

Development Consent

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

I approve the development referred to in Schedule 1, subject to the conditions in Schedules 2 to 4

These conditions are required to:

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

Kristina Keanelly MP
Minister for Planning

Sydney

7 August 2009

The Department has prepared a consolidated version of the consent which is intended to include all modifications to the original determination instrument.

The consolidated version of the consent has been prepared by the Department with all due care. This consolidated version is intended to aid the consent holder by combining all consents relating to the original determination instrument but it does not relieve a consent holder of its obligation to be aware of and fully comply with all consent obligations as they are set out in the legal instruments, including the original determination instrument and all subsequent modification instruments.

CONSOLIDATED CONSENT

SCHEDULE 1

Application Number:

MP07_0086

Applicant:

Northbank Enterprise Hub Pty Ltd

Consent Authority:

Minister for Planning

Land:

Lot 22 DP 1150980 and Lots 210 – 212 DP 1174939

Development:

Subdivision of the site for industrial purposes, bulk earthworks across the site and the establishment of a WesTrac Facility and associated infrastructure.

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SUMMARY OF MODIFICATIONS

Application Number	Determination Date	Decider	Modification Description
MP07_0086-Mod-1	26 November 2015	Director	Alteration to Drainage
MP07_0086-Mod-2	20 June 2017	Director	Amendment to Groundwater Monitoring Condition
MP07_0086-Mod-3	18 August 2021	Team Leader	Modification to the development to permit the temporary relocation of the approved Machinery Test and Demonstration Area and machinery and parts storage areas, including the temporary use of portable stadium seating and worksite lightning equipment.

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DEFINITIONS

Applicant	Northbank Enterprise Hub Pty Ltd or its successors
ARI	Average Recurrence Interval
AEMR	Annual Environmental Management Report
BCA	Building Code of Australia
Conservation area	Area marked in red in Appendix 2
Council	Port Stephens Council
Day	The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
DECC	Department of Environment and Climate Change
Department	Department of Planning, Industry and Environment
Development	The development described in Schedule 1, the EA , as modified by the conditions of this consent
Director General	Director General of the Department of Planning, or delegate
DWE	Department of Water and Energy
EA	Environmental Assessment titled <i>Environmental Assessment Report</i> prepared by Asquith & deWitt Pty Ltd and dated April 2008
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPA	Environment Protection Authority
EPL	Environment Protection Licence
Evening	The period from 6pm to 10pm
HCCREMS	Hunter & Central Coast Regional Environmental Management Strategy
HWC	Hunter Water Corporation
Inventory Area	The outdoor storage area identified in drawing A0102 of the EA
Land	Land means the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this approval
Material harm to the environment	Harm to the environment is material if it involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial
Minister	Minister for Planning and Public Places, or delegate
MOD-1	Modification Application (07_0086 MOD 1) with supporting documentation titled <i>Northbank Enterprise Hub – Tomago Road, Tomago S75W – Altered Drainage Solution – Amended Discharge Location</i>, prepared by ADW Johnson dated 30 October 2014 and letter from Northbank Enterprise Hub dated 24 February 2015
MOD-2	Modification Request (MP 07_0086 MOD 2) accompanied by the letter dated 18 May 2017 from APN Funds Management Limited

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Modification Assessments		The document assessing the environmental impact of a proposed modification of consent and any other information submitted with the following modification applications made under the EP&A Act: (a) 07_0086 MOD 1 with supporting documentation titled Northbank Enterprise Hub – Tomago Road, Tomago S75W – Altered Drainage Solution – Amended Discharge Location, prepared by ADW Johnson dated 30 October 2014 and letter from Northbank Enterprise Hub dated 24 February 2015 (b) (MP 07_0086 MOD 2) accompanied by the letter dated 18 May 2017 from APN Funds Management Limited (c) MP07_0086-Mod-3 accompanied by letter dated 18 May 2021, prepared by JW Planning Pty Ltd and supporting
Night		The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
NOW		NSW Office of Water within the Department of Primary Industries
NPWS		National Parks and Wildlife Service within OEH
OEH		Office of Environment and Heritage
Planning Secretary		Secretary of the Department, or nominee
Privately-owned land		Land that is not owned by a public agency or the Applicant
Project		The development as described in the EA
Proponent		Northbank Enterprise Hub Pty Limited or its successors
Reasonable Feasible	and	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements. Feasible relates to engineering considerations and what is practical to build
Response to Submissions		The Applicant's response to issues raised in submissions
RMS		NSW Roads and Maritime Services
RTA		Roads and Traffic Authority
Secretary		Secretary of the Department, or nominee
Site		The land referred to in Schedule 1
Stage 1		Establishment of a WesTrac Facility and associated infrastructure
Stage 2 and 3		Establishment of an industrial subdivision
Statement of Commitments		The Applicant's commitments in Appendix 3
TfNSW		Transport for NSW

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SCHEDULE 2 ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

1. The **Applicant must** implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the construction and operation of the **development**.

TERMS OF APPROVAL

2. The **Applicant must** carry out the **development** generally in accordance with the:
 - (a) EA;
 - (b) site plans A-101, A-102 and A-151 (see Appendix 1);
 - (c) response to submissions including the Overview Architectural Design Revision E, dated October 2008;
 - (d) statement of commitments; and
 - (e) **Modification Assessments**.
3. If there is any inconsistency between the above, the conditions of this approval **must** prevail to the extent of the inconsistency.
4. The **Applicant must** comply with any reasonable requirement/s of the **Planning Secretary** arising from the Department's assessment of:
 - (a) any reports, plans, programs, strategies or correspondence that are submitted in accordance with this approval; and
 - (b) the implementation of any actions or measures contained in these reports, plans, programs, strategies or correspondence submitted by the **Applicant**.

LIMITS OF APPROVAL

5. This approval shall lapse if the **Applicant** does not substantially commence the building works associated with Stage 1 of the **development** within 5 years of the date of this approval.

STRUCTURAL ADEQUACY

6. The **Applicant must** ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA.

Notes:

- Under Part 4A of the EP&A Act, the **Applicant** is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the **development**.

DEMOLITION

7. The **Applicant must** ensure that all demolition work is carried out in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*, or its latest version.
8. All works involving the removal and disposal of asbestos must be undertaken by a contractor who holds a current WorkCover licence. Removal must be carried out in accordance with the National Occupational Health and Safety Commissions *Code of Practice for the Safe Removal of Asbestos*.

PROTECTION OF PUBLIC INFRASTRUCTURE

9. Prior to commencement of construction, the **Applicant must**:
 - (a) prepare a dilapidation report of the public infrastructure in the vicinity of the site (including roads, gutters, footpaths, etc) in consultation with Council; and
 - (b) submit a copy of this report to the **Planning Secretary** and Council.
10. The **Applicant must**:
 - (a) repair, or pay the full costs associated with repairing any public infrastructure that is damaged by the development; and
 - (b) relocate, or pay the full costs associated with relocating any public infrastructure that needs to be relocated as a result of the development.
11. The relocation of the 132kV overhead powerline located on site must be undertaken in accordance with EnergyAustralia's requirements and at no cost to Energy Australia.

OPERATION OF PLANT AND EQUIPMENT

12. The **Applicant must** ensure that all plant and equipment used on site is:
 - (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.

MANAGEMENT PLANS/MONITORING PROGRAMS

13. With the approval of the **Planning Secretary**, the **Applicant** may submit any management plan or monitoring program required by this approval on a progressive basis.

SECTION 94 CONTRIBUTIONS

14. Prior to the issue of a subdivision certificate, the **Applicant must** pay Council \$129,933 as a contribution towards the provision of infrastructure and services.

Note: This contribution is subject to indexation by the Implicit Price Deflator, as published by the Australian Bureau of Statistics.

REGIONAL CONTRIBUTIONS

15. Prior to the commencement of operations of Stage 1, or as otherwise agreed by the **Planning Secretary**, the **Applicant must** pay the Department \$667,000 or provide equivalent works in kind, towards the upgrade of Tomago Road.

Note: Equivalent works in kind include the provision of street lighting along Tomago Road.

16. Prior to the issue of a subdivision certificate for Stages 2 and 3, the **Applicant must** contribute towards regional infrastructure. The following contributions **must** be paid to the satisfaction of the **Planning Secretary**:
- (a) \$29,000 per developable hectare paid to the Department; or
 - (b) in accordance with any Special Infrastructure Contributions Plan for the Lower Hunter.

Notes:

- *The contribution to be paid will be the lesser of the \$29,000 and any Special Infrastructure Contributions Plan.*
- *Equivalent works in kind may be carried out in lieu of the relevant monetary contributions.*

SERVICE PROVIDERS / ADDITIONAL APPROVALS

17. Prior to the construction of any utility works, the **Applicant must** obtain relevant approvals from service providers, including HWC and Council.
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SCHEDULE 3 SPECIFIC ENVIRONMENTAL CONDITIONS

DESIGN AND SUBDIVISION WORKS

1. Prior to the commencement of construction of Stage 2 and 3, the **Applicant must** revise the subdivision plan for the **development**, to the satisfaction of the **Planning Secretary**, to exclude development within the 22 hectare conservation area, as identified in Appendix 2 (area marked in red). The revised subdivision plan must identify:
 - (a) location and size of lots;
 - (b) the location of estate roads and details of any necessary restrictive covenants, easements and/or rights of way required for access, drainage, services and the 132kV overhead powerline within the site; and
 - (c) the proposed staging of lot registration.
2. Prior to the commencement of construction of Stage 2 and 3, the **Applicant must** prepare Design Guidelines for the site to the satisfaction of the **Planning Secretary**. These guidelines **must**:
 - (a) be prepared in consultation with **OEH** and Council;
 - (b) include the proposed layout of each stage; and
 - (c) detail development controls for the design and development of individual sites (such as site coverage, set backs, building heights, stormwater management and drainage, access and parking, landscaping, waste removal and storage, and energy and water conservation/efficiency requirements).
3. Prior to commencement of works associated with Stage 2, unless otherwise agreed with the **Planning Secretary** the **Applicant must**:
 - (a) engage a registered surveyor to survey and permanently mark the boundaries of the excluded conservation area, as identified in Condition 1 of Schedule 3;
 - (b) submit a survey plan of these boundaries to the **Planning Secretary** and **OEH**;
 - (c) ensure that these boundaries are clearly marked at all times in a permanent manner that allows operating staff, the landowner and inspecting officers to clearly identify those boundaries; and
 - (d) subdivide the conservation area (as identified in Condition 1 of Schedule 3) from the development area, with the title of the conservation area to be transferred to **OEH** within 7 days of the registration of the subdivision plan.
4. Prior to the issue of a Subdivision Certificate for each stage of the **development**, the **Applicant must** ensure that all civil works for the stage are completed and that each lot is connected to services, drainage and utilities.
- 4A. By 30 September 2017, the **Applicant must**:
 - (a) carry out the alterations to drainage described in MOD 1 in accordance with the plan in Appendix 4;
 - (b) ensure that all flows within the existing drain on the eastern site boundary are diverted to the existing south-west drainage formation at a location at least 30 metres away from the neighbouring Lot 3 on DP 594191;

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- (c) ensure that the overflow of water from the existing drainage formation on the southern site boundary occurs in a dispersed fashion and does not cause any localised concentration of discharge;
- (d) manage erosion and sediment in accordance with *Managing Urban Stormwater – Soils and Construction* (Department of Housing 2004 Manual); and
- (e) submit work as executed plans to the Department demonstrating that the alteration to drainage has been carried out in accordance with the approved plan in Appendix 4.

~~4B. The Proponent shall implement alternative measures to the satisfaction of the Secretary, such as restoring drainage flows to the existing drainage channel to the south-east, if the alterations to drainage implemented in accordance with MOD 1 are causing material harm to the environment as agreed to by the Secretary.~~

- 4B. The **Applicant** must describe the contingency measures to be implemented, including but not limited to, restoring drainage flows to the existing drainage channel to the south-east, if the alterations to drainage implemented in accordance with MOD 1 are resulting in adverse impacts, as agreed to by the **Planning Secretary**. The contingency measures must be approved by the **Planning Secretary** and implemented in a timeframe agreed with the **Planning Secretary**.

For the purpose of this condition, adverse impacts are considered to occur when there is a decline in Phragmites Rushland vegetation cover of greater than 20% in extent and Swamp Oak Sedge Forest greater than 10% in extent on the 22 hectare NPWS reserve to the south of the site, when compared against the Kleinfelder April 2010 baseline report.

SOIL AND WATER

Fill

5. Any fill material brought to site must be Virgin Excavated Natural Material and/or Excavated Natural Material that meets the criteria for Virgin Excavated Natural Material.

Note: Virgin Excavated Natural Material is defined under the Protection of the Environment Operations Act 1997.

Discharge Limits

6. The **Applicant must** comply with Section 120 of the *Protection of the Environment Operations Act 1997*.

Bunding

7. All chemicals, fuels and oils **must** be stored in appropriately bunded areas, with impervious flooring and sufficient capacity to contain 110% of the largest container stored within the bund. The bund(s) **must** be designed and installed in accordance with the:
- (a) requirements of all relevant Australian Standards; and
 - (b) DECC's *Storing and Handling Liquids: Environmental Protection* manual.

Management

8. The **Applicant must** prepare and implement a Soil and Water Management Plan for the **development** to the satisfaction of the **Planning Secretary**. This plan must:
- (a) be submitted to the **Planning Secretary** for approval at least one month prior to the commencement of construction of Stage 1;
 - (b) be updated and submitted to the **Planning Secretary** for approval at least one month prior to the commencement of construction of Stages 2 and 3;
 - (c) be prepared in consultation with Council, HWC and **OEH**;
 - (d) include :
 - a Site Water Balance;
 - a Sediment and Erosion Control Plan;
 - an Acid Sulfate Soils Management Plan;
 - a Stormwater Management Scheme; and
 - a Groundwater Monitoring Program for Tomago sand beds;
 - a Wastewater Management Plan.
9. The Site Water Balance must:
- (a) include details of:
 - sources and security of water supply;
 - water use/re-use on site;
 - water management on site;
 - reporting procedures;
 - (b) describe measures to minimise potable water use by the **development** and maximise reuse of rainwater harvested from the site; and
 - (c) be reviewed and recalculated each year in light of the most recent water monitoring data; and
 - (d) **compare measured surface water discharges and groundwater inflows, outflows and infiltration, relative to pre-development conditions.**
10. The Erosion and Sediment Control Plan must:
- (a) be consistent with the requirements of Landcom's (2004) *Managing Urban Stormwater: Soils and Construction*;
 - (b) identify the activities on site that could cause soil erosion and generate sediment; and
 - (c) describe what measures would be implemented to:
 - minimise soil erosion and the transport of sediment to downstream waters, including the location, function and capacity of any erosion and sediment control structures; and
 - maintain these structures over time.
11. The Acid Sulfate Soils Management Plan must:
- (a) be consistent with the NSW State Government's *Acid Sulfate Soils Manual* (ASSMAC 1998); and

- (b) include details of measures to be implemented in relation to the management and handling of any acid sulfate soils identified during construction works.

12. The Stormwater Management Scheme must:

- (a) be prepared in consultation with Council and [OEH](#);
- (b) be prepared in accordance with DECC's *Managing Urban Stormwater* guidelines and HCCREMS *Water Sensitive Urban Design Solutions for Catchments Above Wetlands*;
- (c) demonstrate that post development flows will not exceed predevelopment flows for a range of ARI from 1 year up to and including the 100 year ARI;
- (d) investigate alternative options to avoid discharges to the adjoining wetlands to the south of the site;
- (e) demonstrate that the existing stormwater drainage channels have capacity to accommodate post development flows under a range of tidal conditions;
- (f) demonstrate that the extended detention depth of the infiltration area allows vegetation growth and minimises groundwater mounding;
- (g) include provision for the drainage flow paths for culverts under Tomago Road through the site;
- (h) includes details of the:
 - stormwater detention (capacity and location),
 - treatment and control infrastructure including pre-treatment for the infiltration area to reduce sediment and nutrient loads, the drainage design for the disposal of stormwater off-site and the method of controlled release from the site; and
 - measures to monitor and maintain the stormwater treatment and control infrastructure; and
- (i) include a program to monitor stormwater quantity (including inflows, outflows and bypass flows) and quality (including but not limited to total suspended solids, total phosphorus and total nitrogen) during operation of the **development**.

~~12A. The Proponent shall:~~

- ~~(a) by the end of March 2016, install a water level sensor on the upstream side of the sediment basin spillway to measure flows continuously when the spillway is overflowing;~~
- ~~(b) report the results of spillway flow monitoring in the Annual Report required under Condition 44 in Schedule 4; and~~
- ~~(c) monitor standing water levels in the sediment basin and drain on the eastern site boundary and report the results in the Annual Report required under Condition 44 in Schedule 4.~~

12A. The **Applicant** must:

- (a) by 30 September 2017, install a water level sensor on the upstream side of the sediment basin spillway to measure flows continuously when the spillway is overflowing;
- (b) report the results of spillway flow monitoring in the Annual Report required under Condition 44 in Schedule 4, including:
 - i. discharge rates and volumes exiting the basin (i.e. total via the pipe and spillway);
 - ii. a comparison of the rates and volumes described in point (i) above with those that would have occurred under pre-development conditions;

- iii. the rates and volumes for any significant events or when concerns are raised about downstream impacts;
- iv. annual volumes; and
- (c) monitor standing water levels in the sediment basin and drain on the eastern site boundary and report the results in the Annual Report required under Condition 44 in Schedule 4.

13. The Groundwater Monitoring Program must:

- (a) be prepared in consultation with **NOW**;
- (b) included details of a program to monitor groundwater levels and quality;
- (c) the groundwater levels and quality impact assessment criteria;
- (d) procedures for reporting the monitoring results against the criteria,
- (e) contingency measures to address exceedances; and
- (f) a description of how the effectiveness of actions and measures would be monitored over time.

~~13A. The Proponent shall prepare a groundwater monitoring program for project to the satisfaction of the Secretary. The program must:~~

- ~~(a) be prepared by a suitably qualified and experienced expert;~~
- ~~(b) be submitted to the Secretary for approval by the end of March 2016;~~
- ~~(c) detail the procedures for the measurement of groundwater inflows, infiltration rates and groundwater outflows within the site;~~
- ~~(d) include the results of groundwater monitoring in the Annual Report required under Condition 44 in Schedule 4; and~~
- ~~(e) describe the contingency measures to be implemented if monitoring indicates that adverse impacts are occurring.~~

~~Note: For the purpose of this condition, adverse impacts are considered to occur when there is a decline in *Phragmites* Rushland vegetation cover of greater than 20% in extent and Swamp Oak Sedge Forest greater than 10% in extent on the 22 hectare NPWS reserve to the south of the site, when compared against the Kleinfelder April 2010 baseline report.~~

~~13B. The Proponent shall carry out the project in accordance with the groundwater monitoring program approved by the Secretary (as revised and approved by the Secretary from time to time), unless otherwise agreed by the Secretary.~~

14. The Wastewater Management Plan must:

- (a) include the final design of the sewerage system;
- (b) demonstrate that the design of the sewerage system is consistent with HWC's and Council's requirements and that the system has been designed in a manner that will allow connection to a future regional wastewater transportation scheme;
- (c) demonstrate that the disposal and irrigation of treated sewage is consistent with the *Environmental Guidelines Use of Effluent by Irrigation* (DECC) and the *Australian guidelines for water recycling: managing health and environmental risks (phase1) - 2006*;
- (d) outline the design and management of the irrigation system, including measures to minimise soil degradation and nutrient and salt accumulation; and
- (e) include details of the management of any solid waste including methods to monitor and dispose of the waste;
- (f) include:

- the wastewater and soil quality impact assessment criteria and the effluent treatment and irrigation system performance measures;
- details of the wastewater and soil monitoring program;
- procedures for reporting the monitoring results against the criteria, to determine the annual site nutrient and salt balance and the trigger levels for nitrogen and phosphorus in the soil;
- contingency measures to address exceedances, pollutant triggers and problems with wastewater management systems; and
- a description of how the effectiveness of actions and measures would be monitored over time.

TRAFFIC AND TRANSPORT

Road Works and Access – Stage 1

15. Prior to the commencement of construction of Stage 1 (except in relation to the relocation of power lines), the **Applicant must**:
 - (a) implement a “No Stopping” restriction along the Tomago Road frontage of the site;
 - (b) install a temporary access to Tomago Road to the satisfaction of **TfNSW**; and
 - (c) prepare and implement a Construction Traffic Management Plan to the satisfaction of the **TfNSW**. The Plan **must** include:
 - details of the staging plan for the construction works;
 - a risk assessment to identify hazards to traffic control associated with the site, the level of risk posed and control measure to be implemented;
 - a Vehicle Movement Plan for the management of construction traffic; and
 - a Traffic Control Plan in accordance with the **TfNSW** Traffic Control at Work Sites manual.
16. Prior to the commencement of the construction of the Stage 1 buildings, or otherwise agreed with the **Planning Secretary**, the **Applicant must** finalise the design of the access to Tomago Road in accordance with the **TfNSW Road Design Guide** and relevant Austroads guidelines, and to the satisfaction of the **TfNSW**.
17. In finalising the design of the access to Tomago Road, the **Applicant must**:
 - (a) ensure the access location on Tomago Road has a Safe Intersection Sight Distance in either direction in accordance with **TfNSW Road Design Guide** for the prevailing speed limit;
 - (b) ensure that the swept path of the largest vehicle entering/exiting the site and manoeuvrability through the site is in accordance with the relevant Australian Standard and to **TfNSW** satisfaction; and
 - (c) sign a *Works Authorisation Deed* with the **TfNSW**.
18. Prior to the commencement of operation of Stage 1, the **Applicant must** construct a Channelised Right Turn and Auxiliary Left Turn treatments at the access location off Tomago Road to the satisfaction of the **TfNSW**.

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19. Prior to the commencement of operation of Stage 1, the **Applicant must** install street lighting along Tomago Road between the site and the intersection with Pacific Highway in accordance with Australian Standards and **TfNSW** satisfaction.
20. Prior to the transportation of any oversized and/or overmass vehicles and machinery to and from the site, the **Applicant must** notify **TfNSW**, with transportation to be undertaken in accordance with **TfNSW** requirements.

Internal Works

21. The **Applicant must** ensure that the estate internal road network, Stage 1 internal road network and parking associated with Stage 1 of the **development** are designed, constructed and maintained in accordance with the latest versions of the Australian Standards AS 2890.1:2004 and AS 2890.2:2002.
22. The **Applicant must** ensure that:
 - (a) all parking generated by Stage 1 is accommodated on site, and that no vehicles associated with Stage 1 **must** park on the public road system at any stage; and
 - (b) the Stage 1 of the **development** does not result in any vehicles queuing on the public road network.
23. The **Applicant must** provide parking for bicycles and associated facilities such as change rooms for Stage 1 of the **development**.

Road Works – Stages 2 and 3

24. Prior to the commencement of construction of Stages 2 and 3 the **Applicant must** provide a transport verification study that:
 - (a) be submitted to the **Planning Secretary** for approval prior to construction of Stage 2 and 3;
 - (b) is undertaken by a suitably qualified traffic engineer;
 - (c) has been prepared in consultation with **TfNSW** and Council;
 - (d) includes current traffic counts and 10 year traffic growth projections;
 - (e) details traffic generation rates for each stage;
 - (f) demonstrates that the site access would accommodate traffic generated by Stages 2 and 3; and
 - (g) if required, details any upgrades required to Tomago Road and the site access to accommodate Stages 2 and 3.

NOISE

25. The **Applicant must** comply with the restrictions in Table 1, unless otherwise agreed by the **Planning Secretary**.

*Table 1: Construction and Operation Hours for the **development***

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Activity	Day	Time
Construction	Monday – Friday	7:00am to 6:00pm
	Saturday	8:00am to 1:00pm
	Sunday and Public Holidays	Nil
Operation – Inventory Area	All days	7:00am to 10:00pm
Operation – All other areas	All days	All times

Notes:

- Construction activities may be conducted outside the hours in Table 1 provided that the activities are not audible at any residence beyond the boundary of the site.
- The limits for operation hours of the inventory area do not apply if the **Applicant** has an agreement with the relevant owner of lands within these locations to operate outside these hours and the **Applicant** has advised the Department in writing of the terms of this agreement.
- The inventory area is defined in Schedule 1.

26. The **Applicant must** ensure that the noise generated from the site does not exceed the noise impact assessment criteria in Table 2.

Table 2: Site Noise Limits (dB(A))

Location	Day		Evening		Night		
	L _{Aeq}	L _{Aeq} (15 min)	L _{Aeq}	L _{Aeq} (15 min)	L _{Aeq}	L _{Aeq} (15 min)	L _{Aeq} (1 min)
At any residence or other noise sensitive receiver	50	43	45	37	40	35	60

Notes:

- Noise emission limits apply under meteorological conditions of wind speeds up to 3 m/s at 10 metres above ground level or temperature inversions conditions of 3°C/100m and wind speed up to 2 m/s at 10 metres above the ground. To determine compliance with this condition, noise from the development must be measured at the most affected point within the residential boundary, or at the most affected point within 30 metres of the dwelling where the dwelling is more than 30 metres from the boundary.
- However, where it can be demonstrated that direct measurement of noise from the development is impractical, the EPA may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in Section 4 of the NSW Industrial Noise Policy **must** also be applied to the measured noise levels where applicable.
- The noise limits do not apply if the **Applicant** has an agreement with the relevant owner of lands within these locations to generate higher noise levels and the **Applicant** has advised the Department in writing of the terms of this agreement.

27. The **Applicant must** ensure that the noise from the operation of Stage 1 does not exceed the noise limits presented in Table 3.

Table 3: **Development** Noise Limits (dB(A))

Location	Day	Evening	Night
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	L _{Aeq} (15 min)			L _{Aeq} (1 min) or L _A max
At any residence or other noise sensitive receiver	35	35	35	60

Note: Refer to the notes associated with Condition 26 of Schedule 3 for guidance.

28. Prior to the commencement of the construction of the noise barrier, the **Applicant must** provide the detailed specifications of the noise barrier to the **Planning Secretary** and to demonstrate that the barrier will achieve the predicted levels of performance detailed in the EA.
29. Within 6 months of the commencement of operation of Stage 1 of the **development** and during a period in which the Stage 1 of the **development** is operating at normal capacity, the **Applicant must** conduct a Noise Audit of the **development** to the satisfaction of the **Planning Secretary**. This audit **must**:
 - (a) be undertaken by a suitably qualified acoustical expert and in accordance with the *NSW Industrial Noise Policy*;
 - (b) validate the predictions made in the EA;
 - (c) demonstrate compliance with the noise limits in Table 3; and
 - (d) describe the contingencies that would be implemented, and the timing for implementation, should non compliances be detected.
30. Prior to the commencement of construction of Stage 2 and 3, the **Applicant must** prepare a noise verification study demonstrating that traffic noise would not exceed criteria in DECC's *Environmental Criteria for Road Traffic Noise*. For those residents where traffic noise levels would exceed criteria in DECC's *Environmental Criteria for Road Traffic Noise* the **Applicant must** implement all reasonable and feasible measures to mitigate noise impacts, to the satisfaction of the **Planning Secretary**.

ABORIGINAL AND CULTURAL HERITAGE

31. The **Applicant must** prepare and implement an Aboriginal Heritage Management Plan for the **development** to the satisfaction of the **Planning Secretary**. The Plan must:
 - (a) be submitted to the **Planning Secretary** for approval prior to the commencement of construction;
 - (b) be prepared by a suitably qualified consultant and in consultation with **OEH** and relevant Aboriginal stakeholders;
 - (c) identify and describe all known heritage items on the site and areas of archaeological significance;
 - (d) include a strategy for the salvage and storage of salvaged objects during construction and for the long term management of these objects;
 - (e) include a component within the site induction program for construction workers outlining measures to be employed to manage and minimise impacts to heritage;
 - (f) identify procedures to be followed should previously unidentified objects be uncovered or additional impacts to sites be identified; and
 - (g) the procedure for continued consultation with Aboriginal stakeholders.

AIR QUALITY

32. The **Applicant must** carry out all reasonable and feasible measures to minimise dust generated by the **development**, ensuring that suitable control measures are implemented to manage dust generated from stockpiles of fill and filling activities.
33. During construction, the **Applicant must** ensure that:
 - (a) all trucks entering or leaving the site with loads have their loads covered;
 - (b) trucks associated with the **development** do not track dirt onto the public road network; and
 - (c) public roads used by these trucks are kept clean.
34. The **Applicant must** not cause or permit the emission of any offensive odour from the site.

Note: Offensive odour is defined under the Protection of the Environment Operations Act 1997.

35. Within 6 months of the commencement of operations during a period in which the **development** is operating at normal capacity, the **Applicant must** conduct an Odour Audit of the **development** to the satisfaction of the **Planning Secretary**. This audit **must**:
 - (a) be undertaken by a suitability qualified and experienced person;
 - (b) assess whether the **development** is complying with odour assessment criteria detailed in relevant **OEH** guidelines; and
 - (c) provide details of any odour complaints received, and any action taken to respond to these complaints.

VISUAL IMPACT

Landscaping

36. Prior to commencement of construction, the **Applicant must** revise the Landscape Management Plan (including drawings LA01, LA02, 01, 02, 03, 04 and 05) in consultation with Council and to the satisfaction of the **Planning Secretary**. The Plan must:
 - (a) be submitted at least one month prior to the commencement of construction of the Stage 1 buildings;
 - (b) be updated and submitted to the **Planning Secretary** for approval at least one month prior to the commencement of construction of Stages 2 and 3;
 - (c) use predominantly endemic species,
 - (d) where practicable, provide for the early planting of advanced plants along the northern, eastern and western boundary to minimise the visual impacts of the **development**; and
 - (e) provide for the maintenance of landscaping on site.

Signage

37. Business identification signage detailed in Overview Architectural Design Revision E and dated 8 October 2008, is approved as part of this **development** approval. Any changes to the signage, including any addition signage associated with Stage 1 or estate signage, must be approved prior to installation. In seeking approval for any additional signage the

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Applicant must submit detailed plans of this signage to the **Planning Secretary**. These plans must be prepared in consultation with Council. Following approval, the **Applicant** must ensure that the signage is installed in accordance with the approved plans.

Fencing

38. Prior to installing any boundary fencing on the site and any fencing associated with Stage 1 of the **development**, the **Applicant must** submit detailed plans of this fencing to the **Planning Secretary** for approval. These plans must be prepared in consultation with Council. Following approval, the **Applicant** must ensure that the fencing is installed in accordance with the approved plans.

Lighting

39. The **Applicant must** ensure that the lighting associated with the **development**:
- (a) complies with the latest version of Australian Standard AS 4282(INT)-Control of Obtrusive Effects of Outdoor Lighting; and
 - (b) is mounted, screened and directed in such a manner that it does not create a nuisance to surrounding properties, the public road network or the adjoining conservation area and wetlands.

ENERGY EFFICIENCY

40. The **Applicant must** prepare and implement an Energy Efficiency Plan for the **development** to the satisfaction of the **Planning Secretary**. This plan must:
- (a) be submitted to the **Planning Secretary** for approval prior to the commencement of operations on the site;
 - (b) describe the measures that would be implemented to minimise energy use on the site;
 - (c) include a program for monitoring the effectiveness of these measures, and a protocol for the periodic review of the plan.

WASTE MANAGEMENT

41. The **Applicant must** ensure that any waste generated on the site during the **development** is classified in accordance with the DECC's *Waste Classification Guidelines* and disposed of to a facility that may lawfully accept the waste.

TEMPORARY MACHINERY TEST AND DEMONSTRATION AREA

- 41A. Prior to the commencement of any machinery test and demonstration activities in the Temporary Machine Test and Demonstration Area, the Applicant must install sediment fencing and a perimeter irrigation sprinkler system as described in correspondence prepared by JW Planning Pty Ltd, dated 18 May 2021. The sediment fencing and perimeter irrigation sprinkler system must be maintained while the Temporary Machine Test and Demonstration Area remains in use.

SCHEDULE 4

ENVIRONMENTAL MANAGEMENT, REPORTING & AUDITING

ENVIRONMENTAL MANAGEMENT STRATEGY

42. The **Applicant must** prepare and implement an Environmental Management Strategy for the **development** to the satisfaction of the **Planning Secretary**. This strategy must be submitted to the **Planning Secretary** prior to carrying out any development on site, and:
- (a) provide the strategic context for environmental management of the **development**;
 - (b) identify the statutory requirements that apply to the **development**;
 - (c) describe in general how the environmental performance of the **development** would be monitored and managed;
 - (d) describe the procedures that would be implemented to:
 - keep the local community and relevant agencies informed about the operation and environmental performance of the **development**;
 - receive, handle, respond to, and record complaints;
 - resolve any disputes that may arise during the course of the **development**;
 - respond to any non-compliance;
 - manage cumulative impacts; and
 - respond to emergencies; and
 - (e) describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the **development**; and
 - (f) includes an Environmental Monitoring Program which consolidates the various monitoring requirements in schedule 3 and of this approval into a single document.

INCIDENT REPORTING

43. Within 7 days of detecting an exceedance of the limits/performance criteria in this approval or an incident causing (or threatening to cause) material harm to the environment, the **Applicant must** report the exceedance/incident to the Department, and any other relevant agency. This report must:
- (a) describe the date, time, and nature of the exceedance/incident;
 - (b) identify the cause (or likely cause) of the exceedance/incident;
 - (c) describe what action has been taken to date; and
 - (d) describe the proposed measures to address the exceedance/incident.

ANNUAL REPORTING

44. Within 12 months of this approval, and annually thereafter, the **Applicant must** submit an AEMR to the **Planning Secretary** and relevant agencies. This report must:
- (a) identify the standards and performance measures that apply to the **development**;
 - (b) describe the works carried out in the last 12 months;
 - (c) describe the works that will be carried out in the next 12 months;
 - (d) include a summary of the complaints received during the past year, and compare this to the complaints received in previous years;

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- (e) include a summary of the monitoring results (including groundwater level data from the Hunter Water Corporation bore SK3520) for the development during the past year;
- (f) include an analysis of these monitoring results against the relevant:
 - impact assessment criteria/limits;
 - monitoring results from previous years; and
 - predictions in the EA;
- (g) identify any trends in the monitoring results over the life of the development;
- (h) identify any non-compliance during the previous year; and
- (i) describe what actions were, or are being, taken to ensure compliance.

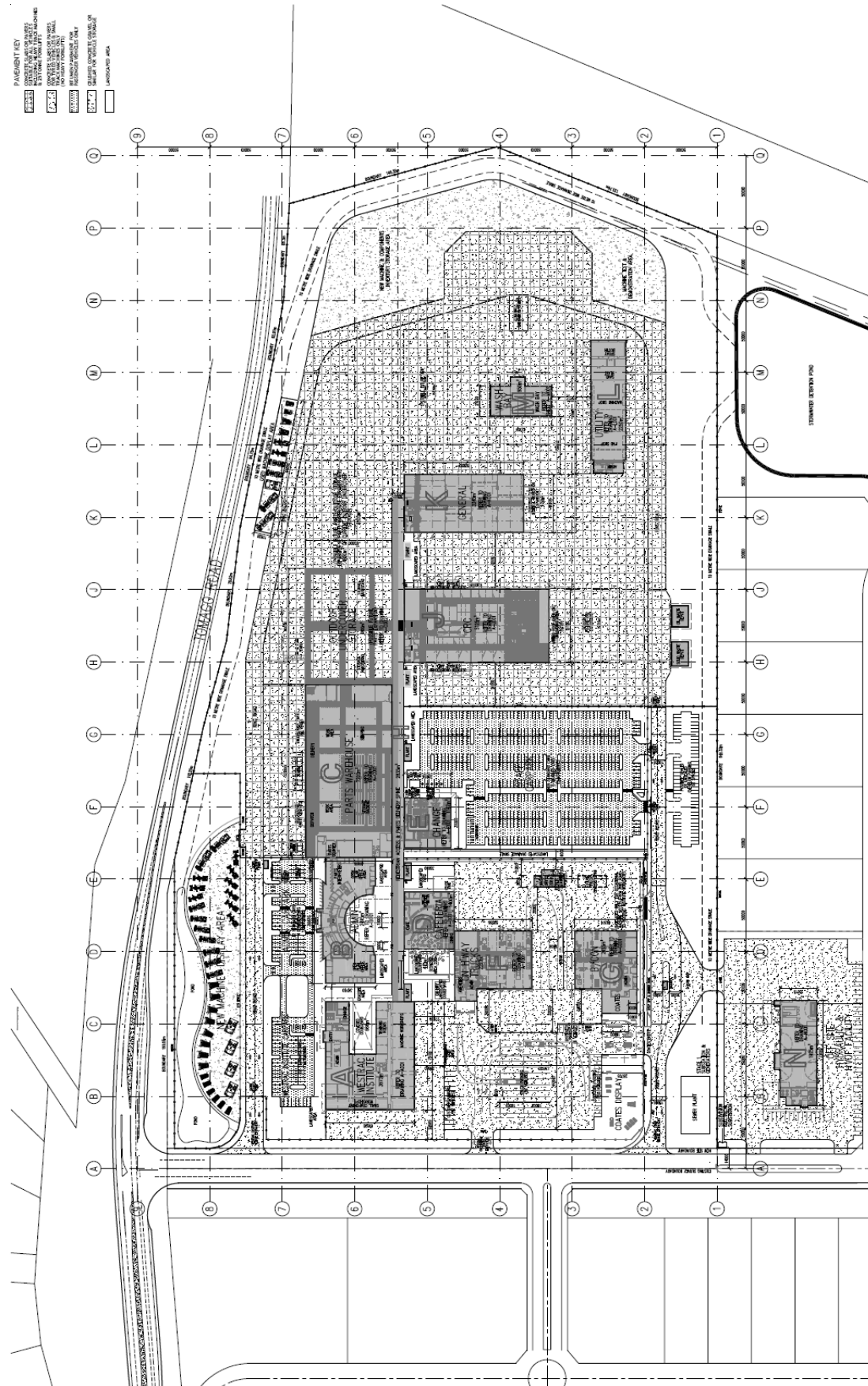
PRE-OPERATION COMPLIANCE AUDIT

- 45. Prior to the commencement of operations, the Applicant must submit work as executed plans to the Department for all the development associated with the development. These plans must be prepared by a suitably qualified and experienced expert, and include plans showing the work as executed plans laid over the approved plans to demonstrate that the development has been carried out in accordance with the approved plans.
- 46. Notwithstanding condition 14 of schedule 3, the Planning Secretary may require an update on compliance with all, or any part, of the conditions of this approval. Any such update must meet the reasonable requirements of the Planning Secretary and be submitted within such period as the Planning Secretary may agree.

APPENDIX 1: DEVELOPMENT LAYOUT PLAN



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STAGE 1 SITE PLAN

[illegible]

REID, AKE ENTERPRISES PTY. LIMITED

Westrac

PROJECT:
**PROPOSED NEW
WESTRAC FACILITY,
TOMAGO**

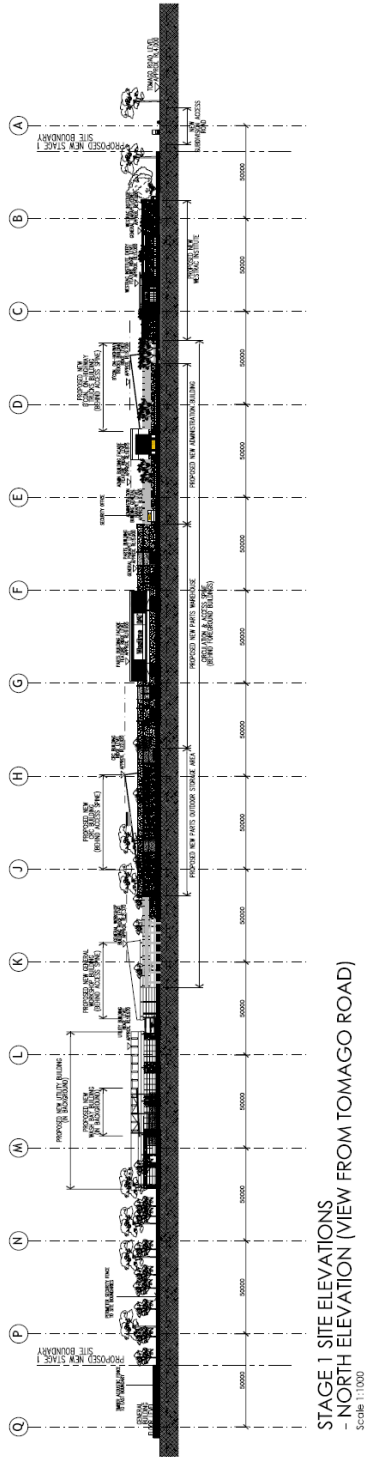
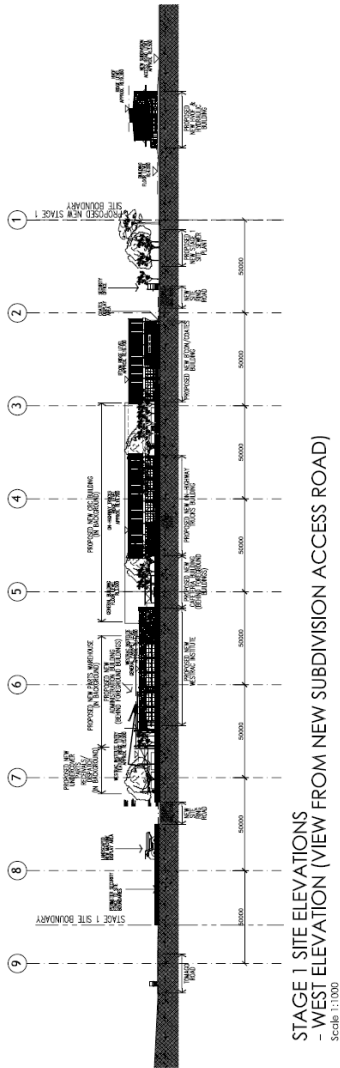
CLIENT:
**RED LAKE ENTERPRISES
L3, 30 KINGS PARK ROAD
WEST PERTH WA 6005**

SITE:
TOMAGO ROAD
TOMAGO

DRAWING:
STAGE 1
SITE PLAN



WORK IS FINISHED. ADVISE THAT IT IS NECESSARY TO OBTAIN SIGNATURES
AND LEGAL OPINION TO THE PROSECUTION OF MATTERS OF THE COMMISSION
OF MEMBERS. ADVISE THAT IT IS NECESSARY TO OBTAIN SIGNATURES
AND LEGAL OPINION TO THE PROSECUTION OF MATTERS OF THE COMMISSION



ORIGINAL DRAWING: DATE 17/07/2018
BY: JPC
CHECKED: JPC
DATE: 17/07/2018
SCALE: 1:1000
PROJECT: PROPOSED NEW WESTRAC FACILITY, TOMAGO
SITE: TOMAGO ROAD, TOMAGO
DRAWING: STAGE 1 SITE ELEVATIONS
PROJECT NO: 7254 DA A-151 A
DATE: 17/07/2018
SCALE: 1:1000
PROJECT: PROPOSED NEW WESTRAC FACILITY, TOMAGO
SITE: TOMAGO ROAD, TOMAGO
DRAWING: STAGE 1 SITE ELEVATIONS
PROJECT NO: 7254 DA A-151 A
DATE: 17/07/2018
SCALE: 1:1000

WESTRAC
RURAL ENTERPRISES PTY LIMITED
AS A DIVISION OF
WESTRAC

PROPOSED NEW WESTRAC FACILITY, TOMAGO
RURAL ENTERPRISES PTY LIMITED
AS A DIVISION OF
WESTRAC
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DATE: 17/07/2018
SCALE: 1:1000

EYE
7254 DA A-151 A
DATE: 17/07/2018
SCALE: 1:1000

APPENDIX 2: CONSERVATION AREA



**APPENDIX 3:
STATEMENT OF COMMITMENTS**

FOR INFORMATION

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APPENDIX 4:

MOD 1 – ALTERED DRAINAGE AND DISCHARGE LOCATION

FOR INFORMATION

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