

25 February 2022

Department of Planning Industry and Environment
Locked Bag 5022
Parramatta 2124

Dear Sir/Madam

DRAFT CONDITIONS OF CONSENT - 1111-1114 ELIZABETH DRIVE, CECIL PARK – PROPOSED SUBDIVISION

Council has been requested by the Department of Planning industry and Environment (DPIE) to provide draft conditions of consent for SSD 8859, located at 1111-1114 Elizabeth Drive, Cecil Park. Conditions requested by Council are as follows:

1. Subdivision Certificate Application Fee

The submission of a 'Subdivision Certificate Application' as detailed on page 1 of this consent requires the payment to Council of a Subdivision Certificate Application fee in accordance with Council's Annual Schedule of Fees and Charges. Please note that this fee is subject to review each financial year. The value of this fee will be reviewed by Council in accordance with the rates listed in Council's Annual Schedule of Fees and Charges following compliance with the conditions of approval and the submission of the Subdivision Certificate.

At the time of issuing this condition, the fee is \$500.00.

2. Subdivision Certificate Release Fee (Torrens)

The payment to Council of a Subdivision Certificate release fee in accordance with Council's Annual Schedule of Fees and Charges. Please note that this fee is subject to review each financial year. The value of this fee will be reviewed by Council in accordance with the rates listed in Council's Annual Schedule of Fees and Charges following compliance with the conditions of approval and the submission of the Subdivision Certificate.

At the time of issuing this condition, the fee is \$(1100.00).

3. Maintenance Bond

The submission to Council of a maintenance bond covering all works constructed in association with the subdivision. The maintenance bond is to be paid in cash or a bank guarantee. The value of the maintenance bond will be determined by Council in accordance with the rates listed in Council's Annual Schedule of Fees and Charges following the submission of "work as executed" plans detailing all works constructed in association with the subdivision.

The maintenance bond will generally be held by Council for a period of twelve (12) months from the date of issue of Subdivision Certificate on the final plan of subdivision. The maintenance bond will be released at the end of the maintenance period subject to satisfactory performance of the works. Council may use the maintenance bond to carry out any rectification works required at the end of the maintenance period should the applicant fail to comply with any written request from Council to carry out such works.

Council will not accept "work as executed" plans with coloured highlighter markings on the plans. All dimensions and levels are to be handwritten in red pen on the approved Section 138 Approved Plans.

4. Landscaping and Maintenance Bond

The submission to Council of a bond for the sum of \$5,000 ensuring the provision of effective landscaping and maintenance thereof, in accordance with this development consent. The bond is to be paid in cash or bank guarantee. The bond shall be paid prior to release of the final plan of subdivision.

The bond will be held by Council for a period of twelve (12) months from the date of issue of Subdivision Certificate on the final plan of subdivision or until the growing season thereafter. The bond will be released subject to satisfactory establishment and maintenance of the landscape area.

Should the applicant dispose of the property within the twelve (12) months period, it shall be his/her responsibility to include in the contract of sale a condition granting him/her access to the property to maintain the landscaping or alternatively to make suitable arrangements with the purchaser to take over the responsibility for the bond for the maintenance of the landscaping.

5. Issue of a Section 138 Roads Act Approval

Prior to the commencement of any works on site a Section 138 Roads Act Approval for the Drainage Works, Roadworks, Concrete Path Paving, the Detention Basin and the Erosion and Sediment Control plan must be issued by Fairfield City Council.

All proposed works shall be designed in accordance with Council's Roadworks and Drainage Specifications. Fees will be charged in accordance with the rates listed in Council's Annual Schedule of Fees and Charges. (EP&A Act, Section 81(2)(b))

6. Re-alignment of Wallgrove Road

Prior to the issue of the Section 138 Roads Act Approval, Final design details including the stormwater drainage, the proposed intersection with the new estate road, the dam filling and other associated earthworks of the Wallgrove Road re-alignment shall be submitted to Council for assessment

7. Notifying Council of Commencement of Works

It is a requirement of the Environmental Planning and Assessment Act that you notify Fairfield City Council at least two (2) days prior to the intention to commence work on site. (EP&A Act, Section 81A(2)(b)).

8. Signs on site

Prior to the commencement of any works on site, a sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- a) showing the name, address and telephone number of the principal certifier for the work, and

- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed. (EP&A Regulation, Section 98A(2) &(3)

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

9. Tree Preservation Order

No trees shall be pruned or removed without prior written consent in the form of a Tree Preservation Order from Fairfield City Council.

10. Tree protection (if relevant)

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 site management plan required under this consent, the relevant requirements of AS 4970-2009 Protection of trees on development sites 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.

11. Hours of work

The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

7:00 am to 6:00 pm on Monday to Friday

8:00 am to 1:00 pm on Saturday

The principal certifier must ensure all construction works is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

12. Satisfactory Access to all Lots

The provision of satisfactory access to all lots is required. In this regard, a vehicular layback, in accordance with Council's specification, is to be provided in the kerb adjacent to all proposed allotments. The proposed access shall be 1m away from all Service authorities Assets (Refer to Councils Driveway (Vehicular Crossing) Policy No. 0-088).

13. Lot Filling

Any lot filling operations carried out in accordance with this consent shall be tested to establish the field dry density every 300 mm rise in vertical height. The minimum compaction requirement is 95% standard compaction. Test sites shall be located randomly across the fill site with 1 test per 500 m² (minimum 1 test per 300 mm layer).

A Compaction Report prepared by a suitably qualified Geotechnical Engineer shall be submitted prior to the issue of the Subdivision Certificate.

14. Cut and fill (if applicable)

While building work is being carried out, the principal 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 the classification and the volume of material removed must be reported to the principal certifier.
- b) 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 NSW EPA.

15. Landscaping Along Roadway

Prior to the issue of a Subdivision Certificate, landscaping in the form of avenue type planting shall be provided in the footway adjacent to the proposed subdivision. The trees are to be of 25 litre size (min), planted at 10 metre spacing's, and in accordance with the specification outlined in Council's Tree Management Policy.

16. Demolition of All Structures

The demolition and removal off-site of all buildings, including Out Building, sheds and associated concrete areas from all proposed allotments. The demolition of any building is subject to a separate Development Application to be approved by Council's Building Control Branch.

17. Easements for all Services

Easements shall be created over all services and/or stormwater pipelines within private property which service adjacent roads or properties.

18. Dedication of Roadway

The dedication to the public as road on the final plan of subdivision at no cost to Council of the proposed new Estate Road

19. Dedication of Road Splay

The dedication to the public as road on the final plan of subdivision at no cost to Council, of a 6m X 6m splay on the corner of the new estate road and the proposed Wallgrove road re-alignment.

20. No Vehicular Access Restrictive Covenant

The imposition of a restrictive covenant over Lots 1, 3, 4, 5, 6 & 12 that there shall be no vehicular access to or from Elizabeth Drive and the Proposed Wallgrove Road alignment.

21. Fencing Restrictive Covenant

The creation of a restrictive covenant over Lots 1-12 that no fencing shall be erected without Council approval and that all fencing shall be in accordance with Council's Fencing Code.

22. Restriction and Covenant over the Detention Basin

The creation of a 'Positive Covenant' over the detention basin in accordance with Council's Stormwater Management Policy – September 2017 shall be submitted to the Principal Certifying Authority.

23. Restriction on Use of Land – Residue Lot

The creation of a Restriction on Use of Land over the proposed residue Lot 12 in the following term:-

"No development within the meaning of the Environmental Planning and Assessment Act 1979 shall be effected upon the lot hereby burdened unless the Detention Basin has been removed and restored to the satisfaction of Council and all outstanding contributions have been paid to Council and satisfactory arrangements have been made with the relevant service authorities for the provision of water supply, sewer, electricity and telephone.

Name of person empowered to release, vary or modify the restriction covenant:-

The Council of the City of Fairfield without the consent of any other person or persons provided that any such release, variation or modification shall, if approved, be made and done in all respects at the cost and expense of the person or persons requesting such release, variation or modification."

24. Subdivision Certificate Application

A Subdivision Certificate can only be issued by Council, except for some road widening and acquisition plans which are able to be issued by various other authorities.

All documents & certificates shall be submitted to the Principal Certifier via the NSW Planning Portal. The Subdivision Certificate Application can be found via the "Post-Consent Certificates" Tab on the home page of the Planning Portal.

The applicant must provide evidence that all conditions of consent that are required to be satisfied have been satisfied before subdivision certificate and strata certificate can be issued (where applicable).

25. Linen Plans & Administration Sheet Documents

The following documents shall be prepared by a Registered Surveyor and submitted to Council:

- a) Land & Property Information's 'Plan Form 6' and 'Plan Form 6A' (where applicable). (Torrens Title)
- b) Torrens Subdivision Plan (Linen)

If it is proposed to create easements, rights of way, restrictions or covenants, the 88B Instrument must be provided with provision for execution by the Council Authorised Person on each sheet.

A PDF copy of the endorsed Subdivision Certificate documents will be uploaded to the Planning Portal and the original copies returned to the Applicant.

26. Satisfactory Access to all Lots

Prior to the Issue of a Subdivision Certificate, the proposed subdivision development shall have satisfactory access to and from the proposed Wallgrove Road alignment.

27. Registered Surveyor Certification

Prior to the issue of a Subdivision Certificate, Written confirmation is to be provided from a Registered Surveyor stating:

- a) That easements have been created for all encroaching services connections, or alternatively that all services are contained wholly within their respective allotments.
- b) no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
- c) 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.

28. Works-as-executed plans and any other documentary evidence

Before the issue of the Subdivision Certificate, the Applicant shall submit a detailed "work as executed" drawing signed by a registered surveyor, any compliance certificates and any other evidence confirming satisfactory completion of all works completed under the related Section 138 Roads Act Approval.

The "Works As Executed" Plan must show all finished levels and details of construction in 'Red' on the stamped Civil Engineering Plans. Council will not accept "work as executed" plans with coloured highlighter markings on the plan.

29. Sydney Water Compliance Certificate

A "Section 73 Compliance Certificate" under the Sydney Water Act, 1994 must be obtained. For land subdivisions, the Certificate must refer specifically to the subdivision.

The Section 73 Compliance Certificate must be submitted to Fairfield City Council prior to the issue of the Subdivision Certificate. (Issued under Division 9, Section 73 of the Sydney Water Act, 1994.

30. Endeavour Energy Notification of Arrangement

The "Notification of Arrangement" Certificate from Endeavour Energy stating that satisfactory arrangements have been made for the provision of underground low voltage electricity installation must be obtained and submitted to Council prior to the issue of the

Subdivision Certificate.

It is considered that the provision of natural gas services is desirable to new subdivisions and in this regard, the developer is requested to liaise with Jemena, Sydney (www.jemena.com.au).

31. Telecommunications Certificate of Practical Completion

The submission of a Certificate of Practical Completion from a Telecommunications carrier as evidence that satisfactory arrangements have been made for all communications plant to be laid underground.

For further enquiries regarding the issue of the Certificate of Practical Completion, contact the NBN on 1800 687 626 or complete the online form at <https://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/submit-and-apply>.

32. Environmental Reports Certification

Prior to the issue of an Occupation Certificate, written certification from a suitably qualified person(s) shall be submitted to the Principal Certifier stating that all works/methods/procedures/control measures/recommendations approved have been completed as per the approved environmental management and mitigation measures or plans.

33. Environmental Management Plan

An Environmental Management Plan shall be prepared for the approved facility. The Plan shall be carried out by a suitably qualified environment consultant and shall address means by which the commitment in the EIS, subsequent assessment reports, approval or license conditions will be fully implemented. The EMP shall also provide a framework for managing and mitigating environmental impacts for the life of the proposal and make provisions for auditing the effectiveness of the proposed environmental protection measures and procedures.

34. Site Audit Statement & Report

Prior to consideration of development consent, a Site Audit Statement and Site Audit Report must be provided to Council from the Site Auditor that clearly states that the site is, or can be, made suitable for the intended use. The Site Audit Statement and Site Audit Report must include any restrictions or management requirements for the site.

35. Site Auditor

A NSW Environment Protection Authority accredited Site Auditor must be appointed to Audit reports compiled as part of the contaminated land assessment, remediation, and validation process.

36. Duty to Report Contamination

If the Duty to Report contamination to the NSW Environment Protection Authority under Section 60 of the *Contaminated Land Management Act 1997* is triggered, Council must be notified of the notification to the NSW Environment Protection Authority.

The process must be carried out in accordance with:

- a. Managing Land Contamination Planning Guidelines (1998),
- b. Relevant NSW EPA Guidelines, in particular NSW OEH (2011) Guidelines for Consultants Reporting on Contaminated Sites, and
- c. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013).

37. Future Developments

This consent does not include any built form on the lots. Future developments and permissible type land uses does **not** form part of this consent and would require separate approval by the relevant consent authority prior to its construction.

38. Carparking – General

The provision and maintenance of the following number of car parking spaces for future development be in accordance with Fairfield City Wide Development Control Plan, 2013 – Car Parking, Vehicle and Access Management - Chapter 12.

39. Dust Suppression

Automatic sprinkler systems shall be set up on each site. Details of the sprinkler systems should be provided prior to the commencement of operations. The applicant shall provide appropriate dust monitoring systems during the operation. The applicant should provide to Council, prior to commencement of the soil transfer operation, a monitoring protocol and performance criteria or dust monitoring. Reporting of dust suppression should be provided in progress reports.

40. Unreasonable Noise and Vibration

During construction phase, of vehicles, shall be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like. In the event of a noise or vibration problem arising at the time, the person in charge of the premises shall when instructed by Council, cause to be carried out, an acoustic investigation by an appropriate acoustical consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the recommendations of the consultant and any additional requirements of Council to Council's satisfaction.

41. NSW Protection of the Environment Operations Act 1997

The use of the premises shall operate in accordance with the *Protection of the Environment Operations Act (POEO) 1997*. All activities and operations carried out shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*.

42. Section 7.12 Levy Development Contributions

Prior to the issue of a Construction Certificate, a receipt for the payment to Fairfield City Council of Section 7.12 Levy Contributions shall be submitted to the Certifier.

The Section 7.12 Levy as determined at the date of this consent is **\$126,431.07**.

The contribution amount payable may be adjusted at the date of payment. Any unpaid contributions will be adjusted on a quarterly basis to account for movements in the Australian Bureau of Statistics, Producer Price Index – Building Construction (New South Wales).

43. Aboriginal Heritage

The Applicant must cease all works on site in the event that any Aboriginal cultural object(s) or human remains are uncovered. If human remains are uncovered, you must immediately stop work, not further disturb the remains and notify NSW Police.

OEH and the Aboriginal community must be contacted if the remains are suspected to be of Aboriginal origin. If other Aboriginal objects are discovered, you must immediately stop work, not further disturb the objects and notify OEH by calling Environment Line on 131 555.

Works must not resume in the designated area until the relevant written consent is received from NSW Police and/or OEH. Any Aboriginal objects discovered must be registered on the Aboriginal Heritage Management Information System (AHIMS), in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

44. Natural Resources

I. Construction Environmental Management Plan

To avoid and minimise potential impacts of the proposal on biodiversity values, a series of mitigation and management measures have been included as part of the BDAR in section 5.3. These are to be included as part of the construction environmental management plan (CEMP) for the site.

- Standard CEMP protocols– including site inductions and dust suppression measures.
- Vegetation protection – including protective fencing to prevent impacts to surrounding vegetation, vehicle washing to avoid spread of pathogens/weeds, appropriate locations of stockpiles during construction and installation of sediment fences.
- Weeds – including weed management actions/planning, weed propagule spread control measures and sediment control.
- Fauna habitat – including hygiene protocol implementation, presence of an ecologist during clearing, staged vegetation clearing and protocols for the removal of hollow-bearing trees and other habitat features.
- Water quality and aquatic habitats – including erosion and sediment control measures, plans and surface stabilisation, dust control, spill kits and protocols.
- Ongoing management of priority weeds according to statutory requirements.
- Ongoing water quality management.
- Measures to reduce the increased risk of fire.
- Prescribed fencing requirements as per BDAR
- Ecologically sensitive street lighting design.

II. Landscape Plan

A revised landscape plan shall be approved by a qualified consultant ensuring that:

- Species identified as potentially having an impact on adjacent bushland are not included (see NSW WeedWise and Sydneyweeds.org.au);
- Nursery hybrids of locally occurring native species are not planted,
- In compliance with chapter 3 - 3.3 designing to minimise impact on biodiversity and Appendix F of the Fairfield City Wide Development Control Plan 2013.

III. **Biodiversity impact management**

Potential light pollution – the environmental management plan shall demonstrate steps on how they will manage, monitor and mitigate impacts of light spill on **native fauna** following the national light pollution guidelines for wildlife.

Biodiversity Development Assessment Report- Development conditions from the section 5.3 mitigation measures from the BDAR Report.

Evidence of retired credits - Retirement of the offset credits outlined in the BDAR shall be demonstrated in a credit report prior to construction.

45. **Construction Traffic Management Plan**

Prior to the commencement of any works, the Applicant must prepare a Construction Traffic Management Plan (CTMP) for the development to the satisfaction of the Planning Secretary. The plan must form part of the CEMP must:

- be prepared by a suitably qualified and experienced person(s);
- be prepared in consultation with Council;
- detail the measures that are to be implemented to ensure road safety and network efficiency during construction;
- detail heavy vehicle routes, access and parking arrangements;
- include a Driver Code of Conduct to:
 - minimise the impacts of earthworks and construction on the local and regional road network;
 - minimise conflicts with other road users;
 - minimise road traffic noise; and
 - ensure truck drivers use specified routes;
- include a program to monitor the effectiveness of these measures; and
- if necessary, detail procedures for notifying residents and the community (including local schools), of any potential disruptions to routes.

46. **Access**

Prior to the commencement of construction, the Applicant must submit design plans and swept path analysis in consultation with Council and to the satisfaction of the Certifier which demonstrates the internal road:

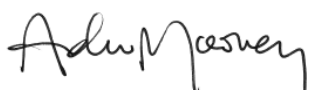
- designed to accommodate the turning path of the largest approved heavy vehicle and to avoid vehicle conflicts to the overall development;
- the longest vehicle entering and exiting the site, as well as manoeuvrability through the site;
- the development does not result in any vehicles queuing on the public road network; and
- designed to be consistent with the most recent version of the relevant AUSTROADS guidelines.

47. Traffic Management Plan

A Traffic Management Plan is required to be submitted to Council for assessment given that under the forecasted conditions there will be significant increase in traffic movements (568 vehicle trips during the peak hour of the day) travelling to and from the site potentially impacting the adjoining external road network. The purpose of the Traffic Management Plan is to outline how the increase in traffic movements can be accommodated within the site without adversely impacting the surrounding road network (traffic and pavement impacts).

Should you have any questions in relation to the contents of this correspondence please contact Kerren Ven on 9725 0858.

Yours faithfully,



Andrew Mooney
Acting Manager, Strategic Land Use Planning