO BE MET**

B2. All relevant conditions under this section must be met prior to the issue of any relevant Construction Certificate.

### **APPOINTMENT OF CERTIFIER**

B3. Prior to the issue of any relevant Construction Certificate, the Applicant must:

- (a) appoint a Principal Certifier in accordance with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) the Principal Certifier must submit to the Planning secretary and Council an "Appointment of Principal Certifier".

### **LONG SERVICE LEVY**

B4. Prior to the issue of any relevant Construction Certificate, the Applicant must provide evidence to the Certifier that any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or, where such a levy is payable by instalments, the first instalment of the levy) has been paid.

### **STRUCTURAL DETAILS**

B5. Prior to the issue of any construction certificate, the Applicant shall submit to the satisfaction of the Certifier structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (a) any relevant clauses of the BCA;
- (b) the development consent including recommendations of the Structural Design Statement, prepared by Arcadis dated 07/09/2022, and Geotechnical and Contamination Report, prepared by GHD 09/03/2022;
- (c) approved drawings and specifications; and
- (d) the conditions set out in Schedule 2 Part A above

B6. Prior to the issue of any relevant Construction Certificate, a copy of the documentation approved by the Certifier for Condition B5 must be submitted to the Planning Secretary for information.

B7. Prior to the issue of any construction certificate, the Applicant shall submit to the satisfaction of the Certifier details of the 'fall arrest' system that is intended to prevent the sign structure falling on traffic should it be impacted by high vehicles.

### **UNEXPECTED CONTAMINATION FINDS PROTOCOL**

B8. Prior to the issue of any construction certificate, an Unexpected Contamination Finds Protocol (UFP) shall be prepared by a suitably qualified and experienced expert. The protocol should include detailed procedures for identifying and dealing with unexpected contamination, asbestos and other unexpected finds. The Applicant should ensure that the protocol includes details of who will be responsible for implementing the unexpected finds protocol and the roles and responsibilities of all responsible parties. The UFP must be submitted to the satisfaction of the Certifier and implemented for the duration of construction works.

### **ACID SULFATE SOILS MANAGEMENT PLAN**

B9. Prior to the issue of any construction certificate, the Applicant must prepare and submit an Acid Sulfate Soils Management Plan to the satisfaction of the Certifier that includes details of the storage, handling and treatment of any excavated soil material.

**END OF PART B**

## **PART C PRIOR TO THE COMMENCEMENT OF CONSTRUCTION WORKS**

### **NOTIFICATION OF COMMENCEMENT**

- C1. The Planning Secretary must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.
- C2. If the construction or operation of the development is to be staged, the Planning Secretary must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

### **COMPLIANCES**

- C3. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

### **CERTIFIED PLANS**

- C4. Plans certified in accordance with section 6.16 of the EP&A Act are to be submitted to the Certifier and the Planning Secretary prior to commencement of each stage of the works and shall include details as required by any of the following conditions.

A copy of the Construction Certificate shall be submitted to the Planning Secretary and Council

### **ACCESS TO INFORMATION**

- C5. At least 48 hours before the commencement of construction until the completion of all works under this consent, or such other time as agreed by the Planning Secretary, the Applicant must:
  - (a) make the following information and documents (as they are obtained or approved) publicly available on its website:
    - (i) the documents referred to in condition A2 of this consent;
    - (ii) all current statutory approvals for the development;
    - (iii) all approved strategies, plans and programs required under the conditions of this consent;
    - (iv) regular reporting on the environmental performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent;
    - (v) a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
    - (vi) a summary of the current stage and progress of the development;
    - (vii) contact details to enquire about the development or to make a complaint;
    - (viii) a complaints register, updated monthly;
    - (ix) audit reports prepared as part of any independent audit of the development and the Applicant's response to the recommendations in any audit report;
    - (x) any other matter required by the Planning Secretary; and
  - (B) keep such information up to date, to the satisfaction of the Planning Secretary and publicly available for 24 months after the commencement of operations.

### **PROTECTION OF PUBLIC INFRASTRUCTURE**

- C6. Prior to the commencement of construction, the Applicant must:
  - (a) consult with the relevant owner and provider of services that are likely to be affected by the development to make suitable arrangements for access to, diversion, protection and support of the affected infrastructure;
  - (b) prepare a dilapidation report identifying the condition of all public infrastructure in the vicinity of the site (including roads, gutters and footpaths); and
  - (c) submit a copy of the dilapidation report to the Planning Secretary, Certifier, TfNSW and Council.

### **PRE-CONSTRUCTION DILAPIDATION REPORT**

- C7. Prior to the commencement of construction, the Applicant must submit a pre-commencement dilapidation report to Council, TfNSW and the Certifier. The report must provide an accurate record of the existing condition of adjoining private properties and Council assets that are likely to be impacted by the proposed works.

## CONSTRUCTION MANAGEMENT PLAN

- C8. Prior to the commencement of works which are part of the Development, a Construction Environmental Management Plan shall be submitted to the satisfaction of the Principal Certifier. The Plan shall address, but not be limited to the following and confirm to these conditions of consent where applicable:
- (a) the date of commencement of works,
  - (b) hours of works,
  - (c) contact details of site manager,
  - (d) complaints procedure
  - (e) traffic and pedestrian management including details on:
    - (i) ingress and egress of vehicles to the site,
    - (ii) loading and unloading, including construction zones,
    - (iii) the location of storage areas,
    - (iv) predicted traffic volumes, types and routes,
    - (v) parking of construction and contractor vehicles,
    - (vi) turning areas of construction and contractor vehicles, and
    - (vii) pedestrian and traffic management methods.
  - (f) noise and vibration management identifying specific activities that would be carried out and associated noise sources and how they will be managed in accordance with Australian Standard AS 2436-2010 Guide to noise and vibration control on construction, demolition and maintenance sites and to ensure there is no adverse impact on any neighbouring/affected tourist accommodation buildings during the construction period.
  - (g) waste and recycling management including details on:
    - (i) the location for recycling of building materials,
    - (ii) the identification of any asbestos or other hazardous material,
    - (iii) the location for disposal of building waste, and
    - (iv) the location for disposal of excess spoil.
  - (h) erosion and sediment control
  - (i) flora and fauna management
  - (j) suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters, and
  - (k) any relevant recommendations of the 'works plan'.

Works may not commence until a Construction Environmental Management Plan has been approved by the Principal Certifier. The Applicant must comply with any Construction Environmental Management Plan approved by the Principal Certifier under this condition. A copy of the documentation shall be submitted to the Department prior to the commencement of the works. This condition can be satisfied for the whole project or progressively for various sections of the project.

## CONSTRUCTION PARKING

- C9. Prior to commencement of construction, the Applicant must submit a Construction Worker Transportation Strategy to the Certifier. The Strategy must detail the provision of sufficient parking facilities or other travel arrangements for construction workers in order to minimise demand for parking in nearby public streets or public parking facilities. A copy of the strategy must be provided to the Planning Secretary for information.

## SOIL AND WATER

- C10. Prior to the commencement of construction, the Applicant must:
- (a) install erosion and sediment controls on the site to manage wet weather events;
  - (b) divert existing clean surface water around operational areas of the site; and
- C11. Prior to the commencement of construction, erosion and sediment controls must be installed and maintained, as a minimum, in accordance with the publication *Managing Urban Stormwater: Soils & Construction* (4<sup>th</sup> edition, Landcom 2004) commonly referred to as the 'Blue Book'.
- C12. Prior to the commencement of construction, the Applicant must describe the measures that must be implemented to manage stormwater for small and large sized events.

## **ROAD OCCUPANCY LICENCE**

- C13. A Road Occupancy Licence (ROL) must be obtained from Transport Management Centre for any works that may impact on traffic flows on Teal Street during construction activities.

**END OF PART C**

## PART D DURING CONSTRUCTION

### APPROVED PLANS TO BE ON-SITE

- D1. A copy of the approved and certified plans, specifications and documents incorporating conditions of consent and certification shall be kept on the subject site at all times and shall be readily available for perusal by any officer of the Department, Council or the Certifier.

### SITE NOTICE

D2.

- (a) A site notice(s) shall be prominently displayed at the boundaries of the subject site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifier, Structural Engineer and contact details, including contact phone number.
- (b) The notice(s) is to satisfy all but not be limited to, the following requirements:
  - (i) minimum dimensions of the notice are to measure 841mm x 594mm (A 1) with any text on the notice to be a minimum of 30 point type size;
  - (ii) the notice is to be durable and weatherproof and is to be displayed throughout the works period;
  - (iii) the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
  - (iv) the notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the subject site is not permitted.

### CONSTRUCTION HOURS

- D3. Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- (a) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
  - (b) between 8:00 am and 1:00 pm, Saturdays;
  - (c) no work on Sundays and public holidays;
  - (d) Works may be undertaken outside these hours where:
    - (i) the delivery of materials or works is required outside these hours by the Police, TfNSW or other authorities;
    - (ii) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm.
    - (iii) it is required in accordance with a Road Occupancy Licence or at the direction of the Transport Management Centre (TMC).
- D4. Activities may be undertaken outside of these hours if required:
- (a) by the Police or a public authority for the delivery of vehicles, plant or materials; or
  - (b) in an emergency to avoid the loss of life, damage to property or to prevent environmental harm.
- D5. Notification of such activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.

### IMPLEMENTATION OF MANAGEMENT PLAN

- D6. The Applicant must carry out the construction of the development in accordance with CEMP required by Condition C8.

### CONSTRUCTION NOISE MANAGEMENT

- D7. The development shall be constructed with the aim of achieving the construction noise management levels detailed in the Interim Construction Noise Guideline (Department of Environment and Climate Change, 2009).
- D8. Any noise generated during the construction of the development must not be offensive noise within the meaning of the *Protection of the Environment Operations Act, 1997*.

### VIBRATION CRITERIA

- D9. Vibration caused by construction at any residence or structure outside the site must be limited to:
- (a) for structural damage, the latest version of *DIN 4150-3 (1992-02) Structural vibration - Effects of vibration on structures* (German Institute for Standardisation, 1999); and

- (b) for human exposure, the acceptable vibration values set out in the *Environmental Noise Management Assessing Vibration: a technical guideline* (DEC, 2006) (as may be updated or replaced from time to time).

#### **AIR QUALITY**

- D10. The Applicant must take all reasonable steps to minimise dust generated during all works authorised by this consent.
- D11. During construction, the Applicant must ensure that:
  - (a) activities are carried out in a manner that minimises dust including emission of windblown or traffic generated dust;
  - (b) all trucks entering or leaving the site with loads have their loads covered;
  - (c) trucks associated with the development do not track dirt onto the public road network;
  - (d) public roads used by these trucks are kept clean; and
  - (e) land stabilisation works are carried out progressively on site to minimise exposed surfaces.

#### **SAFE WORK REQUIREMENTS**

- D12. To protect the safety of work personnel and the public, the work site shall be adequately secured to prevent access by unauthorised personnel, and work shall be conducted at all times in accordance with relevant Safe Work NSW requirements. Hoarding Requirements.

#### **NO OBSTRUCTION OF PUBLIC WAY**

- D13. The public way (outside of any construction works zone) must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by the relevant Authority to stop all work on site.

#### **HOARDING REQUIREMENTS**

- D14. The following hoarding requirements shall be complied with:
  - (a) no third party advertising is permitted to be displayed on the subject hoarding/fencing; and
  - (b) the construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its application.

#### **UNEXPECTED FINDS PROTOCOL – ABORIGINAL HERITAGE**

- D15. In the event that surface disturbance identifies a new Aboriginal Object:
  - (a) all works must halt in the immediate area to prevent any further impacts to the Aboriginal Object(s);
  - (b) a suitably qualified archaeologist and the registered Aboriginal representatives must be contacted to determine the significance of the Aboriginal Objects;
  - (c) the site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) which is managed by Heritage NSW under Department of Premier and Cabinet and the management outcome for the site included in the information provided to AHIMS;
  - (d) the Applicant must consult with the Aboriginal community representatives, the archaeologists and Heritage NSW to develop and implement management strategies for all Aboriginal Objects; and
  - (e) works may only recommence with the written approval of the Planning Secretary.

#### **UNEXPECTED FINDS PROTOCOL – HISTORIC HERITAGE**

- D16. If any unexpected Relics are uncovered during the work, then:
  - (a) all works must cease immediately in that area and notice is to be given to Heritage NSW and the Planning Secretary;
  - (b) depending on the possible significance of the Relics, an archaeological assessment and management strategy may be required before further works can continue in that area as determined in consultation with Heritage NSW; and
  - (c) works may only recommence with the written approval of the Planning Secretary.

#### **CONTAMINATION**

- D17. Prior to the disposal of soils off site, further soil testing must be completed to confirm the preliminary classification of soils as General Solid Waste – PASS to the satisfaction of the Certifier.
- D18. During construction, any excavated soils are to be stockpiled away from sensitive receptors such as waterways.

**PROTECTION OF VEGETATION**

D19. Site management shall ensure that appropriate measures are in place to ensure that vehicles, machinery or persons do not damage or remove any vegetation that is not part of this consent.

**END OF PART D**

## **PART E PRIOR TO COMMENCEMENT OF USE**

### **PROTECTION OF PUBLIC INFRASTRUCTURE**

- E1. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and
  - (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

### **POST-CONSTRUCTION DILAPIDATION REPORT**

- E2. Prior to commencement of operation, the Applicant must engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of construction. This report is:
- (a) to ascertain whether the construction created any structural damage to adjoining buildings or infrastructure;
  - (b) to be submitted to the Certifier. In ascertaining whether adverse structural damage has occurred to adjoining buildings or infrastructure, the Certifier must:
    - (i) compare the post-construction dilapidation report with the pre-construction dilapidation report required by these conditions; and
    - (ii) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
  - (c) to be forwarded to Council and TfNSW for information

### **NOTIFICATION OF OCCUPATION**

- E3. At least one month before commencement of operation, the date of commencement of the operation of the development must be notified to the Planning Secretary in writing. If the operation of the development is to be staged, the Planning Secretary must be notified in writing at least one month before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

### **MAINTENANCE PLAN**

- E4. Prior to the commencement of use, a Maintenance Plan is to be prepared and submitted to the Certifier. The Plan shall address, but not be limited to, the following matters, where relevant.
- (a) environmental and safety risk assessment;
  - (b) hours of work/inspections of the sign (to ensure minimal disruption of any surrounding residential amenity and traffic operation);
  - (c) contact details of site manager;
  - (d) safety, including preparation of a safe work method statement;
  - (e) traffic management, including details of the location of parking for vehicles associated with the operation (i.e. parked vehicles shall not impede the movement of traffic or pedestrians in and around the site);
  - (f) external lighting in compliance with AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting;
  - (g) removal of graffiti.

### **ROAD DAMAGE**

- E5. The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Applicant.

### **STRUCTURAL INSPECTION CERTIFICATE**

- E6. A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Certifier prior to commencement of use. A copy of the Certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the Planning Secretary and the Council after:
- (a) the site has been periodically inspected and the Certifier is satisfied that the structural works is deemed to comply with the final design drawings; and
  - (b) the drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

**END OF PART E**



## **PART F ONGOING CONDITIONS**

### **MAINTENANCE**

- F1. Regular maintenance of the approved advertising structures shall be undertaken in accordance with the Maintenance Plan under Condition E4. The sign is to be inspected regularly to identify any damage from storms, graffiti or the like.
- F2. All costs associated with the proposed sign, including maintenance activities, shall be at no cost to TfNSW.

### **ADVERTISING SIGNAGE CONTENT**

- F3. The approved advertising structures must not have or use:
- (a) Flashing or flickering lights or content;
  - (b) electronically changeable messages
  - (c) animated display, moving parts or simulated movement
  - (d) complex displays that hold a driver's attention beyond "glance appreciation"
  - (e) displays resembling traffic control devices by use of colour, shape or words that can be construed as giving instruction to traffic for example, red, amber or green circles, octagons, crosses, triangles and words such as 'stop' or 'halt'
  - (f) a method of illumination that distracts or dazzles, or
  - (g) dominant use of colours red or green.

Signage content must also comply with all conditions contained in Part A of this consent and be in accordance with the road safety guidelines for sign content, set out in Guidelines.

### **LOCATION OF CERTAIN NAMES AND LOGOS**

- F4. The name or logo of the person who owns or leases the approved advertisement may appear only in a bottom corner of the advertising structure and must be no greater than 0.25 m<sup>2</sup> in size.

### **REMOVAL OF GRAFFITI**

- F5. The owner/manager of the site or sign must be responsible for the removal of all graffiti from the advertisement within 48 hours of notification.

**END OF PART F**

## APPENDIX 1 ADVISORY NOTES

### APPEALS

AN1. The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021 (as amended)*.

### OTHER CONSENTS AND PERMITS

AN2. The Applicant shall apply to the Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other consents under Section 68 (Consents) of the *Local Government Act 1993* or Section 138 of the *Roads Act 1993*.

### RESPONSIBILITY FOR OTHER CONSENTS AND AGREEMENTS

AN3. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

### MOVEMENT OF TRUCKS TRANSPORTING MATERIAL

AN4. The Applicant must notify the TfNSW Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting material from the subject site, prior to the commencement of works.

### DISABILITY DISCRIMINATION ACT

AN5. This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

### COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

AN6.

- (a) The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without any consent from the Commonwealth Environment Minister.
- (b) This application has been assessed in accordance with the New South Wales *Environmental Planning & Assessment Act, 1979*. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Department of Sustainability, Environment, Water, Population and Communities to determine the need or otherwise for Commonwealth consent and you should not construe this grant of consent as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

## APPENDIX 2 WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

### Written Incident Notification Requirements

1. A written incident notification addressing the requirements set out below must be emailed to the Planning Secretary via [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A29 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
  - (a) identify the development and application number;
  - (b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
  - (c) identify how the incident was detected;
  - (d) identify when the applicant became aware of the incident;
  - (e) identify any actual or potential non-compliance with conditions of consent;
  - (f) describe what immediate steps were taken in relation to the incident;
  - (g) identify further action(s) that will be taken in relation to the incident; and
  - (h) identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
  - (a) a summary of the incident;
  - (b) outcomes of an incident investigation, including identification of the cause of the incident;
  - (c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
  - (d) details of any communication with other stakeholders regarding the incident.