

# Development Consent

## Section 4.38 of the Environmental Planning and Assessment Act 1979

The Independent Planning Commission (the Commission), as the declared consent authority under clause 8A of *State Environmental Planning Policy (State and Regional Development) 2011* and section 4.5(a) of the *Environmental Planning and Assessment Act 1979*, approves the development application referred to in Schedule 1, subject to the conditions specified 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;
- provide for the ongoing environmental management of the development



Adrian Pilton  
Member of the  
Commission



Wendy Lewin  
Member of the  
Commission



Michael Wright  
Member of the  
Commission

Sydney

12 February 2024

### SCHEDULE 1

<b>Application Number:</b>	SSD 45121248
<b>Applicant:</b>	HammondCare
<b>Consent Authority:</b>	Independent Planning Commission of NSW
<b>Site:</b>	4-12 Neringah Avenue South, Wahroonga (Lot 1 DP960051, Lot 1 DP1199937, and Lot 52 DP2666)
<b>Development:</b>	Stage 2 redevelopment of Neringah Hospital including: <ul style="list-style-type: none"><li>• Demolition of existing hospital building, kiosk and ancillary structures, clearing of vegetation, bulk earthworks and remediation works;</li><li>• Construction and operation of an integrated seniors housing and health services facility across two buildings up to 5 storeys above ground, to include:<ul style="list-style-type: none"><li>○ 2 basement car park levels with 130 car parks and one car wash bay;</li><li>○ 12 residential aged care facility beds (an extension to the Stage 1 use);</li><li>○ 18 palliative care hospice beds (health services facility);</li><li>○ 57 self-contained dwellings for seniors;</li><li>○ community healthcare services, including outpatient palliative care, centre for positive aging and Hammond at Home;</li><li>○ on-site administration, amenities and ancillary uses, including café, salon, pharmacy and chapel;</li><li>○ connection to the existing Stage 1 aged care building with new library and staff area;</li><li>○ ground level and on-building landscape works with a through-site pedestrian link connecting Archdale Park to the east and Balcombe Park to the west; and</li></ul></li></ul>

- public domain works including the upgrade of the pedestrian walkway 'Archdale Walk' to provide an accessible connection to Wahroonga town centre.

## DEFINITIONS

<b>Advisory Notes</b>	Advisory information relating to the consent but do not form a part of this consent
<b>Applicant</b>	HammondCare, the person having the benefit of this consent from time to time, or any person carrying out any of the development to which this consent applies
<b>AS</b>	Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the relevant work is undertaken
<b>AHD</b>	Australian Height Datum
<b>Certifier</b>	A Council or person registered as a registered Certifier under the <i>Building and Development Certifiers Act 2018</i>
<b>CEMP</b>	Construction Environmental Management Plan
<b>Conditions of this consent</b>	Conditions contained in Schedule 2 of this document
<b>Construction</b>	The demolition and removal of buildings or works, the carrying out of works for the purpose of the development including site establishment works, relocation of utilities, earthworks, and erection of buildings and other infrastructure permitted by this consent
<b>Construction Certificate</b>	A certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation
<b>Council</b>	Ku-ring-gai Council
<b>CPTED</b>	Crime Prevention Through Environmental Design Assessment
<b>CWMP</b>	Construction Waste Management Sub-Plan
<b>Day</b>	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
<b>Demolition</b>	The destruction and removal of buildings, sheds and other structures on the Site.
<b>Department</b>	NSW Department of Planning, Housing and Infrastructure
<b>Development</b>	The development approved pursuant to this consent, as defined in <b>Condition A2</b> and as modified by the conditions of this consent
<b>EIS</b>	The Environmental Impact Statement titled Environmental Impact Statement Neringah Hospital Stage 2 SSD-45121248, 4-12 Neringah Avenue South, Wahroonga, prepared by Ethos Urban dated 15 December 2022, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
<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>EPA</b>	NSW Environment Protection Authority
<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>Feasible</b>	Means what is possible and practical in the circumstances
<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 <i>Note: "material harm" is defined in this consent</i>
<b>Land</b>	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
<b>Material harm</b>	Is harm that: <ul style="list-style-type: none"> <li>• involves actual or potential harm to the health or safety of people or to the environment that is not trivial; or</li> <li>• 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)</li> </ul>
<b>Minister</b>	NSW Minister for Planning and Public Spaces (or delegate).

<b>Mitigation</b>	Activities associated with reducing the impacts of the development prior to or during those impacts occurring
<b>NCC</b>	National Construction Code means the current standard which applies at the time the relevant work is undertaken, published by the Australian Building Codes Board.
<b>Non-compliance</b>	An occurrence, set of circumstances or development that is a breach of this consent
<b>Operation</b>	The carrying out of approved land uses upon completion of construction
<b>Owner</b>	Means the registered proprietor of the Property from time to time.
<b>Planning Secretary</b>	The Planning Secretary under the EP&A Act (or delegate).
<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>Registered Surveyor</b>	A person who is registered with the Board of Surveying and Spatial Information
<b>RtS</b>	The Applicant's response to issues raised in submissions received in relation to the application for this development consent under the EP&A Act.
<b>RRFI</b>	The Applicant's response to requests for information from the Department in relation to the application for this development consent under the EP&A Act.
<b>Sensitive Receiver</b>	Residence, education institution (e.g. school, university, TAFE college), health care facility (e.g. nursing home, hospital), religious facility (e.g. church) and children's day care facility.
<b>Site</b>	The land identified in Schedule 1
<b>SSD</b>	State Significant Development
<b>TfNSW</b>	Transport for NSW
<b>Work(s)</b>	Any physical work to construct or facilitate the construction of the development, including low impact work and environmental management measures.

**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 must 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 EIS, RtS and any RRFI;
- (d) in accordance with the approved plans in the table below, except where amended by the conditions of this consent:

<b>Architectural drawings prepared by Bickerton Masters</b>			
<b>Drawing Number</b>	<b>Rev</b>	<b>Name of Plan</b>	<b>Date</b>
DG-00-00	P14	Cover Page	Oct 2023
DG-00-01	P14	Context Plan	Oct 2023
DG-01-01	P13	Existing Site Plan	Oct 2023
DG-01-02	P8	Site Analysis	Oct 2023
DG-02-01	P18	Proposed Site Plan	Oct 2023
DG-02-02	P2	Proposed Signage Plan	Oct 2023
DG-03-01	P11	Floor Plan – Basement 2	Oct 2023
DG-03-02	P14	Floor Plan – Basement 1	Oct 2023
DG-03-03	P13	Floor Plan – Lower Ground	Oct 2023
DG-03-04	P13	Floor Plan – Ground	Oct 2023
DG-03-05	P13	Floor Plan – Level 1	Oct 2023
DG-03-06	P11	Floor Plan – Level 2	Oct 2023
DG-03-07	P13	Floor Plan – Level 3	Oct 2023
DG-03-08	P13	Floor Plan – Level 4	Oct 2023
DG-03-09	P13	Floor Plan – Level 5	Oct 2023
DG-03-10	P7	Roof Plan	Oct 2023
DG-04-01	P15	Demolition Site Plan	Oct 2023
DG-20-00	P16	Site Elevations	Oct 2023
DG-20-01	P6	Materials & Finishes Palette	Oct 2023
DG-20-N1	P4	Elevations – North Building Sheet 1	Oct 2023

DG-20-N2	P4	Elevations – North Building – Sheet 2	Oct 2023
DG-20-S1	P4	Elevations – South Building – Sheet 1	Oct 2023
DG-20-S2	P4	Elevations – South Building – Sheet 2	Oct 2023
DG-30-00	P16	Site Sections	Oct 2023
FI-20-05	P1	Affordable Places Allocation Plan – L1	20/12/2023
FI-20-06	P1	Affordable Places Allocation Plan – L2	20/12/2023
<b>Landscape plans prepared by Arterra Design Pty Ltd</b>			
<b>Drawing Number</b>	<b>Rev</b>	<b>Name of Plan</b>	<b>Date</b>
LA-DG-00-#	P4	Cover Sheet	29/09/2023
LA-DG-01-E0	P4	Landscape Plan – Overall Site	29/09/2023
LA-DG-02-E0	P4	Landscape Plan – Stage 2 Ground	29/09/2023
LA-DG-03-E0	P4	Landscape Plan – Stage 2 Roof	29/09/2023
LA-DG-04-E0	P4	Tree Planting Plan – Ground	29/09/2023
LA-DG-05-E0	P4	Tree Planting Plan – Roof	29/09/2023
LA-DG-10-E0	P4	Planting Plan – Ground	29/09/2023
LA-DG-11-E5	P4	Planting Plan – Level 1	29/09/2023
LA-DG-12-E6	P4	Planting Plan – Level 2	29/09/2023
LA-DG-13-E7	P4	Planting Plan – Level 3	29/09/2023
LA-DG-14-E8	P4	Planting Plan – Level 4	29/09/2023
LA-DG-15-E9	P4	Planting Plan – Level 5	29/09/2023
LA-DG-80-#	P4	Indicative Plant Schedule	29/09/2023
LA-DG-83-E0	P4	Fence & Access Diagram – Ground	29/09/2023
LA-DG-84-E0	P4	Fence & Access Diagram – Roof	29/09/2023
LA-DG-86-#	P4	Landscape Typical Details	29/09/2023
<b>Arboricultural Plans prepared by Arterra Design Pty Ltd</b>			
<b>Drawing Number</b>	<b>Rev</b>	<b>Name of Plan</b>	<b>Date</b>
LT-DG-03-E0	P2	Tree Protection and Removal Plan	28/04/2023
LT-DG-04-A0	P1	Tree Protection and Removal Plan – Archdale Walk	13/12/22
LT-DG-05-E0	P1	Tree Protection Specifications	13/12/22
LT-DG-06-E0	P1	Canopy Pruning Plan	28/04/23

- 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 A3(a)**.
- 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**. 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 ON CONSENT**

- A5. This consent will lapse five years from the date the consent is published on the NSW Planning Portal unless the works associated with the development have physically commenced.
- A6. This consent does not approve the following:
- (a) the detailed fitout and operation of the café;
  - (b) the installation of signage other than signage shown on the approved drawings;
  - (c) works on public land (unless approved under this consent); and
  - (d) works on the Australia Post site.
- Where required, separate approvals must be obtained from the relevant consent authority (except where exempt and/or complying development applies).

#### **PRESCRIBED CONDITIONS**

- A7. The Applicant must comply with all relevant prescribed conditions of development consent under Part 4, Division 2 of the EP&A Regulation.

#### **PLANNING SECRETARY AS MODERATOR**

- A8. In the event of a dispute between the Applicant and a public authority, in relation to a requirement in this approval or relevant matter relating to the Development, either party may refer the matter to the Planning Secretary for resolution.

#### **LEGAL NOTICES**

- A9. Any advice or notice to the consent authority must be served on the Planning Secretary at the Planning Secretary Address for Service.

#### **EVIDENCE OF CONSULTATION**

- A10. 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 information or approval; 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.

#### **STRUCTURAL ADEQUACY**

- A11. All new buildings and structures, and any alterations or additions to existing buildings and structures that are part of the development, must be constructed in accordance with the relevant requirements of the NCC.

**Notes:**

- Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 sets out the requirements for the certification of the development.

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

- A12. All plant and equipment used on Site, or to monitor the performance of the development must be maintained and 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.

## MONITORING AND ENVIRONMENTAL AUDITS

- A15. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification and independent environmental auditing.

**Note:** *For the purposes of this condition, as set out in the EP&A Act, "monitoring" is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an "environmental audit" is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.*

## COMPLIANCE

- A16. 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.

## REVISION OF STRATEGIES, PLANS AND PROGRAMS

- A17. Within three months of:
- (a) the submission of a compliance report under this consent;
  - (b) the submission of an incident report under this consent;
  - (c) the submission of an Independent Audit under this consent;
  - (d) the approval of any modification of the conditions of this consent (excluding modifications made under section 4.55(1) of the EP&A Act); or
  - (e) the issue of a direction of the Planning Secretary under this consent which requires a review,
- the strategies, plans and programs required under this consent must be reviewed, and the Department must be notified in writing that a review is being carried out.
- A18. If necessary, to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

**Note:** *This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.*

## COMPLIANCE REPORTING

- A19. Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Requirements outlined in the Compliance Reporting Post Approval Requirements.
- A20. Compliance Reports must be submitted to the Department in accordance with the timeframes set out in the Compliance Reporting Post Approval Requirements, unless otherwise agreed to by the Planning Secretary.
- A21. The Applicant must make each Compliance Report publicly available 60 days after submitting it to the Planning Secretary, unless otherwise agreed by the Planning Secretary.
- A22. Notwithstanding the requirements of the Compliance Reporting Post Approval Requirements, the Planning Secretary may approve a request for ongoing annual operational compliance reports to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that an operational compliance report has demonstrated operational compliance.

## INDEPENDENT ENVIRONMENTAL AUDIT

- A23. Independent Audits of the development must be conducted and carried out in accordance with the Independent Audit Post Approval Requirements.
- A24. Proposed independent auditors must be agreed to in writing by the Planning Secretary prior to the commencement of an Independent Audit.



- A25. The Planning Secretary may require the initial and subsequent Independent Audits to be undertaken at different times to those specified above, upon giving at least 4 weeks' notice (or timing) to the Applicant of the date upon which the audit must be commenced.
- A26. In accordance with the specific requirements in the Independent Audit Post Approval Requirements, the Applicant must:
- (a) review and respond to each Independent Audit Report prepared under this consent;
  - (b) submit the response to the Planning Secretary; and
  - (c) make each Independent Audit Report, and response to it, publicly available 60 days after submission to the Planning Secretary.
- A27. Independent Audit Reports and the Applicant's response to audit findings must be submitted to the Planning Secretary within 2 months of undertaking the independent audit site inspection as outlined in the Independent Audit Post Approvals Requirements unless otherwise agreed by the Planning Secretary.
- A28. Notwithstanding the requirements of the Independent Audit Post Approvals Requirements, the Planning Secretary may approve a request for ongoing independent operational audits to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that independent operational audits have demonstrated operational compliance.

#### **REMEDIATION – REMEDIAL ACTION PLAN**

- A29. The Applicant must remediate the site in accordance with the specifications and requirements detailed in the approved Remedial Action Plan and relevant guidelines produced or approved under the *Contaminated Land Management Act 1997*. Remediation works must be undertaken by a suitably qualified and experienced consultant(s).

## PART B PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

### DESIGN AMENDMENTS

- B1. Prior to the issue of a Construction Certificate for above ground works, the Applicant must submit revised plans to the Planning Secretary for approval. The revised plans must detail the following:
- (a) privacy screens on the western edge of the balconies of the self-contained dwellings on the north-western corner of Levels 1 and 2 in the North Building. The privacy screen shall have a minimum height of 1.6 metres above the finished floor level and be fixed to prevent crossward and downward overlooking of the private open space of 15-17 Woonona Avenue. The privacy screen shall be constructed of powdercoated aluminium similar to those approved for use elsewhere in the development;
  - (b) amendment of the privacy screens for Level 1 as shown in the south west elevation plan DG-20-S1 Rev P4 of the South Building to provide a series of three or four panels which can stack and slide along the length of the terraces to provide greater control of sunlight and privacy to the occupants;
  - (c) deletion of the privacy screens for the balconies of the south-west units on Levels 3, 4 and 5 of the South Building shown in the south elevation on plan DA-20-S2 Rev P4;
  - (d) the signage plan DG-02-02 Rev P2 dated Oct 2023 is to be amended so that the sizes of the external wall mounted signage on the location plan matches the dimensions in the elevational signage details on the right hand side of the plan;
  - (e) amendments to achieve compliance with a minimum of 60% cross ventilated apartments in accordance with the requirements of ADG Objective 4B-3 (1);
  - (f) the proposed face brickwork of the new buildings is to be amended to a red/orange tone similar to the adjoining Heritage Item (Sydney Water Reservoir) with details to be submitted to Council's Heritage Advisor for written approval; and
  - (g) the landscape plan LAQ-DG-86 Rev 4 is to be amended to clearly remove any works on the adjoining property of 14 Neringah Avenue South.

### MAXIMUM BUILDING HEIGHT

- B2. Prior to the issue of a Construction Certificate for above ground works, the Applicant must submit to the satisfaction of the Certifier details confirming the maximum height of the building does not exceed:
- (a) North Building - RL 219.100 m AHD; and
  - (b) South Building - RL 225.09 m AHD (and RL225.140 m for the top of wall of the mechanical fan plant on the southern edge of the roof of the South Building),
- including plant and lift overruns, but excluding communication devices, antennas, satellite dishes, masts, flagpoles, chimneys, flues and the like.

### GROSS FLOOR AREA CERTIFICATION

- B3. Prior to the issue of a Construction Certificate for above ground works, the Applicant must submit to the satisfaction of the Certifier details confirming the gross floor area of the development does not exceed 14,359 m<sup>2</sup>.

### LONG SERVICE LEVY

- B4. Prior to the issue of the first Construction Certificate, the Applicant must submit to the satisfaction of the Certifier details confirming payment of a Long Service Levy. For further information on the current levy rate and methods of payment, please contact the Long Service Payments Corporation Helpline on 131 441 or visit <https://www.longservice.nsw.gov.au/bci/levy/about-the-levy>.

### STRUCTURAL DETAILS

- B5. Prior to the issue of the first Construction Certificate, the Applicant must submit to the satisfaction of the Certifier structural drawings prepared and signed by a suitably qualified practising Structural Engineer that demonstrates compliance with:
- (a) the relevant clauses of the NCC; and
  - (b) this development consent.

### EXTERNAL WALLS AND CLADDING

- B6. The external walls of all buildings including additions to existing buildings must comply with the relevant requirements of the NCC.
- B7. Prior to the issue of a Construction Certificate for above ground works, the Applicant must submit to the satisfaction of the Certifier documented evidence that the products and systems proposed for use or used in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the requirements of the NCC. The Applicant must provide a copy of the documentation to the Planning Secretary for information.

## **ACCESS AND FACILITIES FOR PEOPLE WITH DISABILITIES**

- B8. Prior to the issue of the first Construction Certificate, the Applicant must submit to the satisfaction of the Certifier details prepared by a suitability qualified professional demonstrating that the building has been designed and will be constructed to provide access and facilities for people with a disability in accordance with the NCC and in accordance with applicable Australian Standards for Design and Access Mobility, and taking into consideration the Disability Discrimination Act. Dwelling entries must comply with clauses 4.3.1 and 4.3.2 of AS4299-1995 for Adaptable Housing.

## **REFLECTIVITY**

- B9. Prior to the issue of a Construction Certificate for above ground works, the Applicant must submit to the satisfaction of the Certifier a report/documentation demonstrating that external treatments, materials and finishes of the development do not cause adverse or excessive glare.

## **SITE STABILITY AND CONSTRUCTION WORK**

- B10. Prior to the issue of the first Construction Certificate, the Applicant must submit to the satisfaction of the Certifier a report obtained from a suitably qualified and experienced professional engineer/s, which includes the following:
- (a) geotechnical details which confirm the suitability and stability of the Site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjacent land;
  - (b) details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings;
  - (c) details to demonstrate that the proposed methods of support and construction are suitable for the Site and will not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration;
  - (d) the adjoining land and buildings located upon the adjoining land must be adequately supported at all times throughout building work; and
  - (e) details of written approvals that have been obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place).

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

- B11. Prior to the issue of the first Construction Certificate, the Applicant must submit to the satisfaction of the Certifier evidence demonstrating that the design of the development has incorporated the Crime Prevention Through Environmental Design Assessment (CPTED) management and mitigation measures included within the CPTED report prepared by Ethos Urban, dated 10 November 2022.

## **ECOLOGICALLY SUSTAINABLE DEVELOPMENT**

- B12. Prior to the issue of a Construction Certificate for above ground works, the Applicant must submit to the satisfaction of the Certifier evidence demonstrating the development incorporates all design, construction and operation measures as identified in the Wairoonga Stage 2 – Ecologically Sustainable Development (ESD) report prepared by Steensen Varming, dated 15 November 2022, and the Response to ADG 4B – Natural Ventilation letter prepared by Steensen Varming dated 20 April 2023 provided with the RtS.
- B13. Prior to the issue of a Construction Certificate for above ground works, the Applicant must submit to the satisfaction of the Certifier evidence demonstrating that the development will achieve a minimum 4 Star Green Star rating in accordance with the Green Star Design and a minimum Bronze WELL rating (or equivalent ESD performance), as identified in the Wairoonga Stage 2 – Ecologically Sustainable Development (ESD) report prepared by Steensen Varming dated 15 November 2022.

## **INSTALLATION OF WATER EFFICIENT FIXTURES AND FITTINGS**

- B14. Prior to the issue of the first Construction Certificate, the Applicant must submit to the satisfaction of the Certifier evidence demonstrating that the development provides the design targets identified in the Wairoonga Stage 2 – Ecologically Sustainable Development (ESD) report prepared by Steensen Varming, dated 15 November 2022. These include:
- (a) all toilets installed within the development will be of water efficient dual-flush capacity with at least 4-star equivalent rating under the Water Efficiency and Labelling Scheme (WELS);
  - (b) all taps and shower heads installed within the development will be water efficient with at least a 3-star equivalent rating under the WELS, where available;
  - (c) new urinal suites, urinals and urinal flushing control mechanisms installed within the development will utilise products with at least a 4-star equivalent rating under the WELS; and
  - (d) systems will reduce unnecessary flushing and will not involve the use of continuous flushing systems.

## MECHANICAL PLANT NOISE MITIGATION

- B15. Prior to the issue of a Construction Certificate for above ground works, the Applicant must submit to the satisfaction of the Certifier details of noise mitigation measures for all mechanical plant (as detailed on relevant Construction Certificate drawings) and certification from an appropriately qualified acoustic engineer that the proposed measures will achieve compliance with the Noise Policy for Industry.

## MECHANICAL VENTILATION

- B16. The premises must be ventilated in accordance with the NCC and applicable Australian Standards.
- B17. Prior to the issue of the first Construction Certificate, the Applicant must submit to the satisfaction of the Certifier details that any mechanical ventilation and/or air conditioning system for the development complies with the NCC and applicable Australian Standards, prepared by a suitably qualified person certified in accordance with Clause A2.2(a)(iii) of the NCC, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection.

## COMPLIANCE WITH ACOUSTIC ASSESSMENT

- B18. Prior to the issue of a Construction Certificate for above ground works, the Applicant must submit evidence to the satisfaction of the Certifier demonstrating that the design of the development has incorporated all performance parameters, requirements, engineering assumptions and recommendations contained in the Noise and Vibration Impact Assessment, prepared by Acoustic Logic, dated 24 April 2023 and the recommendations within the supplementary Acoustic Statement prepared by Acoustic Logic dated 27 March 2023 provided in the RtS relating to the roller door of the carpark.

## WIND MITIGATION MEASURES

- B19. Prior to the issue of a Construction Certificate for above ground works, the Applicant must submit evidence to the satisfaction of the Certifier demonstrating that the development has incorporated the wind mitigation measures contained within the document titled Wind Impact Assessment, prepared by Vipac Engineers and Scientists Limited, dated 11 November 2022.

## SYDNEY WATER ASSETS

- B20. Prior to the issue of the first Construction Certificate, the approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

**Note:** Sydney Water's Tap in™ in online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

- B21. Prior to the issue of the first Construction Certificate, the Applicant must submit to the satisfaction of Sydney Water a Specialist Engineering Assessment to ensure that the proposed construction works do not impact upon the Wahroonga Reservoir and associated Sydney Water assets. The Specialist Engineering Assessment should be lodged through a Water Servicing Coordinator via the Building Plan Process.

## ROAD SAFETY AUDIT

- B22. Prior to the issue of a Construction Certificate for above ground works, a Road Safety Audit (RSA), which considers:
- whether any pedestrian protection measures are necessary to ensure the safety of pedestrian movements across Neringah Avenue South; and
  - the interaction of the development with the school zones in the vicinity of the Site during both construction and operation,

shall be prepared by an independent registered road safety auditor and submitted to the satisfaction of the Planning Secretary.

Should the RSA recommend the installation of pedestrian safety measures within Neringah Avenue South, the Applicant must seek and obtain approval for these works under the *Roads Act 1993* in accordance with **Condition B29**. The Applicant must implement all recommendations of the RSA in accordance with **Condition E18**.

## ACCESSIBILITY ASSESSMENT

- B23. Prior to the issue of a Construction Certificate for above ground works, an Accessibility Assessment (AA), which considers:
- whether any pedestrian access measures are necessary to ensure the accessibility and mobility of pedestrian movements across Neringah Avenue South;
  - whether any additional treatments to the surface of any part of Archdale Walk are necessary to ensure accessibility and mobility for users to access Wahroonga Town Centre; and

- (c) whether any pedestrian access measures are necessary to ensure the accessibility and mobility of pedestrian movements across Woonona Avenue to access Balcombe Park,

shall be prepared by an independent suitably qualified expert and submitted to the satisfaction of the Planning Secretary.

Should the AA recommend the installation of pedestrian access measures within Neringah Avenue South, Woonona Avenue or works to Archdale Walk, the Applicant must seek and obtain any necessary approval for these works under the *Roads Act 1993* in accordance with **Condition B29**. The Applicant must implement all recommendations of the AA in accordance with **Condition E18**.

#### **CAR PARKING**

B24. Prior to the issue of the first Construction Certificate, the Applicant must submit to the satisfaction of the Certifier plans demonstrating compliance with the following traffic and parking requirements:

- (a) all vehicles must enter and leave the subject site in a forward direction;
- (b) all vehicles are to be wholly contained on-site before being required to stop;
- (c) parking associated with the development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) must be in accordance with the applicable Australian Standards;
- (d) appropriate pedestrian advisory signs must be provided at the egress from parking areas;
- (e) all works/regulatory signposting associated with the development must be at no cost to the relevant roads authority; and
- (f) the swept path of the longest vehicle (including garbage trucks) entering and exiting the Site, as well as manoeuvrability through the subject Site, must be in accordance with AUSTROADS.

#### **BICYCLE PARKING AND FACILITIES**

B25. Prior to the issue of the first Construction Certificate, the Applicant must submit to the satisfaction of the Certifier plans demonstrating compliance with the following:

- (a) a minimum of nine on-site bicycle parking spaces;
- (b) a minimum of nine personal lockers; and
- (c) a minimum of one shower.

B26. The layout, design and security of bicycle facilities must comply with the applicable Australian Standards.

#### **LANDSCAPING**

B27. Prior to the issue of the Construction Certificate for above ground works, the Applicant must submit to the satisfaction of the Certifier a detailed Landscape Plan. The plan must be generally consistent with the Landscape Plans prepared by Arterra Design Pty Ltd, dated 29 September 2023 and include:

- (a) details of tree planting, including pot sizes;
- (b) details of the location, species, maturity and height at maturity of plants to be planted on-site;
- (c) demonstration of adequate drainage and watering systems for the planters;
- (d) details of plant maintenance and watering for the first 12 months; and
- (e) a commitment to replace plants with the same species and size if any plant loss occurs within the maintenance period.

#### **BASIX CERTIFICATE**

B28. Prior to issue of the relevant Construction Certificate, all conditions of the BASIX Certificate No 1377395M, and any updated certificate issued if amendments are made, must be clearly shown on the Construction Certificate plans. Where there is an inconsistency between the requirements of BASIX and Section J, the requirements of Section J prevail to the extent of any inconsistency.

#### **ROADS ACT APPROVAL**

B29. Prior to issue of the first Construction Certificate, approval must be obtained from Council as the road authority under section 138 *Roads Act 1993* for any proposed works in the public road.

#### **UPGRADE OF ARCHDALE WALK**

B30. Prior to the issue of the first Construction Certificate, the Applicant must obtain approval under the *Roads Act 1993*, and any other required separate approvals, for the upgrade of Archdale Walk designed to comply with Clause 26 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

The Archdale Walk upgrade works are to be generally in accordance with the Post Office Ramp Alignment – Plan and Sections LA-DG-80-A0 Rev B, LA-DG-81-A0 Rev B and LA-DG-82-A0 Rev B, all dated 17 October 2022 prepared by Arterra Design Pty Ltd provided with the EIS.

Construction of the works must proceed only in accordance with any conditions attached to the approval issued by the relevant consent authority pursuant to the *Roads Act 1993* (Roads Act Approval).

### STORMWATER MANAGEMENT SYSTEM

- B31. Prior to the issue of the first Construction Certificate, the Applicant must submit to the satisfaction of the Certifier an operational stormwater management system for the development. The system must:
- be designed by a suitably qualified and experienced person(s);
  - be generally in accordance with the conceptual design in the RtS and the Integrated Water Management Plan Rev 4 dated 4 May 2023 prepared by Northrop provided with the RtS;
  - be in accordance with Council's stormwater requirements and specifications;
  - be in accordance with applicable Australian Standards; and
  - ensure that the system capacity has been designed in accordance with *Australian Rainfall and Runoff* (Engineers Australia, 2016) and *Managing Urban Stormwater: Council Handbook* (EPA, 1997) guidelines.

### ENGINEERING PLANS

- B32. Prior to the issue of the first Construction Certificate, the Applicant must prepare engineering plans to the satisfaction of Council and the Certifier which must address the following matters:
- a maximum driveway gradient of 5% from kerb line to 6m internally from the property boundary;
  - minimum sight lines for pedestrian safety as per Figure 3.3 of AS2890.1:2004; and
  - the driveway longitudinal section to demonstrate that a B99 and MRV vertical clearance can be achieved without scraping of the underside of these vehicle.

### GROUNDWATER IMPACT ASSESSMENT

- B33. Prior to the issue of the first Construction Certificate the Applicant must provide to DCCEEW for comment, findings of the detailed geotechnical investigations set out in the letter of JK Geotechnics Pty Ltd dated 24 May 2023 (Ref: 35312BletRev2) as provided with the RtS. The findings of that geotechnical investigation must address the requirements of DCCEEW regarding groundwater dewatering as set out in the letter of DCCEEW dated 13 June 2023 (Ref: OUT23/8712).
- B34. In the event that the detailed geotechnical investigation required by **Condition B33** reveal that groundwater dewatering is required for the proposal, prior to issue of the first Construction Certificate, the Applicant must prepare a Dewatering Management to the satisfaction of DCCEEW with the findings detailed in the above condition which complies with the requirements of their letter dated 13 June 2023.
- B35. In the event that the detailed geotechnical investigation required by **Condition B33** reveal that groundwater dewatering is required for the proposal, prior to the issue of the first Construction Certificate, a construction monitoring programme for groundwater, prepared to the satisfaction of DCCEEW must be implemented and include the matters set out in the letter of DCCEEW dated 13 June 2023, and the reporting requirements in that letter.

### DRIVEWAY CROSSING LEVELS

- B36. Prior to issue of the first Construction Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

#### Notes:

- Specifications are issued with alignment levels after completing the necessary application form at Council's Customer Services counter and payment of the assessment fee.*
- When completing the request for driveway levels application from Council, the Applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.*
- This development consent is for works wholly within the property. Development consent does not imply approval of footpath or driveway levels, materials or location within the road reserve, regardless of whether this information is shown on the development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the Applicant and the required alignment levels fixed by Council may impact upon these levels.*

## **WASTE AND RECYCLING STORAGE FACILITIES**

- B37. Prior to the issue of the first Construction Certificate, the plans and details of waste storage room/s shall be submitted to and approved by the Certifier demonstrating:
- (a) the waste storage room shall be located within the basement and will be of adequate size to contain the waste and recycling bins;
  - (b) the waste storage room shall be covered and all internal walls rendered and coved at the floor/wall intersection; and
  - (c) the floor is to be graded and appropriately drained to the sewer and a tap with hot and cold water is to be located in close proximity to facilitate cleaning.
- B38. Prior to issue of the first Construction Certificate the Certifier must be satisfied that the minimum headroom of 2.6 metres will be available for the full path of travel of a small waste collection vehicle from the street to the collection area.

## **PROHIBITION OF EXTERNAL SERVICE PIPES AND THE LIKE**

- B39. Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building. Details confirming compliance with this condition must be shown on Construction Certificate plans and detailed with Construction Certificate specifications.
- B40. Required external vents or vent pipes on the roof or above the eaves must be shown on Construction Certificate plans and detailed with Construction Certificate specifications. External vents or roof vent pipes must not be visible from any public place unless detailed upon development consent plans.
- B41. Vent pipes required by Sydney Water must not be placed in an area that is visible from the public domain. The Applicant, owner and builder must protect the appearance of the building from the public place and the appearance of the streetscape by elimination of all external services excluding vent pipes required by Sydney Water and those detailed on the development consent plans.

## **UNDERGROUND SERVICES**

- B42. All electrical services (existing and proposed) shall be undergrounded from the proposed building on the Site to the appropriate power pole(s) or other connection point. Undergrounding of services must not disturb the root system of existing trees and shall be undertaken in accordance with the requirements of the relevant service provider. Documentary evidence that the relevant service provider has been consulted and that their requirements have been met is to be provided to the satisfaction of the Certifier prior to the issue of any Construction Certificate. All electrical and telephone services to the subject property must be placed underground and any redundant poles are to be removed.

## **ELECTRIC VEHICLE CHARGING POINTS**

- B43. Prior to the issue of any Construction Certificate, the Certifier is to be satisfied that the Construction Certificate plans demonstrate that parking areas will be constructed so that electric vehicle charging points can be installed for all spaces.

## PART C PRIOR TO COMMENCEMENT OF WORKS

### NOTIFICATION OF COMMENCEMENT

- C1. The Department and Council must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates. The Department and Council must also be notified by the Certifier of their appointment at least 48 hours prior to the commencement of physical work.
- C2. If the construction or operation of the development is to be staged, the Department and Council 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.

### ACCESS TO INFORMATION

- C3. 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 environmental audit of the development and the Applicant's response to the recommendations in any audit report; and
    - (x) any other matter required by the Planning Secretary;
  - (b) keep such information up to date, to the satisfaction of the Planning Secretary; and
  - (c) address any other matter relating to compliance with the terms of this consent or requested by the Planning Secretary.

### SURVEY CERTIFICATE

- C4. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the Principal Certifier:
- (a) all footings/ foundations; and
  - (b) at other stages of construction – any marks that are required by the Principal Certifier.
- C5. Before the issue of an Occupation Certificate, a registered surveyor must submit documentation to the Principal Certifier which demonstrates that:
- (a) no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced; or
  - (b) the Applicant has re-established any survey mark(s) that were damaged, destroyed, obliterated or defaced in accordance with the Surveyor General's Direction No. 11 – Preservation of Survey Infrastructure.
- C6. Prior to the commencement of works, the Applicant must submit to the satisfaction of the Certifier a Registered Surveyor's certificate detailing the setting out of the proposed building on the Site, including the relationship of the set out building to property boundaries.

### PROTECTION OF PUBLIC INFRASTRUCTURE AND STREET TREES

- C7. Prior to the commencement of works, 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) as outlined in **Condition C14**;
  - (c) ensure all street trees directly outside the Site, and in the vicinity of the works covered by any Roads Act approval, not approved for removal are retained and protected in accordance with *AS 4970-2009 Protection of Trees on Development Sites*.



## UTILITIES AND SERVICES

- C8. Prior to any utility works associated with the development, the Applicant must obtain relevant approvals from service providers. Any costs in the relocation, adjustment or support of services are the responsibility of the Applicant.
- C9. Prior to the commencement of works written advice must be obtained from the electricity supply authority, an approved telecommunications carrier and an approved gas carrier (where relevant) stating that satisfactory arrangements have been made to ensure provisions of adequate services. Works involving the electricity supply must comply with Ausgrid's requirements of NS156: Working Near or Around Underground Cables.
- C10. The removal and relocation of the diesel generators and the substation are to be undertaken in accordance with the recommendations of the Preliminary Dangerous Goods Screening Report dated 28 April 2023 prepared by JHA Services provided with the RtS.

## BEFORE YOU DIG SERVICE

- C11. Prior to the commencement of any excavation on or near the Site, the Applicant must submit to the satisfaction of the Certifier written confirmation from the Before You Dig Australia Service that the proposed excavation will not conflict with any underground utility services.

## DEMOLITION

- C12. Demolition work must comply with *Australian Standard AS 2601-2001 The demolition of structures* (Standards Australia, 2001). The work plans required by AS 2601-2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the Certifier before the commencement of works.

## SANDSTONE WALL

- C13. Prior to the commencement of any works to the existing sandstone wall along Neringah Avenue South, a Sandstone Wall Retention and Alteration Methodology including the following details must be submitted to and approved by the Planning Secretary:
  - (a) the methodology to retain and alter the sandstone wall, informed by structural engineering advice in relation to the condition of the existing wall;
  - (b) in the event that structural engineering advice identifies retention of the sandstone wall is not possible, the methodology to deconstruct, salvage, store and reinstate the sandstone materials in a new wall; and
  - (c) detailed plans showing how the sandstone wall will be incorporated into the renewed landscaping and other fence types proposed within the front setback.

## PRE-CONSTRUCTION DILAPIDATION REPORTS

- C14. Prior to the commencement of any construction, the Applicant must submit to the satisfaction of the Certifier a Pre-Construction Dilapidation Report for public infrastructure and private properties, prepared by a suitably qualified person. The Applicant must submit a copy of the report to the asset owner and Council, and provide a copy to the Planning Secretary when requested.
- C15. The Pre-Construction Dilapidation Report is to detail the current structural condition of all adjoining buildings, infrastructure and roads (including the public domain site frontages, the footpath, kerb and gutter, driveway crossovers and laybacks, kerb ramps, road carriageway, street trees and plantings, parking restrictions and traffic signs, and all other existing infrastructure along the street) within the 'zone of influence'.
- C16. The Dilapidation Report must accurately record (both written and photographic) existing condition of:
  - (a) the full road pavement width, including kerb and gutter, of Neringah Avenue South over the site frontage, including the full intersection;
  - (b) all driveway crossings and laybacks opposite the Site;
  - (c) Archdale Walkway;
  - (d) 2 Neringah Avenue South, Wahroonga;
  - (e) 12 Neringah Avenue South, Wahroonga;
  - (f) 15-17 Woonona Avenue, Wahroonga; and
  - (g) 1 Woonona Avenue, Wahroonga.
- C17. Any entry into private land is subject to the consent of the owner of the land and any inspection of buildings on privately affected land must include details of the whole building where only part of the building may fall within the 'zone of influence'. A copy of the report is to be forwarded to the Planning Secretary and each of the affected property owners.

- C18. In the event that access for undertaking a Pre-Construction Dilapidation Report is denied by an adjoining owner, the Applicant must demonstrate, in writing, to the satisfaction of the Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the report and that these steps have failed.
- C19. Any damage to the public way including trees, footpaths, kerbs, gutters, road carriageway and the like must be made safe and functional by the Applicant to the satisfaction of the public authority responsible for the public way.
- The damage must be fully rectified by the Applicant in accordance with the Council's standards prior to a Certificate of Completion being issued for Public Domain Works or before the final Occupation Certificate is issued for the development, whichever is the sooner.

#### **INFRASTRUCTURE DAMAGE SECURITY BOND AND INSPECTION FEE**

- C20. To ensure that any damage to Council property as a result of construction activity is rectified in a timely manner:
- (a) all work or activity undertaken pursuant to this development consent must be undertaken in a manner to avoid damage to Council property and must not jeopardise the safety of any person using or occupying the adjacent public areas;
  - (b) the Applicant, builder, developer or any person acting in reliance on this consent shall be responsible for making good any damage to Council property and for the removal from Council property of any waste bin, building materials, sediment, silt, or any other material or article;
  - (c) the Infrastructure damage security bond and infrastructure inspection fee must be paid to Council prior to the issue of any Construction Certificate and prior to the commencement of any works;
  - (d) in consideration of payment of the infrastructure damage security bond and infrastructure inspection fee, Council will undertake such inspections of Council Property as Council considers necessary and will also undertake, on behalf of the Applicant, such restoration work to Council property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure damage security bond payable pursuant to this condition; and
  - (e) release of the bond – upon receipt by Council of an Occupation Certificate, Council will undertake an inspection of Council's infrastructure and release the bond if no damage is found. For development relating to more than 2 dwellings, there will be a six months holding period after the receipt by Council of the Occupation Certificate, after which a request may be made of Council to return any bond monies. If there is damage found to Council's infrastructure, the bond will not be released until the damage has been rectified to Council's satisfaction.

**Note:** *In this condition:*

*"Council property" includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place.*

*"Infrastructure damage security bond and infrastructure inspection fee" means the Infrastructure damage security bond and infrastructure inspection fee as calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council infrastructure associated with this condition.*

#### **TREE PROTECTION MEASURES**

- C21. Prior to the commencement of any demolition, earthwork or construction, the Applicant must engage a Project Arborist to ensure all tree protection measures and works are carried out in accordance with the conditions of this consent.
- The Project Arborist shall have a minimum AQF Level 5 qualification with a minimum of 5 years' experience. Details of the arborist including name, business name and contact details shall be provided to the Certifier.
- C22. Prior to the commencement of any works, tree protection works shall be carried out in accordance with the approved tree protection plans referenced in **Condition A2**, except where amended by other conditions of this consent.
- C23. The Project Arborist is to inspect the tree protection measures and verify that they comply with all relevant conditions of this consent.

#### **CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

- C24. Prior to the commencement of any earthwork or construction, a Construction Environmental Management Plan (CEMP) must be submitted to the satisfaction of the Certifier. The CEMP must address, but not be limited to, the following matters where relevant:
- (a) Details of:

- (i) hours of work;
- (ii) 24 hour contact details of the site manager;
- (iii) community consultation and complaint handling procedure;
- (iv) traffic management;
- (v) noise and vibration management, prepared by a suitably qualified person;
- (vi) management of dust and odour to protect the amenity of the neighbourhood;
- (vii) stormwater control and discharge, including measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Site;
- (viii) contamination management, including any unexpected contamination finds protocol;
- (ix) waste management;
- (x) external lighting in compliance with applicable Australian Standards; and
- (xi) flora and fauna management;
- (b) Construction Pedestrian and Traffic Management Sub-Plan (see **Condition C25**);
- (c) Construction Noise and Vibration Management Sub-Plan (see **Condition C26**);
- (d) Construction Waste Management Sub-Plan (see **Condition C27**);
- (e) Construction Soil and Water Management Sub-Plan (see **Condition C28**);
- (f) Remedial Action Plan (see **Condition A29**);
- (g) an unexpected finds protocol for contamination and associated communications procedure;
- (h) an unexpected finds protocol for Aboriginal and non-Aboriginal heritage and associated communications procedure including the recommendations for such a policy set out in section 9.3 of the Aboriginal Cultural Heritage Assessment Report prepared by Artefact dated 10 November 2022 and provided with the EIS; and
- (i) waste classification (for materials to be removed) and validation (for materials to remain) to be undertaken to confirm the contamination status in these areas of the Site.

#### **CONSTRUCTION PEDESTRIAN AND TRAFFIC MANAGEMENT SUB-PLAN**

C25. Prior to the commencement of any earthwork or construction, the Applicant must submit to the satisfaction of the Certifier a final Construction Pedestrian and Traffic Management Sub-Plan (CPTMP), prepared in consultation with the Sydney Coordination Office within TfNSW and Council. The CPTMP needs to specify matters including, but not limited to, the following:

- (a) a description of the development;
- (b) location of any proposed work zone(s);
- (c) details of crane arrangements including location of any crane(s) and crane movement plan;
- (d) haulage routes;
- (e) proposed construction hours;
- (f) predicted number of construction vehicle movements, detail of vehicle types and demonstrate that proposed construction vehicle movements can work within the context of road changes in the surrounding area, noting that construction vehicle movements are to be minimised during peak periods;
- (g) construction vehicle access arrangements;
- (h) construction program and construction methodology, including any construction staging, including separate staging traffic control plans for demolition, excavation, concrete pours, construction of vehicular crossings and reinstatement of footpaths, and for vehicles reversing from the Site;
- (i) a detailed plan of any proposed hoarding and/or scaffolding;
- (j) measures to avoid construction worker vehicle movements within the precinct;
- (k) potential impacts and mitigation measures during school zones, prepared in consultation with Abbotsleigh Junior School;
- (l) consultation strategy for liaison with surrounding stakeholders, including Abbotsleigh Junior School and other developments under construction;
- (m) identify any potential impacts to general traffic, cyclists, pedestrians, bus services within the vicinity of the Site from construction vehicles during the construction of the proposed works. Proposed mitigation measures must be clearly identified and included in the CPTMP;
- (n) identify the cumulative construction activities of the development and other projects within or around the development Site. Proposed measures to minimise the cumulative impacts on the surrounding road network must be clearly identified and included in the CPTMP;
- (o) assessment of cumulative impacts associated with other construction activities (if any);

- (p) an assessment of road safety at key intersection and locations subject to heavy vehicle construction traffic movements and high pedestrian activity;
- (q) details of construction program detailing the anticipated construction duration and highlighting significant and milestone stages and events during the construction process;
- (r) details of anticipated peak hour and daily construction vehicle movements to and from the Site;
- (s) details of on-site car parking and access arrangements of construction vehicles, construction workers to and from the Site, emergency vehicles and service vehicle;
- (t) details of temporary cycling and pedestrian access during construction; and
- (u) swept path analysis plans demonstrating the existing trees required for retention and their protective fencing requirements can be achieved.

The Construction Pedestrian and Traffic Management Sub-Plan is to be sent to [development.ctmp.cjp@transport.nsw.gov.au](mailto:development.ctmp.cjp@transport.nsw.gov.au)

### **CONSTRUCTION NOISE AND VIBRATION MANAGEMENT SUB-PLAN**

- C26. Prior to the commencement of any earthwork or construction, the Applicant must submit to the satisfaction of the Certifier a Construction Noise and Vibration Management Sub-Plan (CNVMP) for the development. The Sub-Plan must include:
- (a) identification of the specific activities that will be carried out and associated noise sources at the Site;
  - (b) identification of all potentially affected sensitive residential receiver locations;
  - (c) quantification of the rating background noise level (RBL) for sensitive receivers, as part of the Sub-Plan, or as undertaken in the EIS;
  - (d) the construction noise, ground-borne noise and vibration objectives derived from an application of the EPA Interim Construction Noise Guideline (ICNG), as reflected in conditions of approval;
  - (e) prediction and assessment of potential noise, ground-borne noise (as relevant) and vibration levels from the proposed construction methods expected at sensitive receiver premises against the objectives identified in the ICNG and conditions of approval;
  - (f) where objectives are predicted to be exceeded, an analysis of feasible and reasonable noise mitigation measures that can be implemented to reduce construction noise and vibration impacts;
  - (g) description of management methods and procedures, and specific noise mitigation treatments/measures that can be implemented to control noise and vibration during construction;
  - (h) where objectives cannot be met, additional measures including, but not necessarily limited to, the following must be considered and implemented where practicable; reduce hours of construction, the provision of respite from noise/vibration intensive activities, acoustic barriers/enclosures, alternative excavation methods or other negotiated outcomes with the affected community;
  - (i) where night-time noise management levels cannot be satisfied, a report must be submitted to the Planning Secretary outlining the mitigation measures applied, the noise levels achieved and justification that the outcome is consistent with best practice;
  - (j) measures to identify non-conformances with the requirements of the Sub-Plan, and procedures to implement corrective and preventative action;
  - (k) suitable contractual arrangements to ensure that all site personnel, including sub-contractors, are required to adhere to the noise management provisions in the Sub-Plan;
  - (l) procedures for notifying residents of construction activities that are likely to affect their noise and vibration amenity;
  - (m) measures to monitor noise performance and respond to complaints;
  - (n) measures to reduce noise related impacts associated with offsite vehicle movements on nearby access and egress routes from the Site;
  - (o) procedures to allow for regular professional acoustic input to construction activities and planning; and
  - (p) effective site induction, and ongoing training and awareness measures for personnel (e.g. toolbox talks, meetings etc).

### **CONSTRUCTION WASTE MANAGEMENT SUB-PLAN**

- C27. Prior to the commencement of any earthwork or construction, the Applicant must submit to the satisfaction of the Certifier a Construction Waste Management Sub-Plan (CWMP) for the development. The Sub-Plan must include, as a minimum, the following elements:
- (a) require that all waste generated during the project is assessed, classified and managed in accordance with the EPA's "Waste Classification Guidelines Part 1: Classifying Waste";

- (b) demonstrate that an appropriate area will be provided for the storage of bins and recycling containers and all waste and recyclable material generated by the works;
- (c) procedures for minimising the movement of waste material around the Site and double handling;
- (d) waste (including litter, debris or other matter) is not caused or permitted to enter any waterways;
- (e) any vehicle used to transport waste or excavation spoil from the Site is covered before leaving the premises;
- (f) the wheels of any vehicle, trailer or mobilised plant leaving the Site are cleaned of debris prior to leaving the premises;
- (g) details in relation to the transport of waste material around the Site (on-site) and from the Site, including (at a minimum):
  - a traffic plan showing transport routes within the Site;
  - a commitment to retain waste transport details for the life of the project to demonstrate compliance with the *Protection of the Environment Operations Act 1997*; and
  - the name and address of each licensed facility that will receive waste from the Site (if appropriate); and
- (h) all demolition, excavation and construction waste dockets are to be retained on-site, or at suitable location, in order to confirm which facility received materials generated from the Site for recycling or disposal. Each docket is to be an official receipt from a facility authorised to accept the material type, for disposal or processing.

#### **CONSTRUCTION SOIL AND WATER MANAGEMENT PLAN SUB-PLAN**

- C28. Prior to the commencement of any earthwork or construction, the Applicant must submit to the satisfaction of the Certifier a Construction Soil and Water Management Sub-Plan (CSWMSP) which must be prepared by a suitably qualified expert, in consultation with Council and address, but not be limited to the following:
- (a) describe all erosion and sediment controls to be implemented during construction;
  - (b) provide a plan of how all construction works will be managed in a wet-weather event (i.e. storage of equipment, stabilisation of the Site);
  - (c) detail all off-site flows from the Site; and
  - (d) describe the measures that must be implemented to manage stormwater and flood flows for small and large sized events, including, but not limited to 1 in 1-year ARI, 1 in 5-year ARI and 1 in 100-year ARI.

#### **CONSTRUCTION PARKING**

- C29. Prior to the commencement of any earthwork or construction, the Applicant must submit to the satisfaction of the Certifier evidence that sufficient off-street parking has been provided for heavy vehicles and for site personnel (where required), to ensure that construction traffic associated with the development does not utilise on-street parking or public parking facilities.

#### **COMPLIANCE**

- C30. Prior to the commencement of any earthwork or construction, 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.

#### **BARRICADE PERMIT**

- C31. Where construction/building works require the use of a public place including a road or footpath, approval under section 138 of the *Roads Act 1993* for a Barricade Permit is to be obtained from the relevant authority prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of the relevant authority.

#### **HOARDING**

- C32. An application under section 138 of the *Roads Act 1993* is to be made to the relevant road authority to erect a hoarding and/or scaffolding in a public road (if required) and such application is to include:
- (a) architectural, construction and structural details of the design as well as any proposed artwork
  - (b) structural certification prepared and signed by an appropriately qualified practising structural engineer.

#### **OUTDOOR LIGHTING**

- C33. Prior to commencement of any lighting installation, evidence must be submitted to the satisfaction of the Certifier that all outdoor lighting within the Site has been designed to comply with AS 1158.3.1:2005 Lighting for roads and public spaces – Pedestrian area (Category P) lighting – Performance and design requirements and AS 4282-2019 Control of the obtrusive effects of outdoor lighting.

## **PUBLIC LIABILITY INSURANCE**

- C34. Prior to the commencement of any earthwork or construction over, on or below Council land, the Applicant must submit to the satisfaction of the Certifier evidence of Public Liability Insurance, with a minimum liability of \$10 million. A copy of the Insurance cover is to be provided to Council.

## **REMEDATION – UNEXPECTED FINDS PROTOCOL**

- C35. Prior to the commencement of any earthwork or remediation works, the Applicant must submit to the satisfaction of the Certifier an Unexpected Finds Protocol which has been reviewed and endorsed by an EPA accredited Site Auditor. The protocol must outline contingency measures and the procedures to be followed in the event unexpected finds of contaminated material are encountered during works.

## **REMEDATION – SITE AUDITOR**

- C36. Prior to the commencement of any earthwork or remediation works, the Applicant must submit evidence to the Planning Secretary that a Site Auditor, accredited under the *Contaminated Land Management Act 1997*, has been appointed to independently review the implementation and validation of the remediation works.
- C37. The Applicant must ensure the remediation works for the development are undertaken by a suitably qualified and experienced consultant(s) in accordance with the approved Remedial Action Plan and relevant guidelines produced or approved under the *Contaminated Land Management Act 1997*.

## **REMEDATION – SITE AUDIT REPORT AND SITE AUDIT STATEMENT**

- C38. Upon completion of the remediation works and prior to the commencement of construction of the development, a Site Audit Report and a Site Audit Statement, prepared in accordance with the NSW Contaminated Land Management - Guidelines for the NSW Site Auditor Scheme 2017, which demonstrates the Site is suitable for its approved land use, must be submitted to the Planning Secretary and Council for information.

## **REMEDATION – VALIDATION REPORT**

- C39. Within one month following the completion of the remediation works for the development, a Remediation Validation Report (RVR) must be submitted to the Planning Secretary for information. The RVR must be prepared by a suitably qualified and experienced consultant(s) and in accordance with the approved remedial action plan and relevant guidelines produced or approved under the *Contaminated Land Management Act 1997*.

## 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 approval and certification must be kept on the Site at all times and must be readily available for perusal by any officer of the Department, Council or the Certifier.

### SITE NOTICE

- D2. A site notice(s) must be erected in a prominent position on the Site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifier and Structural Engineer. The notice(s) is to satisfy all, but not be limited to, the following requirements:
- (a) state the name, address and telephone number of the Principal Certifier for the work;
  - (b) state the name of the principal contractor (if any), its address and 24-hour contact phone number for any inquiries, including construction/noise complaints;
  - (c) state the approved hours of work;
  - (d) state that unauthorised entry to the work site is prohibited;
  - (e) the minimum dimensions of the notice are to measure 841 mm x 594 mm (A1) with any text on the notice to be a minimum of 30-point type size;
  - (f) the notice is to be durable and weatherproof and is to be displayed throughout the works period; and
  - (g) the notice(s) is to be mounted at eye level on the perimeter hoardings/fencing.

### HOURS OF CONSTRUCTION

- D3. Construction, including the delivery of materials or machinery to and from the Site, may only be carried out between the following hours:
- (a) between 7am and 5pm, Mondays to Fridays inclusive; and
  - (b) between 8am and 12 noon, Saturdays.
- D4. No work may be carried out on Sundays or public holidays.
- D5. 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.
- D6. Notification of activities undertaken in the circumstances in **Condition D5** must be given to affected residents before undertaking the activities or as soon as is practical afterwards.
- D7. Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:
- (a) 9am to 12pm, Monday to Friday;
  - (b) 2pm to 5pm Monday to Friday; and
  - (c) 9am to 12pm, Saturday.

### INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- D8. 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.
- D9. Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix 1.

### NON-COMPLIANCE NOTIFICATION

- D10. 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 Certifier 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.
- D11. 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.
- D12. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

## **SAFEWORK REQUIREMENTS**

- D13. To protect the safety of work personnel and the public, the work site must be adequately secured to prevent access by unauthorised personnel, and work must be conducted at all times, and facilities provided for workers, in accordance with relevant SafeWork requirements.

## **IMPLEMENTATION OF MANAGEMENT PLANS**

- D14. The Applicant must ensure the requirements of the Construction Environmental Management Plan, Construction Pedestrian Traffic Management Plan, Construction Noise and Vibration Management Sub-Plan, Air Quality Management Plan, Construction Waste Management Plan and Sandstone Wall Retention and Alteration Methodology required by Part B of this consent are implemented during construction.

## **CONSTRUCTION NOISE LIMITS**

- D15. The development must be constructed to achieve the construction noise management levels detailed in the Interim Construction Noise Guideline (DECC, 2009). All feasible and reasonable noise mitigation measures must be implemented and any activities that could exceed the construction noise management levels must be identified and managed in accordance with the management and mitigation measures identified in the approved CNVMP.
- D16. The Applicant must ensure construction vehicles (including concrete agitator trucks) do not arrive at the subject site or surrounding residential precincts outside of the construction hours of work outlined under this consent.
- D17. The Applicant must implement, where practicable and without compromising the safety of construction staff or members of the public, audible movement alarms of a type that would minimise noise impacts on surrounding noise sensitive receivers.
- D18. The Applicant must ensure that any work generating high noise impact (i.e. work exceeding a NML of LAeq 75dBA) as measured at any sensitive receiver is only undertaken in continuous blocks of no more than 3 hours, with at least a 1 hour respite between each block of work generating high noise impact, where the location of the work is likely to impact the same receivers. For the purposes of this condition 'continuous' includes any period during which there is less than 1 hour respite between ceasing and recommencing any of the work the subject of this condition.
- D19. Any noise generated during construction of the development must not be offensive noise within the meaning of the *Protection of the Environment Operations Act 1997* or exceed approved noise limits for the Site.

## **VIBRATION CRITERIA**

- D20. 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 to vibration, the evaluation criteria set out in the *Environmental Noise Management Assessing Vibration: a Technical Guideline* (Department of Environment and Conservation, 2006) (as may be updated or replaced from time to time).
- D21. Vibratory compactors must not be used within 30 metres of residential or heritage buildings unless vibration monitoring confirms compliance with the vibration criteria specified above. These limits apply unless otherwise outlined in the project specific CNVMP required by this consent.

## **AIR QUALITY**

- D22. The Applicant must take all reasonable steps to minimise dust generated during all works authorised by this consent. During construction, the Applicant must ensure that:
- (a) exposed surfaces and stockpiles are suppressed by regular watering;
  - (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.

## **SHORING AND ADEQUACY OF ADJOINING PROPERTY**

- D23. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), 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 building, structure or work to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to this condition not applying.



## COMPLIANCE WITH SUBMITTED GEOTECHNICAL REPORT

- D24. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation.

Geotechnical aspects of the development work, namely:

- (a) appropriate excavation method and vibration control;
- (b) support and retention of excavated faces; and
- (c) hydro-geological considerations,

must be undertaken in accordance with the recommendations of the Geotechnical Assessment prepared by JK Geotechnics Ref No.35321Brpt and dated 2 November 2022.

Prior approval must be obtained from all affected property owners, including Council, where ground anchors (both temporary and permanent) are proposed below adjoining properties.

## TREE PROTECTION

- D25. While site or building work is being carried out, the Applicant must maintain all required tree protection measures in good condition in accordance with the Construction Environmental Management Plan required under this consent, the relevant requirements of the applicable Australian Standards and any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

## RETENTION OF TREES

- D26. All trees not specifically identified on the approved plans for removal are to be retained and protected. Retained trees are to be protected in accordance with:

- (a) the recommendations of the Arboricultural Impact Assessment Report prepared by Arterra Consulting Arboriculture dated 4 May 2023 provided with the RtS;
- (b) the Results of Exploratory Trenching letter prepared by Arterra Consulting Arboriculture dated 4 July 2023 provided with the RRFI;
- (c) Australian Standard 4970:2009 – Protection of Trees on Development Sites; and
- (d) the approved Arboricultural Plan LT-DG-05-E0 prepared by Arterra Consulting Arboriculture dated 13 December 2022.

## PROJECT ARBORIST - CERTIFICATION

- D27. A Diploma qualified Arborist (AQF 5) must be on-site to supervise any works in the vicinity of or within the Tree Protection Zone (TPZ) of any trees required to be retained on the site or any adjacent sites. The project arborist's details must be provided to the Certifier prior to any works occurring on the site.

- D28. The Project Arborist must provide certification that all works have been undertaken in accordance with:

- (a) Australian Standard 4970:2009 Protection of trees on development sites;
- (b) the recommendations of the Arboricultural Impact Assessment Report prepared by Arterra Consulting Arboriculture dated 4 May 2023 provided with the RtS;
- (c) the Arboricultural Plans approved under **Condition A2**; and
- (d) the Results of Exploratory Trenching by Arterra Consulting Arboriculture dated 4 July 2023 provided with the RRFI.

A copy of this certification shall be submitted to the Department within 14 days of completion of the works. The certification report is to document the activities supervised, any impacts to trees/tree roots and any additional tree protection measures implemented during construction.

## TRENCHING AND EXCAVATION WITHIN TREE PROTECTION ZONES

- D29. Trenching and excavation within the tree protection zone of trees to be retained must be undertaken under the supervision of a Diploma qualified (AQF 5) Arborist using minimally destructive techniques. Where root pruning is necessary, all cuts should be clean cuts using sharp tools such as secateurs, pruners, handsaws, chainsaws or specialised root pruning equipment. Roots greater than 50mm diameter must not be severed.

## TREE REMOVAL WORKS AND FAUNA PROTECTION

- D30. Trees approved for removal must be lopped to minimise the risk of injury or mortality to fauna, such as top-down lopping, with lopped sections gently lowered to the ground, and/or by lowering whole trees to the ground with the "grab" attachment of a machine. During tree removal, an experienced wildlife handler is to be present to re-locate any displaced fauna that may be disturbed during this activity. Any injured fauna is to be appropriately cared for and released on-site or an appropriate nearby location when re-habilitated.

### TREES ON NATURE STRIP

D31. The removal of Trees 38-44 on Council's nature strip shall be undertaken at no cost to Council by one of Council's approved tree contractors.

A list of contractors is available from Council's Tree Management Team, who are in Council's Operation's Department. Council's Tree Maintenance Supervisor must be advised via email, within a minimum of 48 hours prior to commencement of the works, with the following detail:

- (a) selected contractor;
- (b) the item code; and
- (c) associated rate provided.

The Applicant and/or the contractor will be responsible for the reporting and/or repair of any services damaged because of works undertaken.

### CANOPY/ROOT PRUNING

D32. Canopy and/or root pruning of Trees 1, 2, 6 and 32 in accordance with the tree pruning plan by Arterra Designs LT-DG-06-E0 P1 shall be undertaken by an experienced arborist/horticulturist, with a minimum qualification of a horticulture certificate or tree surgery certificate. All pruning works shall be undertaken as specified in current version of Australian Standard AS 4373 – Pruning of amenity trees.

### TREE ROOTS AND BRANCHES

D33. Where it is unavoidable, tree roots and branches severed for the purposes of constructing the approved works shall be cut cleanly by hand, by an experienced arborist/horticulturist with a minimum AQF Level 4 qualification. All pruning works shall be undertaken as specified in current version of Australian Standard AS 4373 – Pruning of amenity trees. The arborist/horticulturist shall provide a report to the Certifier confirming compliance with this condition.

### NO STORAGE OF MATERIALS BENEATH TREES

D34. No activities, soil compaction, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Development Control Plan at any time unless specified in other conditions of this consent.

### TREE PLANTING ON NATURE STRIP

D35. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Neringah Avenue South.

Tree/species	Quantity	Location
<i>Gordonia axillaris</i> or as agreed with Council's Tree Management Team	As agreed with Council's Tree Management Team	Neringah Ave South generally in accordance with planting indicated on plan LA-DG-04-E0 P4 by Arterra Design

The tree/s used shall be a minimum 45 litre container size and of quality consistent with AS 2303:2018, Tree Stock for Landscape Use.

Planting must be undertaken by one of Council's pre-approved contractors. A list is of the preapproved contractors is available from Council's Tree Management Team in Council's Operations Department.

The final location of the tree(s) will be confirmed by Council's Tree Management Officer in Council's Operations Department. Any tree plantings that fail to survive within two years of planting must be replanted under the conditions outlined above.

The Applicant and/or the contractor will be responsible for the reporting and/or repair of any services damaged as a result of works undertaken.

### EROSION AND SEDIMENT CONTROL

D36. All erosion and sediment control measures must be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works have been stabilised and rehabilitated so that it no longer acts as a source of sediment. Erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils & Construction (4th edition, Landcom, 2004)* commonly referred to as the 'Blue Book'.

### CUT AND FILL

D37. While building work is being carried out, the Certifier must be satisfied all soil removed from or imported to the Site is managed in accordance with the following requirements:

- (a) all excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility; and
- (b) the classification and the volume of material removed must be reported to the Certifier.

D38. All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to a resource recovery exemption by the EPA.

#### **DISPOSAL OF SEEPAGE AND STORMWATER**

D39. Any seepage or rainwater collected on-site during construction or groundwater must not be pumped to the street stormwater system unless separate prior approval is given in writing by the EPA in accordance with the *Protection of the Environment Operations Act 1997*.

D40. Adequate provisions must be made to collect and discharge stormwater drainage during construction of the development. Prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.

D41. A separate written approval from Council is required to be obtained in relation to any proposed discharge of groundwater into Council's drainage system external to the site, in accordance with the requirements of section 138 of the *Roads Act 1993*.

#### **ASBESTOS**

D42. The Applicant must ensure that any asbestos encountered on-site is monitored, handled, transported and disposed of by appropriately qualified and licensed contractors in accordance with the requirements of SafeWork NSW and relevant guidelines, including:

- (a) *Work Health and Safety Regulation 2017*;
- (b) SafeWork NSW Code of Practice – How to Manage and Control Asbestos in the Workplace September 2016;
- (c) SafeWork NSW Code of Practice – How to Safely Remove Asbestos September 2016; and
- (d) *Protection of the Environment Operations (Waste) Regulation 2014*.

#### **CONSTRUCTION TRAFFIC**

D43. All construction vehicles are to be contained wholly within the Site, except if located in an approved on-street work zone issued by the Local Traffic Committee, and vehicles must enter the Site before stopping.

#### **ROAD OCCUPANCY LICENCE**

D44. A Road Occupancy Licence must be obtained from the relevant transport authority for any works that impact on traffic flows during construction activities.

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

D45. The public way must not be obstructed by any materials, vehicles, refuse skips or the like, under any circumstances. Non-compliance with this requirement may result in the issue of a notice by the Planning Secretary to stop all work on-site.

#### **CONTACT TELEPHONE NUMBER**

D46. The Applicant must ensure that the 24-hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

#### **COVERING OF LOADS**

D47. All vehicles involved in the excavation and / or demolition process and departing from the site with materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

#### **VEHICLE CLEANSING**

D48. Prior to the commencement of work, 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.

#### **UNCOVERING RELICS OR ABORIGINAL OBJECTS**

D49. All works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The Applicant must notify the Heritage Council of NSW in respect of a relic and notify the Planning Secretary and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

**Note:** *In this condition:*

*"relic" means any deposit, artefact, object or material evidence that:*

- (a) *relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and*
- (b) *is of State or local heritage significance; and*

*“Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.*

#### **WATER LICENSING**

- D50. If groundwater is intercepted during construction the Applicant must comply with the requirements of the *Water Management Act 2000* regarding a water access licence.

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

### **OCCUPATION CERTIFICATE**

- E1. The Applicant must obtain an Occupation Certificate from the Certifier prior to commencement of occupation or use of the whole or any part of a new building or, an altered portion of, an extension to an existing building.

### **WORKS-AS-EXECUTED PLANS AND ANY OTHER DOCUMENTARY EVIDENCE**

- E2. Prior to the issue of an Occupation Certificate, the Applicant must submit, to the satisfaction of the Certifier, works-as-executed plans, any compliance certificates and any other evidence confirming all stormwater drainage and storage systems have been constructed as approved.
- E3. The Certifier must provide a copy of the plans to the Planning Secretary and Council with the Occupation Certificate.

### **NOTIFICATION OF OCCUPATION**

- E4. The Department must be notified in writing at least one month prior to the proposed occupation of the development.
- E5. If the occupation or use of the development is to be staged, the Department must be notified in writing at least one month before the commencement of the occupation of each stage, of the date of commencement of the occupation of the relevant stage.

### **GFA AND BUILDING HEIGHT CERTIFICATION**

- E6. A Registered Surveyor is to certify that the development does not exceed the approved gross floor area and building height. Details must be provided to the Certifier demonstrating compliance with this condition prior to the issue of an Occupation Certificate.

### **EXTERNAL WALLS AND CLADDING FLAMMABILITY**

- E7. Prior to any Occupation Certificate being issued, evidence must be submitted to the Certifier demonstrating all external walls of the new building, including cladding, comply with the relevant requirements of the NCC, consistent with the requirements of this consent.
- E8. The Applicant must provide a copy of the documentation to the Planning Secretary within seven days after the Certifier accepts it.

### **SUBMISSION OF SITE AUDIT STATEMENT**

- E9. Prior to issue of any Occupation Certificate, the Applicant must provide evidence to the Certifier that a site audit statement has been obtained, and a copy provided to the Planning Secretary and Council, demonstrating the site is suitable for the intended use.

### **PROTECTION OF PUBLIC INFRASTRUCTURE**

- E10. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair/reconstruct, or pay the full costs associated with repairing/reconstructing, any public infrastructure that is damaged by carrying out the development;
  - (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development; and
  - (c) infrastructure includes, but is not limited to, ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area.

### **MECHANICAL VENTILATION**

- E11. Prior to occupation or commencement of use, the Applicant must provide evidence to the Certifier that the installation and performance of the mechanical ventilation systems complies with:
- (a) any conditions of this consent;
  - (b) the NCC;
  - (c) any applicable Australian Standards; and
  - (d) any dispensation granted by Fire and Rescue NSW.

### **OPERATIONAL WASTE MANAGEMENT PLAN**

- E12. Prior to the occupation or commencement of use, the Applicant must prepare an Operational Waste Management Plan for the development and submit it to the satisfaction of the Certifier. The Operational Waste Management Plan must:
- (a) be prepared in consultation with Council;
  - (b) confirm the location of waste collection and establish appropriate routes to the collection point;
  - (c) provide confirmation of the engagement of a qualified private waste collection contractor;

- (d) detail the type and quantity of waste to be generated during operation of the development;
- (e) describe the handling, storage and disposal of all waste streams generated on-site, consistent with the *Protection of the Environment Operations Act 1997*, *Protection of the Environment Operations (Waste) Regulation 2014* and the Waste Classification Guideline (EPA);
- (f) detail the materials to be reused or recycled, either on or off site; and
- (g) include the Management and Mitigation Measures included in the EIS, including the measures set out in Combined Operational, Demolition and Construction Waste Management Plan of Waste Audit dated 10 November 2022, and also including the operational and management controls in section 8 of the Noise and Vibration Impact Assessment of Acoustic Logic Rev 2 provided with the RtS.

#### **WASTE AND RECYCLING COLLECTION**

- E13. Prior to the occupation or commencement of use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of all trade waste. No waste is to be placed on the public way e.g. the roadways, footpaths, plazas, and reserves at any time.

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

- E14. Before the issue of any Occupation Certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the Certifier, detailing whether:
- (a) after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings, infrastructure or roads;
  - (b) where there has been structural damage to any adjoining buildings, infrastructure or roads, that it is a result of the building work approved under this consent; and
  - (c) relevant authorities have confirmed that there is no adverse structural damage to their infrastructure and roads.
- E15. Before the issue of any Occupation Certificate, the Certifier is to provide a copy of the post-construction dilapidation report to the Planning Secretary, Council and to the relevant adjoining property owner(s).

#### **ROAD AND INFRASTRUCTURE DAMAGE**

- E16. Prior to the occupation or commencement of the use, any damage caused to Council or other public authority's assets in the vicinity of the site as a result of construction works associated with the approved development is to be fully repaired to the satisfaction of Council, and at no cost to Council, or the cost is to be paid in full by the Applicant.
- E17. The works conducted on Council's public road reserve is to be maintained at the Applicant's expense for a period of 6 months following the issue of an Occupation Certificate.

#### **TRAFFIC CONTROL AND PEDESTRIAN SAFETY/ACCESS**

- E18. The recommendations of the Road Safety Audit (RSA) and Accessibility Assessment (AA) required under **Condition B22 and Condition B23**, including any pedestrian protection measures, shall be implemented and installed to Council's satisfaction prior to the issue of any Occupation Certificate.

#### **FIRE SAFETY CERTIFICATION**

- E19. Prior to the issue of the any Occupation Certificate, a Fire Safety Certificate must be obtained for all the relevant Essential Fire or Other Safety Measures forming part of the development. A copy of the Fire Safety Certificate must be submitted to the Council and Certifier and be prominently displayed in the building.

#### **STRUCTURAL INSPECTION CERTIFICATE**

- E20. Prior to the occupation or commencement of use of the relevant parts of any new or refurbished buildings, a Structural Inspection Certificate or a Compliance Certificate must be submitted to the Certifier. A copy of the Certificate with an electronic set of final drawings must 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.

#### **MECHANICAL NOISE CONTROL**

- E21. Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that the mechanical ventilation systems and other plant, including but not limited to air conditioners, car park and garbage room exhaust, roller shutter doors lifts and pumps associated with rain water reuse systems when in operation either as

an individual piece of equipment or in combination with other equipment will not be audible within any habitable room in any residential occupancy before 7.00am and after 10.00pm.

Outside of these restricted hours noise from an individual piece of equipment or in combination shall not be greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present. Written confirmation from an acoustic engineer that the development achieves the above requirements is to be submitted to the Certifier.

#### **MECHANICAL VENTILATION – COMMERCIAL PREMISES**

E22. Prior to the issue of an Occupation Certificate, the Certifier shall be satisfied that all mechanical ventilation systems are installed in accordance with the National Construction Code Part F.

#### **WARM WATER SYSTEMS AND COOLING SYSTEMS**

E23. The operation and maintenance of warm water systems and water cooling systems (as defined under the *Public Health Act 2010*) must comply with *the Public Health Act 2010, Public Health Regulation 2012* the NSW Health Code of Practice for the Control of Legionnaires' Disease and applicable Australian Standards.

#### **OUTDOOR LIGHTING**

E24. Prior to the occupation or commencement of use, the Applicant must submit evidence from a suitably qualified practitioner to the Certifier that demonstrates that installed lighting associated with the development achieves the objective of minimising light spillage to any adjoining or adjacent sensitive receivers and:

- (a) complies with the latest version of AS 4282-2019 - Control of the obtrusive effects of outdoor lighting (Standards Australia, 1997);
- (b) has been mounted, screened and directed in such a manner that it does not create a nuisance to surrounding properties or the public road network; and
- (c) meets the external lighting design strategy requirements set out in the lighting design statement of Steensen Varming dated 2 May 2023 provided with the RtS.

#### **STORMWATER**

E25. Prior to the issue of any Occupation Certificate, the Applicant must submit a copy of the stormwater drainage design plans approved with the Construction Certificate to the Certifier. The stormwater drainage design plans must be prepared by a Practising Professional Engineer experienced in the design of stormwater drainage systems.

E26. Prior to the issue of any Occupation Certificate, the Applicant must submit to the satisfaction of the Certifier an Operation and Maintenance Plan (OMP) to ensure the proposed stormwater quality measures remain effective. The OMP must contain the following:

- (a) maintenance schedule of all stormwater quality treatment devices;
- (b) record and reporting details;
- (c) relevant contact information; and
- (d) Work Health and Safety requirements.

#### **SYDNEY WATER COMPLIANCE**

E27. Prior to the issue of any Occupation Certificate, the Applicant must submit to the satisfaction of the Certifier a Section 73 Compliance Certificate under the *Sydney Water Act 1994*, obtained from Sydney Water Corporation.

#### **UTILITY PROVIDERS**

E28. Before the issue of any Occupation Certificate, the Applicant must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority.

E29. Before the issue of any Occupation Certificate, the Certifier must receive written confirmation from the relevant authority that the relevant services have been completed.

#### **ENVIRONMENTAL PERFORMANCE**

E30. Prior to the occupation or commencement of use, the Applicant is to provide documentation to the satisfaction of the Certifier demonstrating the development has incorporated, and would operate in accordance with, the environmental sustainability objectives, measures and initiatives required under this consent.

#### **GREEN TRAVEL PLAN**

E31. Prior to the issue of any Occupation Certificate, the Applicant must update the Green Travel Plan in consultation with TfNSW. The Plan must include a mechanism to monitor the effectiveness of the measures of the Plan. The

Applicant must submit a copy of the updated Green Travel Plan to [sco@transport.nsw.gov.au](mailto:sco@transport.nsw.gov.au) for the endorsement of TfNSW.

- E32. The Plan must be reviewed and updated annually in consultation with TfNSW and provide an Implementation Strategy that commits to specific management actions, including operational procedures to be implemented along with timeframes. The plan (as reviewed and updated annually) must be implemented by the Applicant for the life of the development.
- E33. The Plan must be made available to the Planning Secretary upon request.

#### **TRANSPORT ACCESS GUIDE**

- E34. The Applicant must prepare a Transport Access Guide in consultation with TfNSW, implement and maintain by the operators of the premises and be made available to staff, guests, clients, customers and visitors at all times. The following information must be submitted to the Certifier prior to the issue of any Occupation Certificate for the site/use:

The Transport Access Guide is to include (but not be limited to) the following:

- (a) information regarding lack of off-street car parking and passenger pick-up and set down areas at the development site;
- (b) suitable nearby drop-off/pick-up locations;
- (c) identify areas where drop-off/pick-up is prohibited and instruct visitors to avoid use of these areas; and
- (d) suitable nearby Taxi Zones.

#### **CAR PARKING, LOADING AND SERVICING MANAGEMENT PLAN**

- E35. Prior to the issue of any Occupation Certificate, the Applicant must submit to the satisfaction of the Certifier a detailed Car Parking, Loading and Servicing Management Plan prepared in consultation with TfNSW. This Plan must ensure that any potential traffic and safety impacts associated with the car park and loading dock operation are mitigated. The Applicant must submit a copy of the final plan for TfNSW endorsement. The Plan needs to specify, but not be limited to, the following:
- (a) details of the development's loading and servicing profile, including the forecast loading and servicing traffic volumes by vehicle size, frequency, time of day and duration of stay;
  - (b) details of measures to manage any potential traffic and safety impacts of the car parking and loading dock operation, including with local school traffic during peak school periods;
  - (c) details of how vehicles larger than a 6.4m SRV delivering to the site must be managed; and
  - (d) details of measures to manage acoustic impacts from loading dock operations to the neighbours to the north.

The Car Parking, Loading and Servicing Management Plan must be implemented by the Applicant following the issue of the Occupation Certificate.

#### **BICYCLE PARKING AND END-OF-TRIP FACILITIES**

- E36. Prior to the occupation or commencement of use, the Applicant must submit to the satisfaction of the Certifier evidence of compliance with the following requirements for secure bicycle parking and end-of-trip facilities:
- (a) the provision of a minimum nine bicycle parking spaces;
  - (b) the layout, design and security of bicycle facilities must comply with the minimum requirements of the applicable Australian Standards, and be located in easy to access, well-lit areas that incorporate passive surveillance;
  - (c) the provision of end-of-trip facilities, which include at least one shower, a changing area and nine lockers;
  - (d) appropriate pedestrian and cyclist advisory signs are to be provided; and
  - (e) all works/regulatory signposting associated with the proposed developments must be at no cost to the relevant road authority.
- E37. Prior to the operation or commencement of use, bicycle way-finding signage must be installed within the Site to direct cyclists from footpaths to designated bicycle parking areas

#### **LANDSCAPE PRACTICAL COMPLETION REPORT**

- E38. Prior to the issue of any Occupation Certificate, the Applicant must submit to the satisfaction of the Certifier a Landscape Practical Completion Report prepared by the consultant responsible for the landscape design plan. The Report is to verify that all landscape works have been carried out generally in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.



## **STREET NUMBERING**

E39. Prior to the issue of any Occupation Certificate, the Applicant must provide to the Certifier evidence that street numbers are clearly displayed at the ground level frontage of the building. If new street numbers or a change to street numbers is required, a separate application must be made to the relevant authority.

## **FIT OUT OF PREMISES**

E40. The catering kitchen, food storage room is to be designed and constructed in accordance with the *Food Act 2003, Food Regulation 2015*, Australia & New Zealand Food Standards Code and Australian Standard AS 4674-2004, Design, construction and fit-out of food premises. Details of the design and construction of the premises are to be included in the documentation for the Construction Certificate to the satisfaction of the Certifier.

## **COMPLIANCE WITH SECTION J OF NCC**

E41. Prior to the issue of any Occupation Certificate, the Applicant must submit to the satisfaction of the Certifier evidence that all the commitments contained in the Section J report of Steensen Varming Wahroonga Aged Care – Stage 2 JV3 Building Fabric Report dated 20 April 2023 and provided with the RtS have been implemented.

## **ROAD WORKS AND ACCESS FOR UPGRADE OF ARCHDALE WALK**

E42. Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that the Applicant has completed works to the roadway and the upgrade of Archdale Walk designed to comply with Clause 26 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

## **COMPLIANCE WITH SEPP (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004**

E43. Prior to issue of the Occupation Certificate, the Principal Certifier shall be satisfied that the requirements of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* have been satisfied. In particular an access report prepared by a suitably qualified access consultant be submitted which certifies that:

- (a) the gradients of the footpath from the site to the services/bus stop comply with clause 26 (1) and (2); and
- (b) the parking spaces comply with the requirements of AS2890 as specified by the SEPP.

## **ACCESSIBILITY**

E44. Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that:

- (a) the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2;
- (b) the level and direction of travel, both in lifts and lift lobbies, is audible and visible;
- (c) the controls for lifts are accessible to all persons and control buttons and lettering are raised;
- (d) international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2; and
- (e) the height of lettering on signage is in accordance with AS 1428.1 – 2009 and the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods.

## **LETTERBOXES**

E45. Prior to the issue of an Occupation Certificate the Applicant must provide to the Certifier evidence that the letterboxes comply with the requirements for letterboxes in clause 4 of Schedule 3 of the Seniors SEPP.

## **CLOTHESLINES AND CLOTHES DRYERS**

E46. Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that the units either have access to an external clothes line located in common open space or will have a mechanical clothes dryer installed.

## **STORAGE AND SITING OF DANGEROUS GOODS**

E47. Prior to the issue of an Occupation Certificate the Applicant must prepare an Operational Dangerous Goods Handling Management Plan for the development and submit it to the satisfaction of Certifier. The Operational Dangerous Goods Handling Management Plan must:

- (a) include the recommendations for safe handling, storage and siting of dangerous goods set out in the Preliminary Dangerous Goods Screening Report dated 28 April 2023 by JHA Services provided with the RtS; and
- (b) require compliance with relevant Australian Standards for their storage and handling.

## **HERITAGE INTERPRETATION PANEL**

E48. Prior to the issue of an Occupation Certificate the interpretive panel describing the history of Neringah House on the Neringah Avenue South fence is to be updated to reflect the changes on the site. It is to be erected where it can be viewed from the public domain.

## CONNECTING WITH COUNTRY

E49. Prior to the issue of an Occupation Certificate the Applicant must install educational design installations in the building and landscaped areas which have been informed by discussions with relevant First Nations groups.

## REGISTRATION OF EASEMENTS

E50. Prior to the issue of any Occupation Certificate, the Applicant must provide to the Certifier evidence that all matters required to be registered on title including all easements, positive covenants and restrictions required by this consent, approvals, and other consents have been lodged for registration or registered at the NSW Land Registry Services.

## RESTRICTION ON OCCUPATION (STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004

E51. A restriction as to user must be created under s88E of the *Conveyancing Act 1919* and registered, requiring the residential care units and self-contained dwellings approved under this consent to be solely used for the accommodation of:

- (a) seniors or people who have a disability (as defined in *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*);
- (b) people who live in the same household with seniors or people who have a disability; and
- (c) staff employed to assist in the administration and provision of services to housing provided under this Policy.

*Note: The restriction must nominate the Council as the authority to release, vary or modify the restriction.*

## AFFORDABLE PLACES

E52. A minimum of 10% of self-contained dwellings within the approved development must be used for the purpose of affordable places as defined by the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. All affordable places at the Site must be managed by a registered community housing provider.

E53. Prior to the issue of an Occupation Certificate, a restriction is to be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the *Conveyancing Act 1919*, requiring a minimum of 10% of dwellings within the approved development (6 self-contained dwellings) to be used for the purposes of affordable places as defined by the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* and are owned and managed by a registered community housing provider.

## STORMWATER RETENTION AND RE-USE POSITIVE COVENANT/RESTRICTION

E54. Prior to issue of an Occupation Certificate, the positive covenant and restriction on the use of land under Section 88E of the *Conveyancing Act 1919*, burdening the property with the requirement to maintain the Site stormwater retention and re-use facilities on the property shall be created.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" and to the satisfaction of Council (refer to Part 24R.8.2 of the Ku-ring-gai Development Control Plan). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the NSW Land Registry Services in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifier prior to issue of an Occupation Certificate.

## CERTIFICATION OF DRAINAGE WORKS

E55. Prior to issue of an Occupation Certificate, the Principal Certifier is to be satisfied that:

- (a) the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans;
- (b) the minimum retention and on-site detention storage volume requirements of Ku-ring-gai Development Control Plan Part 24 'Water Management' have been achieved. Council's On-Site Detention And Retention Certification sheet shall be completed;
- (c) retained water is connected and available for use;
- (d) all grates potentially accessible by children are secured;
- (e) components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2018 and the Building Code of Australia; and

- (f) all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

Evidence from a qualified and experienced consulting civil/hydraulic engineer documenting compliance with the above is to be provided to Council prior to the issue of an Occupation Certificate.

#### **WORKS-AS-EXECUTED PLANS FOR STORMWATER MANAGEMENT AND DISPOSAL**

- E56. Prior to issue of an Occupation Certificate, a registered surveyor must provide a works as executed survey of the completed stormwater drainage and management systems. The survey must be submitted to and approved by the Principal Certifier prior to issue of an Occupation Certificate. The survey must indicate:
- (a) as built (reduced) surface and invert levels for all drainage pits;
  - (b) gradients of drainage lines, materials and dimensions;
  - (c) as built (reduced) level(s) at the approved point of discharge to the public drainage system;
  - (d) as built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on-site;
  - (e) the achieved storage volumes of the installed retention and detention storages and derivative calculations;
  - (f) as built locations of all access pits and grates in the detention and retention system(s), including dimensions;
  - (g) the size of the orifice or control fitted to any on-site detention system;
  - (h) dimensions of the discharge control pit and access grates;
  - (i) the maximum depth of storage possible over the outlet control; and
  - (j) top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system.

The works as executed plan(s) must show the as built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked in red on a copy of the Certifier stamped Construction Certificate stormwater plans.

#### **ON-SITE STORMWATER DETENTION POSITIVE COVENANT/RESTRICTION**

- E57. Prior to issue of an Occupation Certificate, a positive covenant and restriction on the use of land under Section 88E of the *Conveyancing Act 1919*, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot shall be created.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council (refer to the Water Management Part 24R.8.1 of the relevant Ku-ring-gai Development Control Plan 2015). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the NSW Land Registry Services in the form of a request using forms 13PC and 13RPA. The relative location of the on-site detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents, showing the covenants and restrictions, must be submitted and approved by the Principal Certifier prior to issue of an Occupation Certificate.

#### **STORMWATER QUALITY CONTROL POSITIVE COVENANT/RESTRICTION**

- E58. Prior to issue of an Occupation Certificate, a positive covenant and restriction on the use of land under Section 88E of the *Conveyancing Act 1919*, burdening the owner with the requirement to maintain the stormwater quality control devices (i.e. Bio-retention, Stormfilter devices, enviopods) on the lot shall be created.

The terms of the instruments are to be to the satisfaction of Council. For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the NSW Land Registry Services. The relative location of the stormwater quality control devices, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents, showing the covenants and restrictions, must be submitted and approved by the Principal Certifier prior to issue of an Occupation Certificate.

#### **CERTIFICATION OF AS-CONSTRUCTED DRIVEWAY/CARPARK**

- E59. Prior to issue of an Occupation Certificate, the Principal Certifier is to be satisfied that:
- (a) the as-constructed car park complies with the approved Construction Certificate plans;

- (b) the completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 - 2004 "Off-Street car parking" and *SEPP (Housing for Seniors or People with a Disability) 2004* in terms of minimum parking space dimensions;
- (c) finished driveway gradients and transitions will not result in the scraping of the underside of cars;
- (d) no doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area;
- (e) the development complies with vehicular headroom requirements of Australian Standard 2890.1 - "Off-street car parking"; and
- (f) 2.6 metres height clearance for waste collection trucks are met from the public street into and within the applicable areas of the basement carpark.

Evidence from a suitably qualified and experienced traffic/civil engineer demonstrating compliance with the above is to be provided to and approved by the Principal Certifier prior to the issue of an Occupation Certificate.

#### **REINSTATEMENT OF REDUNDANT CROSSINGS AND COMPLETION OF INFRASTRUCTURE WORKS**

- E60. Prior to issue of an Occupation Certificate, and upon completion of any works which may cause damage to Council's property, the Principal Certifier must receive a signed inspection form from Council which states that the following works in the road reserve have been completed:
- (a) new concrete driveway crossing in accordance with levels and specifications issued by Council;
  - (b) removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter (reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials);
  - (c) full repair and resealing of any road surface damaged during construction;
  - (d) full replacement of damaged sections of grass verge to match existing; and
  - (e) reconstruction of kerb and gutter with associated road pavement restoration for the full frontage of the development site.

**Note:** *This inspection may not be carried out by the Principal Certifier because restoration of Council property outside the boundary of the Site is not a matter listed in Section 73 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.*

*All works must be completed in accordance with the General Specification for the Construction of Road and Drainage Works in Kuring-gai Council, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.*

#### **ON-SITE DETENTION SYSTEM MARKER PLATE**

- E61. A marker plate is to be permanently attached and displayed within the immediate vicinity of the On-Site Detention System prior to the issue of the Occupation Certificate. This marker plate can be purchased from Council.

#### **WASTE AND RECYCLING STORAGE FACILITIES**

- E62. Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that the waste storage room has been installed in the basement and is of adequate size to contain the waste bins. The waste storage room must be covered and all internal walls must be rendered and coved at the floor/wall intersection. The floor must be graded and appropriately drained to the sewer and a tap with hot and cold water must be located in close proximity to facilitate cleaning.

## PART F OCCUPATION AND ONGOING USE

### ANNUAL FIRE SAFETY STATEMENT

- F1. During occupation and ongoing use of the building(s), the Applicant must provide an annual fire safety statement to Council and the Commissioner of Fire and Rescue NSW in accordance with *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

### FIRE SAFETY CERTIFICATION

- F2. The development must operate in accordance with the Fire Safety Certificate obtained in accordance with this consent.

### MAINTENANCE PERIOD FOR WORKS IN PUBLIC ROAD

- F3. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the Applicant - after the works have been completed to the satisfaction of Council.

In that maintenance period, the Applicant shall be liable for any section of the public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions.

The maintenance period shall commence once the Applicant receives a formal letter from Council stating that the works involving public infrastructure have been completed satisfactorily.

### MAINTENANCE OF WASTEWATER AND STORMWATER TREATMENT DEVICE

- F4. During occupation and ongoing use of the building, the Applicant must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective and in accordance with any positive covenant.

### STORAGE AND HANDLING OF WASTE

- F5. All waste collection services must be undertaken in accordance with this consent.
- F6. Waste must not be placed for collection in a public place e.g. footpaths, roadways and reserves under any circumstances.
- F7. Adequate provisions are to be made within the premises for the storage, collection and disposal of waste and recyclable materials, to the satisfaction of Council.
- F8. Trade/commercial waste materials must not be disposed via Council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales and details of the proposed waste collection and disposal service are to be submitted to the Council prior to commencing operation of the business.
- F9. Medical wastes shall be disposed of by an authorised waste disposal contractor. Clinical waste, waste containers and storage areas must be managed to comply with the NSW Health Policy Directive Clinical and Related Waste Management for Health Services 2017, *Protection of the Environment Operations Act 1997* and Regulations.

### LOADING/UNLOADING

- F10. All loading and unloading operations associated with the Site must be carried out:
- (a) in accordance with the Loading Management Plan approved under this consent;
  - (b) within the confines of the Site, at all times and must not obstruct other properties or the public way; and
  - (c) in a manner so as not to cause inconvenience to the public or detrimentally impact the amenity of the locality.

The service vehicle docks, car parking spaces and driveways must be kept clear of goods at all times and must not be used for storage purposes, including waste storage.

- F11. All waste collection services for the premises are to be carried out between 7:00am and 6:00pm, Monday to Saturday and 8:00am to 6:00pm on Sundays only.

### USE AND MANAGEMENT OF PARKING SPACES

- F12. The car spaces within the development are for the exclusive use of the occupants, visitors, and staff of the building. The car spaces must not be leased to any person/company that is not an occupant, visitor or staff of the building.

### ENVIRONMENTAL AMENITY AND ENVIRONMENTAL HEALTH

- F13. External lighting to the premises must be designed and located to minimise light-spill beyond the property boundary or cause a public nuisance. Notwithstanding this consent, should any outdoor lighting result in any residual impacts on the amenity of surrounding sensitive receivers, the Applicant must provide mitigation measures in consultation with affected landowners to reduce the impacts to an acceptable level.
- F14. The use and operation of the premises must not give rise to an environmental health or public nuisance.

F15. There are to be no emissions or discharges from the premises which give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations.

#### **NOISE CONTROL – MECHANICAL PLANT AND EQUIPMENT**

F16. The operation of plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

F17. Noise levels associated with mechanical plant, the rainwater re-use system, or any other equipment installed on the premises shall not be audible within any habitable room in any other neighbouring residential premises before 7.00am and after 10.00pm.

F18. Outside of these restricted hours noise levels associated with mechanical plant installed on the premises either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

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

F19. All plant and equipment used in the development, or used 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.

#### **SIGNAGE**

F20. This consent does not approve the illumination of any signage.

#### **ECOLOGICALLY SUSTAINABLE DEVELOPMENT**

F21. Unless otherwise agreed by the Planning Secretary, within twelve months of commencement of operation, evidence that the sustainability measures identified in the Wahroonga Stage 2 – Ecologically Sustainable Development (ESD) report prepared by Steensen Varming, dated 15 November 2022 to achieve Green Star equivalency must be provided to the Certifier and the Planning Secretary.

#### **GREEN TRAVEL PLAN**

F22. The Green Travel plan approved under this consent shall be implemented following occupation of the development. The Green Travel Plan is to be reviewed and updated annually.

#### **TREE MANAGEMENT**

F23. All trees not specifically identified on the approved plans for removal are to be retained and protected.

F24. Trees 1 and 32 as identified in the Arboricultural Impact Assessment Report Rev P2 dated 4 May 2023 of Arterra Consulting Arboriculture provided with the RtS, are to be monitored for a period of 18 months following the completion of works within the tree protection zone by a Diploma qualified (AQF 5) Arborist. The arborist must inspect the trees, at a minimum, every 6 months and undertake any remedial works required to maintain tree vitality. The tree monitoring inspections, findings and any remedial works undertaken must be documented and provided to the satisfaction of DPE Planning upon completion of the monitoring period. In the event the subject trees die or substantially decline, they are to be replaced by advanced replacement tree of the same species (minimum pot size of 200L).

#### **HOURS OF OPERATION**

F25. The hours of operation of the palliative care hospital and health facility are 24 hours a day, 7 days a week.

#### **PUBLIC ACCESS**

F26. The through site link connecting Neringah Avenue South with Woonona Avenue is to be made publicly accessible 24 hours a day, 7 days a week for the life of the development. The through site link is to include lighting which meets the external lighting design strategy requirements set out in the Lighting Design Statement prepared by Steensen Varming dated 2 May 2023 provided with the RtS.

#### **OUTDOOR LIGHTING**

F27. All external lighting must:

- (a) comply with AS/NZS 4282:2019: Control of the obtrusive effects of outdoor lighting; and
- (b) be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set:2010 Lighting for roads and public spaces.

## **SEPP SENIORS LIVING ADVERTISING**

- F28. All advertising, signage, marketing or promotion of the sale of the dwellings in this development shall make clear reference to the fact that this is a *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* development and that at least one occupier shall be aged 55 years or over or have a disability.

## ADVISORY NOTES

### APPEALS

AN1. The Applicant has the right to appeal to the NSW Land and Environment Court in the manner set out in the EP&A Act and the EP&A Regulation.

### OTHER APPROVALS AND PERMITS

AN2. All licences, permits, approvals and consents as required by law must be obtained and maintained as required for the development. No condition of this consent removes any obligation to obtain, renew or comply with such licences, permits, approvals and consents.

### RESPONSIBILITY FOR OTHER CONSENTS/AGREEMENTS

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

### ROAD OCCUPANCY LICENCE

AN4. A Road Occupancy Licence must be obtained from the relevant road authority for any works that impact on traffic flows during construction activities.

### SAFework REQUIREMENTS

AN5. To protect the safety of work personnel and the public, the work site must be adequately secured to prevent access by unauthorised personnel.

The Applicant must ensure that work is conducted at all times, and that facilities provided for workers, in accordance with relevant SafeWork requirements.

### HOARDING REQUIREMENTS

AN6. The Applicant must submit a hoarding application to Council for the installation of any hoardings over Council footways or road reserve.

### HANDLING OF ASBESTOS

AN7. The Applicant must consult with SafeWork NSW concerning the handling of any asbestos waste that may be encountered during construction. The requirements of the *Protection of the Environment Operations (Waste) Regulation 2014* with particular reference to Part 7 – 'Transportation and management of asbestos waste' must also be complied with.

### DISABILITY DISCRIMINATION ACT

AN8. This application has been assessed in accordance with the EP&A Act. 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.

AN9. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the NCC 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

AN10. The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) 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 an approval from the Commonwealth Environment Minister.

AN11. This application has been assessed in accordance with the EP&A Act. 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 Agriculture, Water and Environment to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the EPBC Act does not have application. The EPBC Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.



## APPENDIX 1 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 Department at the following address: [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 this consent 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 contact person 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.