

Department of Planning, Housing and Infrastructure

Our ref: SSD-24299707

Mr Stephen Barry

Planning Director – NSW Independent Planning Commission

Via email: stephen.barry@ipcn.nsw.gov.au

16 January 2024

Subject: Talavera Road Data Centre Expansion (SSD-24299707) – Response to Request for Comment – Recommended Conditions of Consent

Dear Mr Barry

I refer to your letter of 11 January 2024, seeking the Department of Planning, Housing and Infrastructure’s (the Department’s) advice on the proposed conditions of consent for the Talavera Road Data Centre Expansion (SSD-24299707) for consideration by the NSW Independent Planning Commission (the Commission), should it determine to approve the development.

As requested by the Commission, the Department has considered the workability, enforcement and any potential unintended consequences of the proposed conditions, and provides the following advice:

Proposed Condition / Other	Summary of Commission’s Comment	Department’s Response
Determination	Revised wording to determination and reason for imposition of conditions	Not supported. The wording of this section is from the Department’s standard conditions template which was settled by the Department’s legal services branch
Name of consent authority	Updated to refer to NSW Independent Planning Commission	No comment
Definitions	Proposed inclusion of new definition “Application Documents”	Not supported. Apart from this new definition not being referenced elsewhere in the consent, it is noted the definition of

		<p>“Amendment Report” as well as “EIS” already covers all documents which govern the carrying out of the development, including the specifically mentioned FIRA – which is Appendix D12 of the Amendment Report</p>
Definitions	Deletion of BCA and replacement with NCC	<p>Not supported. The Department adopts the definitions used in the EP&A Act, including section 1.4 which continues to use the term Building Code of Australia (BCA)</p>
Definitions	New Department name	<p>Update supported, however, there is no requirement to put in parentheses “formerly the NSW Department of Planning and Environment” – this is consistent with other Ministerial consents where department names change over time</p>
Definition	Deletion of definition of Minister	<p>Noted</p>
A8	Deletion of condition	<p>Noted</p>
A25	Insertion of new Compliance Certificate for Public Domain to be obtained from Council	<p>Not supported. The Department is unsure which works in the road reserve or public domain works are specifically being referred to, noting that the Applicant has already carried out public domain works under an existing consent that applies to this land. Furthermore, the Applicant is already required to repair, or pay the full cost associated with repairing, any public infrastructure (including anything in the public domain) that is damaged by</p>

		carrying out the development (see conditions A21 and A22)
Structures, External Walls and Cladding	Replacement of references to BCA with NCC in conditions	Not supported – BCA should remain, per comments in table above
B1	Amendment to construction hours to permit construction to 7pm (Mon-Fri) and 3pm (Sat)	<p>Not supported. The Department adopts the construction hours recommended in the NSW government’s policy <i>Interim Construction Noise Guideline</i>. As recommended by the Department, this condition is:</p> <ul style="list-style-type: none"> • a standard condition in Ministerial consents • has been reflected in other, recent, Commission determinations • follows careful consideration of the documents submitted in support of this DA. <p>Furthermore, the Department’s compliance branch would be responsible for enforcing the conditions of any consent for this DA, including compliance with the noise conditions</p>
B8	Commission Question: Why is the German Standard used instead of the NSW Government Guide: Assessing Vibration: A technical guide	The government’s technical guide noted by the Commission is referred to in part (b) of the condition as this guide relates to human discomfort. The reference to the German standard in part (a) is because this standard relates to structural damage to buildings. The reference to this document is standard in these circumstances, however, it is noted the guideline should

		<p>now be referred to with a minor update to “DIN 4150-3:2016-12 <i>Vibration in buildings – Part 3: Effects on Structures</i> (German Institute for Standardisation)”</p>
B45 and B46	<p>Insertion of new conditions for Construction Inspections for Stormwater</p>	<p>Not supported. Certification of on-site drainage infrastructure is carried out by the Certifier. Installation of public infrastructure is covered by existing conditions of consent (see conditions under heading “Utilities, Service and Public Infrastructure”).</p> <p>Work specifically related to the relocation of the Council stormwater pipe and associated easement is covered by the Deed of Agreement</p>
B47	<p>Insertion of new condition for a final inspection of public infrastructure</p>	<p>Not supported. Any requirement to install, gain access to, protect, relocate or repair public infrastructure and utilities and the manner in which is it carried out is covered by existing conditions of consent (see conditions under heading “Utilities, Service and Public Infrastructure”).</p> <p>The condition requires the Applicant to consult with and obtain any relevant approvals from the relevant public authority/ service provider in relation to the infrastructure or utilities.</p> <p>If the Commission intends to retain this condition, it should be relocated to Part A of the consent as this is where public infrastructure/ utility-related conditions are located</p>

B61	Insertion of new condition relating to rooftop screening	Not supported. The architectural drawing set already provide for screening of rooftop plant with the use of louvres. See particularly the elevation drawings (A3011 to A3014) and the Visual Impact Assessment Report (Appendix D15 of the Amendment Report)
Appendix 2	Proposed amendments to the Applicant’s Management and Mitigation Measures	Not supported. These are the Applicant’s management and mitigation measures which it has committed to, not the consent authority’s. The conditions of consent prevail to the extent of any inconsistency with these measures (see condition A4)

Should you have any questions in relation to the Department’s advice, please contact me on 9274 6413 or at chris.ritchie@planning.nsw.gov.au

Yours sincerely,



Chris Ritchie

Director, Industry Assessments