

# Development Consent

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

As delegate of the NSW Independent Planning Commission, I approve 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;
- set requirements to be met in future development applications;
- require regular monitoring and reporting;
- provide for the ongoing environmental management of the development; and
- modify SSD-5175 to ensure consistency between the development and the existing concept proposal.

Amy Watson

**A/Director**

**Key Sites Assessments**

Sydney

24 April 2023

File: EF20/21334

***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.***

**SCHEDULE 1**

<b>Application Number:</b>	SSD-10457
<b>Applicant:</b>	Frasers Property Retail Holdings Pty Ltd
<b>Consent Authority:</b>	Independent Planning Commission
<b>Site:</b>	Lot 3 of the Eastern Creek Business Hub 141 Rooty Hill Road South, Eastern Creek, Blacktown  Lot 12 DP 1245264, Lot 1 DP 1260111 and Lot 101 DP 581882
<b>Development:</b>	<p>A Concept Proposal with 39,500 m<sup>2</sup> of gross floor area in two stages with:</p> <ul style="list-style-type: none"><li>• a retail outlet centre and ancillary uses</li><li>• site layout and building height plane</li><li>• site specific design guidelines</li><li>• concept landscape design</li><li>• concept road upgrades.</li></ul> <p>Stage 1 early works consisting of:</p> <ul style="list-style-type: none"><li>• site subdivision</li><li>• tree and vegetation clearing</li><li>• temporary early bulk earthworks</li><li>• extension of Goldsbro Glade to Lot 3.</li></ul>

## CONSOLIDATED CONSENT

### SUMMARY OF MODIFICATIONS

Application Number	Determination Date	Decider	Modification Description
SSD 10457 MOD 1	25 August 2023	Team Leader	Correct minimum setbacks specified in Condition A29 and B2.
SSD 10457 MOD 2	20 December 2023	Team Leader	Western extension of basement car park up to 25 m and amendments to bulk earthworks, including cut and fill

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**DEFINITIONS**

<b>AEP</b>	Annual Exceedance Probability
<b>Applicant</b>	Frasers Property Retail Holdings Pty Ltd, or any person carrying out any development to which this consent applies
<b>BCA</b>	Building Code of Australia
<b>Certifying Authority</b>	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
<b>Conditions of this consent</b>	Conditions contained in Schedules 2, 3 and 4 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 bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
<b>Council</b>	Blacktown City Council
<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 deconstruction and removal of buildings, sheds and other structures on the site
<b>Department</b>	NSW Department of Planning and Environment
<b>Design Guidelines</b>	Eastern Creek Business Hub Design Guidelines – Lot 3, dated July 2022, as amended by Condition B2
<b>Design Guidelines (SSD-5175)</b>	Eastern Creek Business Hub Design Guidelines, dated July 2022, as amended by Condition B2
<b>Development</b>	The development described in Schedule 1, the EIS and Response to Submissions, including the works and activities comprising vegetation removal, bulk earthworks and construction of civil works, as modified by the conditions of this consent.
<b>EHG</b>	Environment and Heritage Group
<b>EIS</b>	The Environmental Impact Statement titled Eastern Creek Quarter Stage 3 Concept Plan – Outlet Centre, prepared by Ethos Urban dated 21 December 2020, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
<b>ENM</b>	Excavated Natural Material
<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 Note: “material harm” is defined in this consent
<b>Land</b>	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
<b>Material harm</b>	Is harm that: <ul style="list-style-type: none"> <li>involves actual or potential harm to the health or safety of human beings 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 (or delegate)
<b>Non-compliance</b>	An occurrence, set of circumstances or development that is a breach of this consent
<b>Planning Secretary</b>	Planning Secretary under the EP&A Act, or nominee
<b>POEO Act</b>	<i>Protection of the Environment Operations Act 1997</i>

## CONSOLIDATED CONSENT

<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>Response to submissions</b>	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act
<b>Retail outlet premises</b>	Means a premises which is primarily used for the purpose of selling discounted, factory seconds, direct to outlet, out-of-season, samples or surplus stock. A retail outlet retail premises does not include a supermarket, food and drink premises or a business premises

**SCHEDULE 2 - CONCEPT DEVELOPMENT APPLICATION**  
**PART A ADMINISTRATIVE CONDITIONS FOR CONCEPT DEVELOPMENT APPLICATION**

**DEVELOPMENT DESCRIPTION**

- A1. Consent is granted to the Concept Development Application and Stage 1 works detailed in Schedule 1 and the Environmental Impact Statement (EIS), as amended by the Response to Submissions (RtS), all additional information provided for SSD-10457 and as amended by the conditions contained within this consent.

**OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT**

- A2. 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**

- A3. The Applicant, acting on this consent, must carry out the development:
- (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 and as amended by the RtS and additional information
  - (d) in accordance with the management and mitigation measures
  - (e) in accordance with the following approved SSD-10457 concept drawings listed in the table below, except as amended by the conditions of this consent
  - (f) in accordance with SSD-5175 (as modified by Schedule 3) and the list of approved drawings in this consent, as amended at the date of this consent, except as amended by **Conditions A16 to A18** of this part, modifying conditions in **Schedule 3** of this consent and the conditions of this consent.
  - (g) **in accordance with the modification application SSD 10457 MOD 1 titled 'Section 4.55(1) Modification Application – Setback from Rooty Hill Road South' (14 June 2023)**
  - (h) **in accordance with the modification application SSD 10457 MOD 2 titled 'Section 4.55(1A) Modification Application – Amendment of Concept Basement Footprint' (13 September 2023)**

Concept Plans prepared by i2C			
Plan Number	Plan Title	Revision	Date
SK40.21 <b>SK40.21(A)</b>	Masterplan	-	29.07.2022 <b>08.09.2023</b>
SK40.4	Pedestrian Access	-	29.07.2022
SK40.6	Enabling Infrastructure Plan	-	29.07.2022
SK40.7	Structure Plan	-	29.07.2022
SK40.8	Superlot	-	29.07.2022
SK40.9	Landscape Masterplan	-	29.07.2022
Concept civil plans prepared by henry & hymas			
Plan Number	Plan Title	Revision	Date
20224_DA_BE01	Cut and fill plan	02	21/12/2020

<u><b>ECQ-C-BE50</b></u>	<u><b>Bulk earthworks – early works cut and fill plan</b></u>	<u><b>01</b></u>	<u><b>13/09/2023</b></u>
20224_DA_BE02	Bulk earthworks sections	04	19/11/2020
<u><b>ECQ-C-BE51</b></u>	<u><b>Bulk earthworks – early works site sections sheet 1 of 2</b></u>	<u><b>01</b></u>	<u><b>13/09/2023</b></u>
<u><b>ECQ-C-BE52</b></u>	<u><b>Bulk earthworks – early works site sections sheet 2 of 2</b></u>	<u><b>01</b></u>	<u><b>13/09/2023</b></u>
20224_DA_C100	General arrangement plan on ground level	02	22/12/2020
20224_DA_C101	Detail civil plan, sheet 1 of 6	02	22/12/2020
20224_DA_C102	Detail civil plan, sheet 2 of 6	02	22/12/2020
20224_DA_C103	Detail civil plan, sheet 3 of 6	02	22/12/2020
20224_DA_C104	Detail civil plan, sheet 4 of 6	02	22/12/2020
20224_DA_C107	Detail civil plan – basement, sheet 1 of 3	02	22/12/2020
20224_DA_C108	Detail civil plan – basement, sheet 2 of 3	02	22/12/2020
20224_DA_C109	Detail civil plan – basement, sheet 3 of 3	02	22/12/2020
20224_DA_C110	Typical site sections, sheet 1 of 3	04	20/11/2020
20224_DA_C111	Typical site sections, sheet 2 of 3	04	20/11/2020
20224_DA_C112	Typical site sections, sheet 3 of 3	04	20/11/2020
<u><b>ECQ-C-201</b></u>	<u><b>Detail Plan – Church Street, Sheet 1 of 2</b></u>	<u><b>03</b></u>	<u><b>13/10/2023</b></u>
<u><b>ECQ-C-202</b></u>	<u><b>Detail Plan – Church Street, Sheet 2 of 2</b></u>	<u><b>03</b></u>	<u><b>13/10/2023</b></u>
<u><b>ECQ-C-203</b></u>	<u><b>Detail Plan – Ground Level, Sheet 1 of 4</b></u>	<u><b>01</b></u>	<u><b>08/09/2023</b></u>
<u><b>ECQ-C-204</b></u>	<u><b>Detail Plan – Ground Level, Sheet 2 of 4</b></u>	<u><b>01</b></u>	<u><b>08/09/2023</b></u>
<u><b>ECQ-C-205</b></u>	<u><b>Detail Plan – Ground Level, Sheet 3 of 4</b></u>	<u><b>01</b></u>	<u><b>08/09/2023</b></u>
<u><b>ECQ-C-206</b></u>	<u><b>Detail Plan – Ground Level, Sheet 4 of 4</b></u>	<u><b>01</b></u>	<u><b>08/09/2023</b></u>
<u><b>ECQ-C-207</b></u>	<u><b>Detail Plan – Basement Level, Sheet 1 of 4</b></u>	<u><b>01</b></u>	<u><b>08/09/2023</b></u>
<u><b>ECQ-C-208</b></u>	<u><b>Detail Plan – Basement Level, Sheet 2 of 4</b></u>	<u><b>01</b></u>	<u><b>08/09/2023</b></u>
<u><b>ECQ-C-209</b></u>	<u><b>Detail Plan – Basement Level, Sheet 3 of 4</b></u>	<u><b>01</b></u>	<u><b>08/09/2023</b></u>
<u><b>ECQ-C-209a</b></u>	<u><b>Detail Plan – Basement Level, Sheet 4 of 4</b></u>	<u><b>01</b></u>	<u><b>08/09/2023</b></u>
<b>Concept Intersection Design plans prepared by henry &amp; hymas</b>			
<b>Plan Number</b>	<b>Plan Title</b>	<b>Revision</b>	<b>Date</b>
20543_CON_C651	Intersection Layout – Concept Linemarking Plan	7	23.11.22
20543_CON_C651a	Intersection Layout – Concept Proposed Driveway	1	21.11.22
20543_CON_C690	Intersection Layout – Concept Turning Paths	7	23.11.22
20543_CON_C692	Intersection Layout – Concept Turning Paths 3 of 3	4	23.11.22
20543_CON_C693	Intersection Layout – Concept Driveway Locations	2	23.11.22



Landscape Concept Plans			
Plan Number	Plan Title	Revision	Date
-	Eastern Creek Quarter Masterplan	E	Aug 2021
-	Landscape Masterplan	E	Aug 2021
-	Church Street Section	E	Aug 2021
-	Analysis Diagrams	E	Aug 2021
-	Existing Tree Strategy	E	Aug 2021
-	Plaza Activation	E	Aug 2021
-	Planting Palette	C	May 2021

#### DIRECTIONS BY THE PLANNING SECRETARY

- A4. 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 Schedule 2, Condition A4(a).
- A5. 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 Schedule 2, Condition A3(c) or Schedule 2, Condition A3(d). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in Schedule 2, Condition A3(c) Schedule 2, Condition A3(d), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

#### DETERMINATION OF FUTURE DEVELOPMENT APPLICATIONS

- A6. In accordance with section 4.22 of the EP&A Act, all physical works and subsequent stages of the development, except for those approved by Stage 1 of this consent, are to be subject to future development applications.

In accordance with section 4.24 of the EP&A Act, the determination of future development applications cannot be inconsistent with the terms of this development consent (**SSD-10457**) as described in Schedule 1 and subject to the conditions in Schedule 4, or the existing Concept Approval for the Eastern Creek Business Hub (**SSD-5175**), as amended by the modifications in Schedule 3.

#### STAGING

- A7. Future development applications are to be staged as follows:
- (a) Phase A – the first stage of the outlet centre comprising approximately 29,500 m<sup>2</sup> of GFA, recreation areas, car parking and external infrastructure upgrades including the realignment of Church Street, new signalised intersection and a new shared cycle path
  - (b) Phase B – the remainder of the outlet centre comprising the balance of the GFA.

#### LIMITS OF CONSENT

- A8. This consent will lapse five years from the date the consent is published on the NSW planning portal unless an application is submitted to carry out a stage of development for which concept approval has been given.
- A9. This consent does not approve the following:

- (a) the construction of any building
- (b) the installation of signage
- (c) any vegetation clearing on the northern side of Church Street.

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

A10. 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. The Planning Secretary's resolution of the matter will be binding on the parties.

#### **LEGAL NOTICES**

A11. 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**

- A12. 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.

#### **COMPLIANCE**

A13. 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.

#### **APPLICABILITY OF GUIDELINES**

- A14. 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.
- A15. 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.

#### **RELIANCE ON PREVIOUS CONCEPT PROPOSAL SSD-5175**

A16. This consent also relies on and must be read in conjunction with the consent for SSD-5175, as modified by Schedule 3 of this consent, pursuant to Section 4.17(1)(b) and (c) of the EP&A Act.

#### **AMENDMENT OF STATE SIGNIFICANT DEVELOPMENT APPLICATION SSD-5175**

- A17. The Applicant must submit a notice of modification to the Planning Secretary that complies with Clause 67 of the EP&A Regulation 2021 within three months of the date of this determination. The notice must set out the modifications to conditions in SSD-5175 that are listed in Schedule 3 of this consent.
- A18. The approved drawings for SSD-5175 (as modified) shall be modified and/or replaced by the approved drawings approved by SSD-10457 as set out at Schedule 2, Condition A3 and Schedule 4, Condition A3 of this consent to the effect that the works approved under SSD-10457 prevail.

## INCONSISTENCY BETWEEN DOCUMENTS

- A19. In the event of any inconsistency between the conditions of this approval and the drawings/documents referred to in Schedule 2, Condition A3, the conditions of this approval prevail.

## SUBMISSION OF MANAGEMENT PLANS, STRATEGIES AND CERTIFICATES

- A20. Any document, plan, strategy or certificate required to be provided to the Secretary by the conditions of this consent or the requirements or under Part 6 of the EP&A Act must be done so through the Major Projects Planning Portal.

## GROSS FLOOR AREA

- A21. The maximum gross floor area (GFA) permitted on the site is 39,500m<sup>2</sup>.
- A22. This consent permits the following uses and GFAs on Lot 3 provided by Schedule 2, Condition A21 in the table below:

Approved Land Use	Maximum GFA (m <sup>2</sup> )
Retail outlet premises	26,000
Recreation facility (indoor) / Recreation facility (outdoor) / Amusement Centre	1,800
Food and drink / speciality shop	2,200
Circulation / amenities	9,500
<b>Total</b>	<b>39,500</b>

## RETAIL OUTLET USE

- A23. The Applicant must ensure the overall development operates as a **Retail Outlet Premises** as defined by this consent.
- A24. Each future tenancy proposed for a retail outlet premises use must comply with the following:
- A minimum of 70% of stock for sale in a given premises within the overall retail outlet premises is discounted from its ordinary retail price or recommended retail price, for reasons including but not limited to:
    - being out-of-stock
    - factory seconds
    - samples
    - discontinued or surplus stock; and
  - Each tenancy must display highly visible signage and/or promotional material distinguishing the tenancy as a retail outlet premises.

## BUILDING HEIGHT CONTROL

- A25. The maximum permitted height of future development on the site is 12 m from the finished bulk earthworks level, except as otherwise allowed by Condition A26Error! Reference source not found..
- A26. Roof mounted plant and equipment may exceed the 12 m height control by a maximum of 3 m subject to the requirements of Condition C6 being met.

## CAR PARKING

- A27. The proposal shall provide car parking in accordance with the minimum rates specified in the Design Guidelines dated July 2022, as amended by Condition B2.

- A28. One percent of the total number of car parking spaces required by Condition A27 must be provided as accessible parking spaces in accordance with AS NZS 2890.6-2009 – Accessible (Disabled) Car Parking Requirements.

## SETBACKS

- A29. The development must provide the following minimum setbacks for future works, excluding the setback when measured from the proposed Church Street turning head:

Location	Setback required (m)
Rooty Hill Road South (Landscape)	20
Rooty Hill Road South (Building)	39
Church Street (Landscape)	10
Church Street (Building (excluding basement))	48 (Phase A) 30 (Phase B)
Church Street (basement/undercroft)	
Eastern site boundary (Building)	Refer to <b>Condition A30</b>
Southern site boundary abutting Lot 2 (Building)	0

## BUSHFIRE PROTECTION AND MANAGEMENT

- A30. A variable building setback between any future development on Lot 3 and bushfire hazards must be provided for fire truck access through a combination of on-site and/or off-site APZs between Lots 3 and 4 as follows:
- (a) north-eastern elevation of Phase B – 12 metres
  - (b) the extent of the eastern elevation of Phase A – 5 metres
  - (c) the extent of the eastern elevation of Phase B – 7 metres
  - (d) the extent of the south-eastern elevation of Phase A – 9 metres
- Notwithstanding the above, all setbacks must comply and be managed in accordance with the relevant sections of *Planning for Bushfire Protection 2019*.
- A31. The development must provide adequate space to provide perimeter access road for fire truck access along the entire length of the outside edge of the eastern Lot 3 property boundary. The access road:
- (a) may be constructed partially or wholly on Lot 4
  - (b) must comply with the standards for non-perimeter roads under Table 5.3b of *Planning for Bushfire Protection 2019*.
- A32. All water, electricity and gas services provided to the site must comply with Table 7.4a of *Planning for Bushfire Protection 2019*.
- A33. The Applicant must ensure the entire site of Lot 3 and the easements on its eastern boundary shared with Lot 4 are managed in perpetuity as an Inner Protection Area in accordance with Appendix 4 of *Planning for Bushfire Protection 2019*

## END OF SCHEDULE 2, PART A

## PART B CONDITIONS TO BE MET PRIOR TO THE LODGEMENT OF FUTURE DEVELOPMENT APPLICATIONS

### AMENDMENTS TO CONCEPT PLANS

- B1. Within two months of the determination of SSD-10457, the Applicant shall submit and obtain the Planning Secretary's approval of the following amended plans:
- (a) the Landscape Masterplan, SK40.9, dated 29.07.2022 shall be updated to reflect the stormwater basin to the east of Lot 3
  - (b) the Enabling Infrastructure Plan, SK40.6, dated 29.07.2022 shall be updated to remove the inset plan and annotation of the upgrade to the Francis Street, Eastern Road and Rooty Hill Road South intersection.

### AMENDMENTS TO DESIGN GUIDELINES

- B2. Within two months of the determination of SSD-10457, the Applicant shall update the Design Guidelines – Lot 3 dated July 2022 to the satisfaction of the Secretary addressing the following matters:
- (a) Section 3.1.2, insert new control C7 as follows:
    - C7.** A clear and direct external pedestrian connection is to be provided from Church Street, through the car park and building on Lot 3, to the recreation/landscaped area on Lot 2.
    - C8.** The portion of the pedestrian connection which is within the building footprint on Lot 3 must achieve the following design principles:
      - provides a minimum 8 m wide unobstructed circulation width
      - achieves a balance between weather protection and visual/physical connections to the sky, including consideration of operable roof elements, skylights or the like
      - is open at both ends and maximises natural ventilation, including consideration of operable facades and roof elements and mixed-mode air conditioning.
  - (b) Section 3.5.5, insert new control C7 as follows:
    - C7.** Maximise the use of light coloured facades and roofs to limit heat gain.
  - (c) Section 3.5.6, amend control C9 as follows:
    - C9.** Parking areas must incorporate mature tree canopy plantings and other landscaping which meets Planning for Bushfire Protection 2019 requirements.
  - (d) Section 3.5.12, amend control C2 as follows:
    - C2.** Roof plant must be no more than 3 m in height above the highest adjacent roofline and/or no more than 15 m in height in height measured from the approved ground level, whichever results in a lower built form
  - (e) Section 3.5.15, insert new setback control C3 as follows:
    - C3.** 39 m minimum building setback from Rooty Hill Road South

## PART C CONDITIONS TO BE SATISFIED IN FUTURE DEVELOPMENT APPLICATIONS

### BUILT FORM AND URBAN DESIGN

- C1. Future development application(s) (Das) shall demonstrate consistency with the Design Guidelines, as amended by the Condition B2 in Part B of this Schedule.
- C2. Future Das for the construction of buildings shall include plans, elevations and sections to sufficiently detail the design, including height, setback, gross floor area, modulation and articulation of all buildings.
- C3. Future Das for the construction any built form must include photomontages from the perspectives presented in the EIS and from vantage points from nearby residential properties at Beggs Road and on the western side of Rooty Hill Road South.
- C4. The future DA for Phase A on Lot 3 must provide a clear and direct external pedestrian connection from Church Street through the car park and building on Lot 3, to the recreation/landscaped area on Lot 2.

### BUILDING HEIGHT

- C5. Future Das must demonstrate that future built form is consistent with a 12 m height plane from the finished floor level.
- C6. Future Das must demonstrate that any roof mounted plant and equipment:
  - (a) is no taller than 3 m in height above the highest adjacent roof line; or 15 m in height measured from the approved ground level; and
  - (b) is sited and adequately screened to minimise the external appearance from the street, nearby residential dwellings and regional vantage points.

### GROSS FLOOR AREA DISTRIBUTION PLAN

- C7. Future Das must include a floorplan showing the how the GFA permitted under Condition A21 of this Schedule and the land uses approved by this consent are proposed to be distributed on Lot 3.

### TRAFFIC, ACCESS AND PARKING

- C8. Future Das on Lot 3 shall be accompanied by a traffic and transport assessment that:
  - (a) assess the traffic impacts on the surrounding road network and intersection capacity, including SIDRA modelling
  - (b) include appropriate swept path analysis for vehicle types and movements associated with supporting road upgrades
  - (c) has regard to the scope and timing of road infrastructure works in the surrounding road network
  - (d) demonstrates sufficient loading/unloading and access has been provided having regard to RMS's Guide to Traffic Generating Developments
  - (e) minimises conflicts with service traffic from the Church Street loading access point and the access road to The Rooty Hill for all future stages of development, included design amendments, where necessary
  - (f) confirming that car parking in accordance with **Schedule 2, Conditions A27 and A28** will be provided on-site.
  - (g) detail measures to promote non-car travel modes.

### UPGRADE OF THE ROOTY HILL ROAD SOUTH / CHURCH STREET / AGNES AVENUE INTERSECTION

The following Transport for NSW requirements must be addressed as part of the future DA for Phase A on Lot 3.

- C9. Prior to the issue of any Occupation Certificate for Phase A, the Applicant must construct the proposed upgrade of the signalised intersection of Rooty Hill Road South and Church Street and St Agnes Avenue (including the activation of the traffic control signals by TfNSW).

- C10. Prior to the issue of a Construction Certificate for Phase A and/or the commencement of any works on Rooty Hill Road South, the applicant must prepare and submit the Traffic Control Signals plan (TCS Plan) to TfNSW to obtain the Agreement In-Principle for the proposed signalised intersection of Rooty Hill Road South and Church Street and St Agnes Avenue.
- The TCS Plan must show the relocation of the driveway servicing 134 Rooty Hill Road South to St Agnes Avenue in accordance with drawing '20543\_CON\_C651' revision 7 dated 23.11.22, prepared by Henry & Hymas.
- The TCS Plan shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.
- C11. Prior to the issue of a Construction Certificate for Phase A and/or the commencement of the construction works for the proposed signalised intersection of Rooty Hill Road South and Church Street and St Agnes Avenue, the applicant must enter into a Works Authorisation Deed (WAD) with TfNSW and obtain TfNSW's approval under section 87 of Roads Act 1993. The WAD must also detail the relocation of the bus stop along Rooty Hill Road South.
- The applicant must submit the TCS Plan and civil design plans for the intersection and road works on Rooty Hill Road South to TfNSW for review and approval.
- The submitted designs must comply with the Austroads Guide to Road Design in association with relevant TfNSW supplements.
- The applicant should submit the TCS Plan and civil design plans to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au).
- The applicant must pay all TfNSW's fees for administration, plan checking, civil works inspections and project management prior to the commencement of works.
- C12. Prior to the construction of the proposed new driveway crossover on St Agnes Avenue, Eastern Creek servicing the property known as No. 134 Rooty Hill Road South, Eastern Creek (also described as Lot 60 in DP1204566 – 'No 134'), the applicant must provide an evidence to TfNSW's satisfaction that the applicant has entered into an agreement with the owner(s) of No. 134 regarding the proposed tie-in of the proposed driveway crossover works in the public road reserve to the existing paved areas within No. 134.
- Driveway (vehicular) access to and from No 134 must be maintained at all times (subject to any approved construction traffic management plans). The proposed new driveway must be constructed prior to the demolition of the existing driveway.
- The existing/redundant driveway crossover from Rooty Hill Road South must be removed and replaced with kerb and gutter to match existing promptly upon completion of the construction of the proposed new driveway on St Agnes Avenue (and any tie-in works within No 134).
- C13. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- C14. Prior to the commencement of any works associated with the intersection upgrade, the application must submit detailed design plans and hydraulic calculations of any changes to the stormwater drainage system to TfNSW for TfNSW's approval. Documents should be submitted to [Development.Sydney@transport.nsw.gov.au](mailto:Development.Sydney@transport.nsw.gov.au).
- A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.
- C15. Future Das must demonstrate that all construction vehicles are contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Rooty Hill Road South.
- C16. Future Das must demonstrate consideration of pedestrian safety and any necessary measures to maintain or improve pedestrian safety

## UPGRADE OF THE ROOTY HILL ROAD SOUTH / GOLDSBRO GLADE / CABLE PLACE INTERSECTION

C17. The future DA for Phase A on Lot 3 must include details to upgrade Goldsbro Glade from the internal site roundabout to Rooty Hill Road South to three lanes, comprising one dedicated right turn lane, one shared right turn/through lane and one dedicated left turn lane as shown on Drawing 15766\_CON\_C000, 'Proposed intersection layout', rev 01, dated 19/5/2020, prepared by Henry & Hymas.

The DA must include an updated Traffic Control Signal Plan, civil plans, swept paths up to and including the largest vehicle type to use the upgraded lanes, a stormwater management plan and hydraulic calculation.

C18. The Goldsbro Glade / Rooty Hill Road South / Cable Place intersection upgrade required by Condition C17 of this schedule must be:

- (a) constructed prior to the issue of any Occupation Certificate for Lot 3
- (b) approved by TfNSW in accordance with section 87 of the *Roads Act 1993*
- (c) subject to a Works Authorisation Deed (WAD) with TfNSW.

## CHURCH STREET WIDENING

C19. The future DA for Phase A on Lot 3 must include construction details to widen Church Street to Councils Industrial Road – Other construction standard to provide two travel lanes with parking on both sides with the following formation detailed below:

Footpath width (m)	Carriageway (m)	Footpath width (m)	Total Road Reserve (m)	Traffic loading N(E.S.A)
3.5	13.5	3.5	20.5	1 x 10 <sup>7</sup>

C20. The Church Street Road widening must demonstrate consistency with the concept design of the Rooty Hill Road South and Church Street intersection and:

- (a) detail proposed line marking
- (b) detail parking restrictions and/or signposting to maintain clear sightlines
- (c) detail a road shoulder for the full road frontage of the development, including drainage, kerb and gutter, footway turfing, service adjustments and any other ancillary work
- (d) detail the replacement of the redundant layback and footway crossing with Council's standard kerb and gutter. The footway area shall be restored with turf in accordance with Council's specifications
- (e) demonstrate compliance with the standards for perimeter roads in Table 5.3B of *Planning for Bushfire Protection 2019*.

## BEGGS ROAD ACCESS AND DESIGN

C21. The future DA for Phase A on Lot 3 must detail the alignment and kerb radius of Beggs Road which:

- (a) complies with relevant Austroads Guide to Road Design Standards
- (b) is consistent with the alignment shown on the plan titled *Intersection Layout-Concept Linemarking Plan*, 2054\_CON\_C651, Revision 7, dated 23.11.22 prepared by Henry & Hymas.

## BIODIVERSITY OFFSET STRATEGY

C22. Future DA(s) on Lot 3 must include a Biodiversity Development Assessment Report which confirms that no more than:

- (a) 16 ecosystem credits for the Cumberland Shale Plains Woodland (Plant Community Type (PCT) Grey Box – Forest Red Gum, grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion
- (b) 6 species credits for the Cumberland Plain Land Snail (*Meridolum corneovirens*),



calculated in accordance with the NSW Biodiversity Offset Scheme and *Biodiversity Conservation Act 2016*, are required to offset the removal of vegetation associated with the future upgrade of the Rooty Hill South / Church Street / St Agnes Avenue intersection.

## **SHARED PATHS**

- C23. The future DA for Phase A on Lot 3 must include details for the construction of the shared pedestrian paths and any access gates from:
- (a) from the corner of Rooty Hill Road South and Church Street connecting to the M7 Motorway cycleway at the eastern end of Lot 3.
  - (b) the corner of Church Street and Rooty Hill Road South, over Beggs Road and to the existing shared pathway along the Rooty Hill Road South frontage of Lot 2.
  - (c) The design of the shared path along the entire Rooty Hill Road South frontage of Lot 3 and Lot 2 are to avoid existing tree and verge planting where possible.
- C24. The future DA for Phase A on Lot 3 must investigate the provision of an upgraded shared path along the existing sealed road from the eastern end of Lot 3 to the existing cycle path connection to the M7 Motorway, in consultation with Council, the Western Sydney Parklands Trust and other relevant stakeholders. The investigation must:
- (d) detail land ownership and consent requirements, design process/es, responsibilities, funding mechanisms and timing for on and off-site works
  - (e) explore design options to avoid existing trees and the revegetation area on Lot 4 either by placing the shared path within the corridor or along the northern edge of the existing sealed road.

## **GREEN TRAVEL PLAN**

- C25. Future Das on Lot 3 must include a Green Travel Plan (GTP) prepared by a suitably qualified traffic consultant. The GTP must:
- (f) include objectives and modes share targets (i.e. site and land use specific, measurable and achievable and timeframes for implementation) to define the direction and purpose of the GTP
  - (g) include specific tools and actions to help achieve the objectives and mode share targets.

## **CYCLE PARKING AND END OF TRIP FACILITIES**

- C26. Future Das on Lot 3 must include details demonstrating bicycle parking spaces and end of trip facilities are provided in accordance with the Design Guidelines and the following rates:
- (a) 0.3 to 0.4 spaces per 100 m<sup>2</sup> of GLA for visitors
  - (b) 0.07 to 0.1 spaces per 100 m<sup>2</sup> of GLA for employees
  - (c) end of trip facilities in accordance with AUSTROAD Guidelines.

## **WAYFINDING AND EXTERNAL SIGNAGE**

- C27. The future DA for Phase A on Lot 3 must include details of:
- (a) site wayfinding signage to orientate staff and visitors of The Rooty Hill heritage site
  - (b) wayfinding signage to the M7 cycle path.

## **OPERATIONAL NOISE**

- C28. Future Das on Lot 3 must include a noise assessment in accordance with the EPA's Noise Policy for Industry (2019). The noise assessment must:
- (a) demonstrate the standalone and cumulative operation of the development complies with the project noise criteria
  - (b) does not result in offensive noise as defined by the POEO Act at nearby residential receivers
  - (c) consider the operation of roof mounted plant and equipment

- (d) include details of loading dock operations, including hours of operation, number of movements, vehicle types and management procedures
- (e) include mitigation measures, where necessary to address any predicted noise levels above the project noise criteria.

## CONSTRUCTION

- C29. Future Das on Lot 3 must analyse and address the construction impacts of future stages of development and include:
- (a) Construction Traffic Management Plan, detailing predicted vehicle movements, routes, hours, access and parking during construction, traffic control and how impacts on pedestrian and bicycle networks will be managed
  - (b) Noise and Vibration Impact Assessment, addressing noise and vibration impacts during construction
  - (c) Construction Waste Management Plan, addressing waste during construction
  - (d) Air Quality Management Plan, addressing air quality during construction
  - (e) Water Quality Impact Assessment and an erosion and sediment control plan (including water discharge considerations) in accordance with Managing Urban Stormwater, Soils and Construction (Landcom 2005)
  - (f) Acid Sulphate Soil Assessment and Management Plan
  - (g) Salinity Assessment and Management Plan.

## BUSHFIRE

- C30. Future Das on Lot 3 must demonstrate compliance with the relevant provisions of *Planning for Bushfire Protection (PBP) 2019* and the asset protection zones detailed in the Bushfire Protection Assessment – Direct Factory Outlet – Eastern Creek Quarter Stage, prepared by Ecological Australia dated 21 December 2020 and the Addendum to Bushfire Protection Assessment (BPA) – Eastern Creek Retail Centre (SSD-10457), prepared by Ecological, dated 2 August 2022.
- C31. Future Das on Lot 3 must demonstrate:
- (a) any new construction except for the sites western elevation(s), compliance with a bushfire Attack Level (BAL) 40 Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas – 2014 as appropriate, and Section 7.5 of *Planning for Bush Fire Protection 2019*
  - (b) any new construction on the western elevation(s) of the site, compliance with a BAL 29 Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas – 2014 as appropriate, and Section 7.5 of *Planning for Bush Fire Protection 2019*
  - (c) any proposed BCA/NCC class 10b structures must be non-combustible.
- C32. Future Das on Lot 3 must detail that the perimeter access road along the eastern boundary of the site that interface with a bushfire hazard must comply with the standards for non-perimeter roads under Table 5.3b of *Planning for Bushfire Protection 2019*.

## HOURS OF OPERATION

- C33. Future Das on Lot 3 must detail:
- (a) the hours of operation for each use approved under this consent
  - (b) the hours of operation for loading docks.

## LANDSCAPING

- C34. Future Das on Lot 3 must include detailed landscape plans identifying the vegetation to be removed and the location of any additional landscaping, and must be generally in accordance with the landscape

and public domain principles and development guidelines in the Design Guidelines dated July 2022 titled *Eastern Creek Business Hub Design Guidelines – Lot 3*.

- C35. The detailed landscape required by Condition C34 must include relevant details of the species to be used in the various landscape areas (preferably species indigenous to the area) and other soft and hard landscape treatments, including any pavement areas.
- C36. Landscaping works within Lot 3 and easements for APZs subject to future development applications must comply with Appendix 4 of *Planning for Bushfire Protection 2019*.

#### **ENVIRONMENTAL PERFORMANCE / ESD**

- C37. Future detailed Das on Lot 3 must demonstrate how the principles of ecologically sustainable development (ESD) have been incorporated into the design, construction and ongoing operation of the proposal.
- C38. Future Das must demonstrate the incorporation of ESD principles, including those outlined in the Ecologically Sustainable Development Report prepared by Frasers Property and dated 12 December 2020, in the design, construction and ongoing operation phases of the development, including the following minimum environmental standards:
  - (c) 5-Star Green Star Design & As-built v1.3 for commercial; and
  - (d) 80% non-potable water re-use for all landscape watering and toilet flushing.
- C39. Future Das must demonstrate water conservation targets including:
  - (e) a target for a minimum of 80% reuse non-potable water on site for all landscape watering, toilet flushing, and car wash use (if relevant) assessed using MUSIC
  - (f) where the 80% target cannot be achieved, alternative measures such as waterless urinals shall be considered and deducted from the non-potable water demand.
- C40. Future Das must include a detailed Non-Potable Water Supply and Irrigation Plan, prepared by a chartered hydraulic engineer, for non-potable water uses on the site including all toilet/urinal flushing and landscape watering and that all Sydney Water requirements have been satisfied. The plan shall include:
  - (a) a first flush or pre-treatment system (typically 0.2 litres / m<sup>2</sup> of roof area going to the tank for a first flush)
  - (b) a pump with isolation valves
  - (c) a solenoid controlled mains water bypass
  - (d) flow meters on the solenoid controlled mains water bypass line and the pump outflow line, to determine non-potable usage and actual percentage reuse
  - (e) an inline filter and preferably an automatic backwash inline filter; a control panel with warning light to indicate pump failure
  - (f) a timer and control box for landscape watering
  - (g) an irrigation watering plan allowing for seasonal variations.

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

- C41. Future Das must address the Crime Prevention Through Environmental Design principles and demonstrate the recommendations made in the Crime Prevention Through Environmental Design Assessment, rev 1, prepared by Ethos Urban dated 10 December 2020 have been considered and integrated into the development.
- C42. Future Das must detail site safety and security measures to all publicly accessible areas of the site and building within and outside of operating hours.
- C43. Future Das must include details of the proposed CCTV network.

## **STORMWATER AND FLOODING**

- C44. Future Das on Lot 3 must include a stormwater management plan in accordance with the Civil and Stormwater Statement prepared by Henry & Hymas dated 4 December 2020, Blacktown Council's *Engineering Guide for Development 2005* and Part J of the Blacktown Development Control Plan 2015.
- C45. Future Das for the construction of buildings must demonstrate that the finished floor levels of the development provides a 0.5 m freeboard above the 1% AEP level.
- C46. Future Das must include a detailed flood impact assessment in accordance with the NSW Floodplain Development Manual (2005) identifying minimum floor levels for buildings, flood planning levels in accordance with *State Environmental Planning Policy (Western Parkland City) 2021* and flood evacuation strategies. The assessment shall have regard to and detail measures to ensure nearby properties are not affected by the development.
- C47. Future Das must include details of the drainage and stormwater system for the grade and basement car park, widened extent of Church Street and built form.
- C48. Future Das must include drainage plans which demonstrate that:
- (h) all stormwater discharge from the site is to be through a gross pollutant trap or traps sized for the 2EY (6 month) flow and treating gross pollutants and hydrocarbons
  - (i) the design of the internal pit and pipe drainage system can accommodate a minimum 5% Annual Exceedance Probability (AEP) event
  - (j) the 1% AEP flows from the development site can reach the detention basins through either piped and/or surface flows.

## **FLOOD MANAGEMENT**

- C49. Future Das on Lot 3 must include an amended Flood Management Strategy which addresses:
- (k) access to and from the site by car and rather than pedestrian travel
  - (l) the risk of remaining in the shopping centre for all storms including the Probable Maximum Flood and whether shelter in place should be promoted as the safest option for most storms and particularly those of a short duration. If evacuation is needed, evaluate the safest routes for undertaking vehicle journeys in all directions and provide details/maps/routes
  - (m) the safest egress points from the site at Church Street or Goldsbro Glade given the known flooding impacts on Rooty Hill Road South
  - (n) how evacuation strategies will be communicated to retail management, staff and customers
  - (o) flood warning signage and flood evacuation path signage consistent with existing flood information signage in the Eastern Creek Business Hub.

## **REFLECTIVITY ASSESSMENT**

- C50. Future detailed Das on Lot 3 for aboveground works must include a Reflectivity Assessment demonstrating that external treatments, materials and finishes of the development do not cause adverse or excessive glare.

## **DISABILITY ACCESS**

- C51. Future Das on Lot 3 must include a Disability Access Review to demonstrate an appropriate degree of accessibility in accordance with the Disability (Access to Premises – buildings) Standards 2010 (the Premises Standards).

## **BUILDING CODE OF AUSTRALIA**

- C52. Future Das on Lot 3 must demonstrate any proposed buildings comply with the Building Code of Australia, as relevant.

## **OUTDOOR LIGHTING**

C53. Future Das on Lot 3 must include details of any outdoor lighting within the site and compliance with AS/NZ1158.3:1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of Obtrusive Effects of Outdoor Lighting.

## **HERITAGE INTERPRETATION STRATEGY**

C54. Future Das on Lot 3 must include a heritage interpretation strategy which details:

- (a) Aboriginal interpretative elements
- (b) non-indigenous uses of the site
- (c) the surrounding existing historical elements of the area
- (d) landscape treatment and signage.

## **WASTE MANAGEMENT PLAN**

C55. Future Das on Lot 3 shall include a Waste Management Plan to address storage, collection, and management of waste and recycling within the development.

**END OF PART B**  
**END OF SCHEDULE 2**

### SCHEDULE 3 – MODIFICATIONS TO SSD 5175

The following modifications are made to SSD-5175 pursuant to Section 4.17(1)(b) and (c) of the EP&A Act.

1. Schedule 1 of SSD 5175 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

#### SCHEDULE 1

**Application No.:**

SSD 5175

**Applicant:**

Western Sydney Parklands Trust

**Consent Authority:**

Minister for Planning and Environment

**Land:**

Rooty Hill Road South, Rooty Hill  
(Western Sydney Parklands)

**Development:**

Eastern Creek Business Hub Staged Development  
Application, including:

- A concept proposal for a new retail centre comprising 52,800 **63,128**sqm gross floor area to accommodate 'retail premises', 'bulky goods premises' **'specialised retail premises'**, **'vehicle repair station'**, **'child care centre'**, and 'business premises', **'retail outlet premises'** and **'recreation'** uses and a development structure including:
  - land uses;
  - site layout;
  - building envelopes; and
  - design parameters.
- Stage 1 subdivision and early works including:
  - super lot subdivision to create three developable allotments and one residual allotment;
  - construction of an access road;
  - bulk and detailed earthworks;
  - stormwater management;
  - civil engineering works;
  - landscaping; and
  - rehabilitation of the existing woodland areas identified for open space/conservation.

2. The table of definitions is amended by inserting the following **bold and underlined** terms in alphabetical order:

**Design Guidelines – Lot 3**

**The document titled *Eastern Creek Business Hub Design Guidelines – Lot 3* dated July 2022**

**Design Guidelines (SSD-5175)**

**The document titled *Eastern Creek Business Hub Design Guidelines* dated July 2022**

**Retail outlet premises**

**Means a premises which is primarily used for the purpose of selling discounted, factory seconds, direct to outlet, out-of-season, samples or surplus stock. A retail outlet retail premises does not include a supermarket, food and drink premises or a business premises.**

3. Schedule 2, Condition A4 is amended by the inclusion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

A4. The applicant shall carry out the development generally in accordance with the:

- a) Eastern Creek Business Hub State Significant Development SSD 5175 Environmental Impact Statement prepared by Architectus dated September 2012, as amended by the
- b) Eastern Creek Business Hub State Significant Development SSD 5175 Response to Submissions prepared by Architectus dated April 2014; and
- c) Updated Eastern Creek Business Hub Design Guidelines dated ~~6 October 2020~~ **July 2022**; and
- d) S.96(2) SSD Modification 5175 Eastern Creek Business Hub prepared by JBA Urban Planning Consultants Pty Ltd dated August 2015; and
- e) State Significant Development (SSD 5175) MOD 1 Rooty Hill Road South, Eastern Creek Response to Submissions prepared by JBA Urban Planning Consultants Pty Ltd dated January 2016; and
- f) SSD 5175 Eastern Creek Business Hub Section 96(2) Modification Application prepared by JBA Urban Planning Consultants, dated March 2017 as amended by the Response to Submissions prepared by JBA Urban Planning Consultants, dated 4 July 2017 and additional information submitted on 26 September 2017 and 5 and 14 December 2017; **and**
- g) SSD 5175 Eastern Creek Business Hub Section 96(2) Modification Application prepared by Ethos Urban Pty Ltd, dated 2 September 2017; **and**
- h) Statement of Environmental Effects SSD 5175 MOD 4, dated 8 November 2018, Response to Submissions SSD 5175 MOD 4 and SSD 8588 MOD 2, dated 11 April 2019 and Additional Information SSD 5175 MOD 4 and SSD 8588 MOD 2, dated 3 July 2019, all prepared by Ethos Urban; **and**
- i) Statement of Environmental Effects SSD 5175 MOD 6, dated 20 December 2018 and Response to Submissions SSD 5175 MOD 6, dated 2 August 2019, prepared by Ethos Urban; **and**
- j) Statement of Environmental Effects SSD 5175 MOD 5, dated 10 October 2018, Response to Submissions Report, dated 10 October 2019 and Response to request for Information, dated 9 January 2020, all prepared by Ethos Urban; **and**
- k) Modification Report SSD 5175 MOD 7, dated 6 November 2019, Response to Request for Information, dated 17 January 2020, prepared by Ethos Urban and Additional Information dated 19 March 2020 and 20 May 2020, prepared by CBRK; **and**
- l) Modification report SSD 5175 MOD 9, dated 19 October 2020, Response to Submissions, dated 25 November 2020 and Additional Information dated 11 December 2020, prepared by Ethos Urban; **and**
- m) following drawings, except for:
  - i) any modifications which are 'Exempt' or 'Complying Development'; and
  - ii) otherwise provided by the conditions of this consent

Concept Proposal			
Concept Plans prepared by i2C			
Drawing No.	Revision	Name of Plan	Date
<del>SK-30.3</del> <b><u>SK40.7</u></b>		Structure Plan	<del>06.11.2019</del> <b><u>29.07.2022</u></b>
SK-30.4		Phasing Plan	06.11.2019
<del>SK-32</del> <b><u>SK40.21</u></b>		Masterplan	<del>25.09.2020</del> <b><u>29.07.2022</u></b>

SK-1 30.5 <b><u>SK40.6</u></b>		Enabling Infrastructure Works	06.11.2019 <b><u>29.07.2022</u></b>
SK-64 <b><u>SK40.9</u></b>		Landscape Masterplan	18.09.2020 <b><u>29.07.2022</u></b>
<b><u>SK40.4</u></b>		<b><u>Pedestrian Access</u></b>	<b><u>29.07.2022</u></b>
<b><u>SK40.8</u></b>		<b><u>Superlot</u></b>	<b><u>29.07.2022</u></b>
<b>Landscape Plans prepared by Urbis</b>			
		ECQ Stage 1 Landscape Plan	March 2019
	O	ECQ Stage 2 Concept Landscape Plan	November 2020

4. Schedule 2, Condition A7 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

A7. The maximum GFA for the total development shall not exceed ~~56,438~~ **63,128** sqm and the individual land use components shall have a maximum GFA as follows:

Land use	Maximum GFA (sqm)	Comment
<b><u>Lot 1 and 2</u></b>		
Specialised retail premises	<del>39,400</del> <b><u>7,237</u></b>	
Recreation facility (indoor)	3,000	Any residual recreation facility (indoor) or vehicle repair station GFA may be transferred to specialised retail remises GFA, provided the maximum GFA for specialised retail does not exceed <del>42,800m<sup>2</sup></del> <b><u>10,637m<sup>2</sup></u></b>
Vehicle repair station	400	
Convenience retail <ul style="list-style-type: none"> <li>Supermarket</li> <li>Specialty shops / small business</li> </ul>	<del>10,754</del> <b><u>10,599</u></b> <del>3,794</del> <del>6,960</del> <b><u>6,805</u></b>	
Child care centre	<del>1,200</del> <b><u>708</u></b>	
Circulation	1,684	
<b><u>Lot 1 and 2 Sub-total</u></b>	<b><u>23,628</u></b>	
<b><u>Lot 3</u></b>		
<b><u>Retail outlet premises</u></b>	<b><u>26,000</u></b>	
<b><u>Recreation facility (indoor) / Recreation facility (outdoor) / Amusement Centre</u></b>	<b><u>1,800</u></b>	
<b><u>Food and drink / specialty shop</u></b>	<b><u>2,200</u></b>	
<b><u>Circulation/amenities</u></b>	<b><u>9,500</u></b>	
<b><u>Lot 3 sub-total</u></b>	<b><u>39,500</u></b>	
<b><u>Grand Total</u></b>	<del>56,438</del> <b><u>63,128</u></b>	

5. Schedule 2, Condition A10 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:



- A10. Beggs Road is to service the Lot 2 **and Lot 3** loading areas only, no access to any other part of the site or to any other Lot is permitted via Beggs Road.
6. Schedule 2, Condition B1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:
- B1. To ensure a high quality urban design and architectural response is achieved, the site layout and architectural design of the ECBH shall have regard to, and be generally consistent with, the Design Guidelines **(SSD-5175)** dated ~~6 October 2020~~ **July 2022**.
7. Schedule 2, Condition B5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:
- B5. Future development applications for the construction of buildings shall include detailed landscape plans identifying the vegetation to be removed and the location of any additional landscaping, and must be generally in accordance with the landscape and public domain principles and development guidelines in the Design Guidelines **(SSD-5175)** dated ~~6 October 2020~~ **July 2022**.
8. Schedule 2, Condition B12 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:
- B12. Future development applications for the construction of buildings shall include a stormwater management plan in accordance with:
- a) **for Lots 1 and 2**, the Stormwater and Road Design Report, prepared by Henry & Hymas, dated 21 March 2019 and Council's Engineering Guide for Development 2005 and part J of DCP 2015
- b) **for Lot 3, the Civil and Stormwater Statement prepared by Henry & Hymas dated 4 December 2020, Council's Engineering Guide for Development 2005 and part J of DCP 2015.**
9. Schedule 2, Condition B15 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:
- B15. Future development applications for the construction of buildings shall demonstrate compliance with:
- a) **for Lots 1 and 2**, the relevant provisions of Planning for Bushfire Protection (PBP) NSW Rural Fire Service 2006 and the Asset Protection Zones recommended in the Bushfire Protection Assessment – Subdivision and Early Works, Eastern Creek Business Hubs, prepared by Ecological, dated August 2012; **and**
- b) **for Lot 3, the relevant provisions PBP 2019 and the Bushfire Protection Assessment – Direct Factory Outlet, Eastern Creek Quarter Stage 3, prepared by Ecological, dated 21 December 2020 and the Addendum to Bushfire Protection Assessment (BPA) – Eastern Creek Retail Centre (SSD-10457), prepared by Ecological, dated 2 August 2022.**
10. Schedule 3, Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:
- A2. The applicant shall carry out the 'Stage 1 subdivision and early works' generally in accordance with the:
- a) Eastern Creek Business Hub State Significant Development SSD 5175 Environmental Impact Statement prepared by Architectus dated September 2012, as amended by the
- b) Eastern Creek Business Hub State Significant Development SSD 5175 Response to Submissions prepared by Architectus dated April 2014; and

- c) Updated Eastern Creek Business Hub Design Guidelines (**SSD-5175**) dated ~~6 October 2020~~ **July 2022**; and
- d) S.96(2) SSD Modification 5175 Eastern Creek Business Hub prepared by JBA Urban Planning Consultants Pty Ltd dated August 2015; and
- e) State Significant Development (SSD 5175) MOD 1 Rooty Hill Road South, Eastern Creek Response to Submissions prepared by JBA Urban Planning Consultants Pty Ltd dated January 2016; and
- f) SSD 5175 Eastern Creek Business Hub Section 96(2) Modification Application prepared by JBA Urban Planning Consultants, dated March 2017 as amended by the Response to Submissions prepared by JBA Urban Planning Consultants, dated 4 July 2017 and additional information submitted on 26 September 2017 and 5 and 14 December 2017; **and**
- g) Statement of Environmental Effects SSD 5175 MOD 4, prepared by Ethos Urban, dated 8 November 2018, Response to Submissions SSD 5175 MOD 4 and SSD 8588 MOD 2, prepared by Ethos Urban, dated 11 April 2019 and Additional Information SSD 5175 MOD 4 and SSD 8588 MOD 2 prepared Ethos Urban, dated 3 July 2019; **and**
- h) Additional Information dated 11 December 2020, prepared by Ethos Urban; **and**
- i) following drawings, except for:
  - i) any modifications which are 'Exempt' or 'Complying Development'; and
  - ii) otherwise provided by the conditions of this consent;

Stage 1 Subdivision			
Subdivision drawing prepared by Land partners			
Drawing No.	Revision	Name of Plan	Date
<del>SY073106.004.10.13</del>	<del>13</del>	<del>Plan of Proposed Subdivision of Lot 1 DP1267436</del>	<del>09/12/2020</del>
<u>SY073106.006.32</u>	<u>2</u>	<u>Plan of Proposed Subdivision of Lot 101 in DP581882</u>	<u>27/06/2022</u>
<u>SY73106.006.7A.3</u>	<u>3</u>	<u>Plan of Proposed Subdivision of Lot 12 in Stage 2 Being a Subdivision of DP 1267436 and Lot 1260111</u>	<u>30/06/2022</u>
Early works drawings			
	D	Stage 1 Early Works Phasing Plan	30 June 2017
	B	Enabling Infrastructure Works	30 June 2017
Civil Works Plan prepared by Henry & Hyams			
17D83_S96_BE01	02	Cut and Fill Plan	13 April 2018
17D83_S96_C000	04	Cover Sheet, Drawings Schedule, notes and locality plan	20 March 2019
17D83_S96_C100	03	General arrangement plan	20 March 2019
17D83_S96_C101	03	Detail civil plan, sheet 1 of 7	20 March 2019
17D83_S96_C102	03	Detail civil plan, sheet 2 of 7	20 March 2019
17D83_S96_C103	03	Detail civil plan, sheet 3 of 7	20 March 2019
17D83_S96_C104	03	Detail civil plan, sheet 4 of 7	20 March 2019
17D83_S96_C105	03	Detail civil plan, sheet 5 of 7	20 March 2019
17D83_S96_C106	03	Detail civil plan, sheet 6 of 7	20 March 2019

17D83_S96_C107	03	Detail civil plan, sheet 7 of 7	20 March 2019
17D83_S96_C110	03	Typical site sections, sheet 1 of 2	20 March 2019
17D83_S96_C111	03	Typical site sections, sheet 2 of 2	20 March 2019
17D83_S96_C115	03	Stormwater channels typical sections	20 March 2019
17D83_S96_C130	03	Access road CL 1 long section and chainages plan	20 March 2019
17D83_S96_C131	02	Access road CL 2 long section and chainages plan	20 March 2019
17D83_S96_C200	03	Stormwater miscellaneous details and pit lid schedule	20 March 2019
17D83_S96_C220	03	Stormwater longitudinal sections sheet 1 of 2	20 March 2019
17D83_S96_C221	03	Stormwater longitudinal sections sheet 2 of 2	20 March 2019
17D83_S96_C230	03	North basin plan and sections	20 March 2019
17D83_S96_C231	03	North basin details	20 March 2019
17D83_S96_C240	03	South basin plan and sections	20 March 2019
17D83_S96_C241	03	South basin details	20 March 2019
17D83_S96_C250	03	Catchment plan – water quantity	20 March 2019
17D83_S96_C251	03	Catchment plan – water quality	20 March 2019
17D83_S96_C255	03	Access road catchment plan	20 March 2019
17D83_S96_C300	03	Retaining wall overall plan	20 March 2019
17D83_S96_C301	03	Retaining wall long sections	20 March 2019
17D83_S96_C302	02	Retaining wall sections	20 March 2019
17D83_S96_SE01	03	Sediment and erosion control plan	20 March 2019
17D83_S96_SE02	03	Sediment and erosion control details	20 March 2019
<b>Stage 1 Early Works Civil Plans prepared by henry &amp; hymas</b>			
<b><u>20224 DA BE50</u></b>	<b><u>01</u></b>	<b><u>Bulk earthworks – early works cut and fill plan</u></b>	<b><u>21/12/2020</u></b>
<b><u>20224 DA BE51</u></b>	<b><u>01</u></b>	<b><u>Bulk earthworks – early works site sections, sheet 1 of 2</u></b>	<b><u>21/12/2020</u></b>
<b><u>2022 DA BE52</u></b>	<b><u>01</u></b>	<b><u>Bulk earthworks – early works site sections, sheet 2 of 2</u></b>	<b><u>22/12/2020</u></b>
<b><u>20224 DA C105</u></b>	<b><u>02</u></b>	<b><u>Detail civil plan, sheet 5 of 6</u></b>	<b><u>22/12/2020</u></b>
<b><u>20224 DA C106</u></b>	<b><u>02</u></b>	<b><u>Detail civil plan, sheet 6 of 6</u></b>	<b><u>22/12/2020</u></b>
<b><u>20224 DA C109</u></b>	<b><u>02</u></b>	<b><u>Detail civil plan – basement, sheet 3 of 3</u></b>	<b><u>22/12/2022</u></b>
<b>Road Improvement Works Sketch prepared by J. Wyndham Prince</b>			
8801/SK04	H	Proposed Works Sketch	22 May 2013
<b>Landscape Plans prepared by Urbis</b>			
LA06	00	Phase 1 – Recommended Plant Species	27 August 2012
LA07	00	Phase 1 – Landscape furniture Palette	24 August 2012
LA08	02	Phase 1 – Street Tree Planting Works	10 September 2012

LA09	02	Phase 1 – Street Tree Planting Works	10 September 2012
LA10	00	Phase 1 – Street Tree Planting Works	30 August 2012

11. Schedule 3, Condition B2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

- B2. The applicant shall retire 46.3 ecosystem credits of Grey Box-Forest Red Gum woodland at the Chandos Street West Biobank Site (Biobank Site 70) in accordance with the offset strategy in the ecological assessment prepared by Ecological Australia dated August 2012 to offset the loss of 1.93 hectares of Cumberland Plain Woodland (sub community) on the subject site prior to any clearing **on Lots 1 or 2**.

**END OF PART A**

**END OF SCHEDULE 3**

## SCHEDULE 4 – CONDITIONS OF CONSENT FOR STAGE 1 WORKS

### 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.

#### DEVELOPMENT DESCRIPTION

- A2. Consent is granted to the Stage 1 works detailed in Schedule 1 and in accordance with the conditions contained within this consent.

#### TERMS OF CONSENT

- A3. Stage 1 of the development may only be carried out:
- in compliance with the conditions of this consent
  - in accordance with all written directions of the Planning Secretary
  - in accordance with the EIS and as amended by the RtS and additional information
  - in accordance with the drawings listed in the table below, as amended by the conditions of this consent:

Draft Subdivision Plans prepared by Landpartners			
Plan Number	Plan Title	Revision	Date
SY073106.006.3.2	PLAN OF PROPOSED SUBDIVISION OF LOT 101 IN DP581882	2	27/06/2022
SY073106.006.7A.3	PLAN OF PROPOSED SUBDIVISION OF LOT 12 IN STAGE 2 BEING A SUBDIVISION OF DP 1267436 AND LOT 1 DP 1260111	3	30/06/2022
Stage 1 Early Works Civil Plans prepared by henry & hymas			
Plan Number	Plan Title	Revision	Date
<del>20224_DA_BE50</del> <b>ECQ-C-BE50</b>	Bulk earthworks – early works cut and fill plan	01	<del>21/12/2020</del> <b>13/09/2023</b>
<del>20224_DA_BE51</del> <b>ECQ-C-BE51</b>	Bulk earthworks – early works site sections, sheet 1 of 2	01	<del>21/12/2020</del> <b>13/09/2023</b>
<del>2022_DA_BE52</del> <b>ECQ-C-BE52</b>	Bulk earthworks – early works site sections, sheet 2 of 2	01	<del>21/12/2020</del> <b>13/09/2023</b>
<del>20224_DA_C105</del>	<del>Detail civil plan, sheet 5 of 6</del>	<del>02</del>	<del>22/12/2020</del>
<del>20224_DA_C106</del>	<del>Detail civil plan, sheet 6 of 6</del>	<del>02</del>	<del>22/12/2020</del>
<del>20224_DA_C109</del>	<del>Detail civil plan – basement, sheet 3 of 3</del>	<del>02</del>	<del>22/12/2020</del>

- A4. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- 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
  - the implementation of any actions or measures contained in any such document referred to in Condition A3(a) of this Schedule.

- A5. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and documents listed in Condition A3 of this Schedule. In the event of an inconsistency, ambiguity or conflict between any of the documents listed in Condition A3 of this schedule, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

## LEGAL NOTICES

- A6. Any advice or notice to the consent authority shall be served on the Secretary.

## EVIDENCE OF CONSULTATION

- A7. 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 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.

## OPERATION OF PLANT AND EQUIPMENT

- A8. All plant and equipment used on site, or to monitor the performance of the development during stage 1 works must be:
- (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.

## APPLICABILITY OF GUIDELINES

- A9. 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.
- A10. 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

- A11. 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.

## INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- A12. 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.
- A13. Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix 1.

## NON-COMPLIANCE NOTIFICATION

- A14. 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 Certifying Authority 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.
- A15. 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.
- A16. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

## REVISION OF STRATEGIES, PLANS AND PROGRAMS

- A17. Within three months of:
- (a) the submission of a compliance report under **Schedule 4, Conditions A20 and A23**;
  - (b) the submission of an incident report under **Schedule 4, Condition A12**;
  - (c) the submission of an Independent Audit under **Schedule 4, Condition A25**;
  - (d) the approval of any modification of the conditions of this consent; or
  - (e) the issue of a direction of the Planning Secretary under **Schedule 2, Condition A3** which requires a review,
- A18. 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.
- A19. 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

- A20. Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Post Approval Requirements (2020).
- A21. Compliance Reports must be submitted to the Department in accordance with the timeframes set out in the Compliance Reporting Post Approval Requirements (2020), unless otherwise agreed by the Planning Secretary.
- A22. The Applicant must make each Compliance Report publicly available 60 days after submitting it to the Planning Secretary.
- A23. Notwithstanding the requirements of the Compliance Reporting Post Approval Requirements (2020), 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.

## INSPECTIONS

- A24. Any additional Council inspections beyond the scope of any Compliance Certificate package and needed to verify full compliance with the terms of this consent will be charged at the individual inspection rate nominated in Council's Fees and Charges Schedule.

## INDEPENDENT ENVIRONMENTAL AUDIT

- A25. Independent Audits of the development must be conducted and carried out in accordance with the Independent Audit Post Approval Requirements (2020).

- A26. Proposed independent auditors must be agreed to in writing by the Planning Secretary prior to the commencement of an Independent Audit.
- A27. 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.
- A28. 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 (2020) unless otherwise agreed by the Planning Secretary
- A29. Notwithstanding the requirements of the Independent Audit Post Approvals Requirements (2020), 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.

#### **EUROPEAN ARCHAEOLOGICAL HERITAGE**

- A30. The relevant recommendations of the:
- (a) Historical Archaeological Assessment, prepared by Extent Heritage Advisors, dated 28 July 2022, Final 02
  - (b) Eastern Creek Business Hub Archaeological Management Plan, prepared by Biosis, dated 10 February 2016, submitted as part of SSD-5175-Mod-1.
- must be implemented during all stages of the development.

#### **END OF SCHEDULE 4, PART A**



## **PART B PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE**

### **CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

- B1. Prior to the issue of the first construction certificate, the Applicant must prepare and submit a Construction Environmental Management Plan (CEMP) to the satisfaction of the Certifying Authority. The CEMP must address, but not be limited to, the following matters where relevant:
- (a) Details of:
    - (i) hours of work, in accordance with the conditions of this consent
    - (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
    - (xi) flora and fauna management.
  - (b) Construction Pedestrian and Traffic Management Sub-Plan
  - (c) Construction Noise and Vibration Management Sub-Plan
  - (d) Air Quality Management Sub-Plan
  - (e) Construction Waste Management Sub-Plan
  - (f) Construction Soil and Water Management Sub-Plan
  - (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
  - (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 PLAN SUB-PLAN**

- B2. Prior to the issue of the first construction certificate, the Applicant must prepare and submit a final Construction Pedestrian and Traffic Management Plan Sub-Plan (CPTMP) to the satisfaction of the Certifying Authority. The CPTMP must be prepared in consultation with the Sydney Coordination Office within TfNSW and 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) construction hours in accordance with Schedule 4, Conditions D3 to D7 inclusive
  - (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
  - (i) a detailed plan of any proposed hoarding and/or scaffolding

- (j) construction worker travel arrangements and measures to avoid construction worker vehicle movements within the precinct
- (k) consultation strategy for liaison with surrounding stakeholders
- (l) 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
- (m) 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.

The CPTMP must include a table summarising the location of each of the items listed above within the plan. A copy of the final endorsed CPTMP, shall be submitted to the Certifying Authority, the Secretary, Council and TfNSW, prior to the commencement of works.

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

- B3. Prior to the issue of the first construction certificate, the Applicant must submit to the satisfaction of the Certifying Authority a Construction Noise and Vibration Management Sub-Plan (CNVMP) for the development. A copy of the CNVMP must be submitted to the Planning Secretary for information. The Sub-Plan must include:
- (a) all recommendations detailed in the Noise Impact Assessment, prepared by Acoustic Logic, rev 3 dated 6 October 2021 to manage construction activities for the site with particular emphasis on activities that are anticipated to exceed highly noise affected levels under the EPA's Interim Construction Noise Guide
  - (b) identification of the specific activities that will be carried out and their associated noise sources at the site
  - (c) identification of all potentially affected sensitive residential receiver locations
  - (d) quantification of the rating background noise level (RBL) for sensitive receivers, as part of the Sub-Plan, or as undertaken in the EIS and RtS
  - (e) the construction noise and vibration objectives derived from an application of the EPA Interim Construction Noise Guideline (ICNG), as reflected in this development consent
  - (f) 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 this development consent
  - (g) 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
  - (h) description of management methods and procedures, and specific noise mitigation treatments/measures that can be implemented to control noise and vibration during construction
  - (i) 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
  - (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

- (p) effective site induction, and ongoing training and awareness measures for personnel (e.g. toolbox talks, meetings etc).

The CNVMP must include a table summarising the location of each of the items listed above within the plan. A copy of the final endorsed CNVMP, shall be submitted to the Certifying Authority, the Secretary, Council and TfNSW, prior to the commencement of works.

#### **AIR QUALITY MANAGEMENT SUB-PLAN**

- B4. Prior to the issue of the first construction certificate, the Applicant must submit to the satisfaction of the Certifying Authority an Air Quality Management Sub-Plan (AQMP) for the development. A copy of the AQMP must be submitted to the Planning Secretary for information. The Sub-Plan must include, as a minimum, the following elements:
- (a) be prepared by a suitably qualified and experienced expert in accordance with the EPA's Approved Methods for the Modelling and Assessment of Air Pollutants in NSW (the Approved Methods)
  - (b) relevant environmental criteria to be used in the day-to-day management of dust and volatile organic compounds (VOC/odour)
  - (c) mission statement
  - (d) dust and VOCs/odour management strategies consisting of:
    - (i) objectives and targets
    - (ii) risk assessment
    - (iii) suppression improvement plan
    - (iv) monitoring requirements including assigning responsibility (for all employees and contractors)
    - (v) communication strategy
    - (vi) system and performance review for continuous improvements.

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

- B5. Prior to the issue of the first construction certificate, the Applicant must submit to the satisfaction of the Certifying Authority a Construction Waste Management Sub-Plan (CWMP) for the development. A copy of the CWMP must be submitted to the Planning Secretary and Certifying Authority. 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) classifies fill material being imported or removed from the site in accordance with the EPA's excavated natural material order 2014
  - (c) 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
  - (d) procedures for minimising the movement of waste material around the site and double handling
  - (e) waste (including litter, debris or other matter) is not caused or permitted to enter any waterways
  - (f) any vehicle used to transport waste or excavation spoil from the site is covered before leaving the premises
  - (g) the wheels of any vehicle, trailer or mobilised plant leaving the site and cleaned of debris prior to leaving the premises
  - (h) details in relation to the transport of waste material around the site (on-site) and from the site, including (at a minimum):
    - (i) a traffic plan showing transport routes within the site;
    - (ii) 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
    - (iii) the name and address of each licensed facility that will receive waste from the site (if appropriate).

## CONSTRUCTION SOIL AND WATER MANAGEMENT PLAN SUB-PLAN

- B6. Prior to the issue of the first construction certificate, the Applicant must submit to the satisfaction of the Certifying Authority, 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
  - (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.

## BIODIVERSITY OFFSET STRATEGY

- B7. Prior to the issue of the first construction certificate, the Applicant must purchase and retire 20 ecosystem credits for Cumberland Shale Plains Woodland (Plant Community Type (PCT) Grey Box – Forest Red Gum, grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion) in accordance with NSW Biodiversity Offset Scheme and the *Biodiversity Conservation Act 2016*.
- B8. The Applicant must provide the Planning Secretary with evidence that:
- (a) the retirement of ecosystem credits required under Schedule 4, Condition B7 has been completed; or
  - (b) a payment has been made to the Biodiversity Conservation Fund
- prior to undertaking any clearing of native vegetation, or activities that have the potential to impact upon this native vegetation.

## TREE RETENTION AND PROTECTION

- B9. Prior to the issue of the first construction certificate, the Applicant is to pay a tree preservation bond to Council for each tree nominated for retention in section 3.3 of the Arboricultural Impact Assessment by Eco Logical Australia Version 5, 12 July 2021 **20 November 2023 and Tree Protection Plan dated 1 September 2023** for Eastern Creek Business Hub Stage 3 as per Council's Goods and Services Pricing Schedule, to ensure the retention and protection of trees as per AS:4970- 2009 - Protection of Trees on Development Sites.

The bond amount will be held by Council and returned 12 months following the issue of an occupation certificate for future Phase A works following the submission of the final report by the Applicant's project Arborist indicating the trees are in good health, and this is confirmed following an inspection by an authorised officer from Council's tree management section.

- B10. Two inspection fees as per Council's Goods and Services Pricing Schedule will be applicable for the authorised officer to inspect the tree protection measures implemented before construction commencing and following a request to return the tree preservation bond as noted above.
- B11. Prior to the issue of the first construction certificate, an Australian Qualifications Framework (AQF) Level 5 Consulting Arborist needs to be engaged to supervise work within the Tree Protection Zone (TPZ), provide advice regarding tree protection and monitor compliance. They are to register with the Applicant before any works commence so that the builder can be inducted as to essential times when the Arborist will be required on-site. Hold points, inspections and certification are carried out by the Arborist in line with Section 5 of the Arboricultural Impact Assessment (AIA).
- B12. The tree protection measures are to be installed before construction commences.

## **RETAINING WALL DESIGN**

- B13. **The retaining wall design must incorporate a dish drain or similar device to capture any overland flow flowing onto the footpath paving.**

## END OF SCHEDULE 4, PART B

## **PART C PRIOR TO COMMENCEMENT OF STAGE 1 WORKS**

### **NOTIFICATION OF COMMENCEMENT**

- C1. The Department must be notified in writing, via the NSW Planning Portal of the dates of commencement of physical Stage 1 works and operation at least 48 hours before those dates.
- C2. If the construction or operation of the development is to be staged, the Department 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 Schedule 2, Condition A3 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
    - (x) any other matter required by the Planning Secretary
  - (b) keep such information up to date, to the satisfaction of the Planning Secretary.

### **UTILITIES AND SERVICES**

- C4. Prior to the construction of 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.
- C5. 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.

### **DIAL BEFORE YOU DIG SERVICE**

- C6. Prior to the commencement of any excavation on or near the site, the Applicant must submit to the satisfaction of the Certifying Authority written confirmation from NSW Dial Before You Dig Service that the proposed excavation will not conflict with any underground utility services.

### **COMPLIANCE**

- C7. 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.

## **EROSION AND SEDIMENT CONTROL**

- C8. Prior to the commencement of Stage 1 works, evidence that soil erosion and sediment control measures have been designed in accordance with Managing Urban Stormwater – Soils & Construction Volume 1 (Landcom, 2004) must be submitted to the Certifying Authority.

## **PROTECTION OF PUBLIC INFRASTRUCTURE AND STREET TREES**

- C9. 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) and submit a copy of the dilapidation report to the Certifier, Planning Secretary and Council
  - (c) ensure all street trees directly outside the site not approved for removal are retained and protected in accordance with the applicable Australian Standards.

## **PRE-CONSTRUCTION DILAPIDATION REPORT**

- C10. Prior to the commencement of any construction, the Applicant must submit to the satisfaction of the Certifier a Pre-Construction Dilapidation Report, prepared by a suitably qualified person.
- C11. The Pre-Construction Dilapidation Report detailing 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'. 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'. The report must be submitted to the satisfaction of the Certifying Authority prior to the commencement of any works. A copy of the report is to be forwarded to the Planning Secretary and each of the affected property owners.
- C12. 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.
- C13. 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.
- C14. The damage must be fully rectified by the Applicant in accordance with 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.

## **CONSTRUCTION PARKING**

- C15. 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.

## **BARRICADE PERMIT**

- C16. 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**

- C17. 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**

- C18. 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**

- C19. 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.

## **REMEDICATION – UNEXPECTED FINDS PROTOCOL**

- C20. 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.

**END OF SCHEDULE 4, PART C**

## **PART D DURING CONSTRUCTION**

### **APPROVED PLANS TO BE ON-SITE**

- D1. A copy of the approved and certified plans, specifications and documents incorporating conditions of 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 Certifying Authority.

### **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, Certifying Authority 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 Certifying Authority 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
  - (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 to and from the site, may only be carried out between the following hours:
- (a) between 7 am and 6 pm, Mondays to Fridays inclusive; and
  - (b) between 8 am and 1 pm, Saturdays.
- D4. No work may be carried out on Sundays or public holidays.
- D5. Works 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 or
  - (c) it is required in accordance with a Road Occupancy Licence or at the direction of the Transport Management Centre (TMC).
- D6. Notification of such works must be given to affected residents before undertaking them 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) 9.00 am to 12.00 pm, Monday to Friday;
  - (b) 2.00 pm to 5.00 pm Monday to Friday; and
  - (c) 9.00 am to 12.00 pm, Saturday.

### **CONSTRUCTION NOISE LIMITS**

- D8. 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.



- D9. 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.
- D10. 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.
- D11. 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 one 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 one hour respite between ceasing and recommencing any of the work the subject of this condition. 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**

- D12. Vibration caused by construction at any residence or structure outside the subject site must be limited to:
- (a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures;
  - (b) for human exposure to vibration, the evaluation criteria presented in British Standard BS 6472- Guide to Evaluate Human Exposure to Vibration in Buildings (1Hz to 80 Hz) for low probability of adverse comment;
- D13. Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above; and
- D14. The vibration limits in Schedule 4, Condition D12 and Schedule 4, Condition D13 apply unless otherwise outlined in an approved CNVMP.

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

- D15. 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.
- D16. Subsequent notification must be given, and reports submitted in accordance with the requirements set out in Appendix 1.

## **NON-COMPLIANCE NOTIFICATION**

- D17. 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 Certifying Authority 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.
- D18. 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.
- D19. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

## SAFework REQUIREMENTS

- D20. 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 in accordance with relevant SafeWork requirements.

## SITE SECURITY

- D21. Chain wire gates and security fencing must be provided around the site in order to prevent unauthorised access and dumping of rubbish.

## IMPLEMENTATION OF MANAGEMENT PLANS

- D22. 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 and Construction Waste Management Plan required by Part B of this consent are implemented during construction

## CONTACT TELEPHONE NUMBER

- D23. The 24-hour contact telephone number must be continually attended by a person(s) with authority over the works for the duration of the development.

## AIR QUALITY

- D24. 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

- D25. 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.

## TREE PROTECTION

- D26. 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, (as amended by the Arboricultural Impact Assessment prepared by Eco Logical Australia Version 5, 20 November 2023 and Tree Protection Plan dated 1 September 2023) 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.

## **EROSION AND SEDIMENT CONTROL**

- D27. 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'.

## **INSURANCES**

- D28. Current copies of relevant insurance Certificates of Currency are to be submitted to Council's Engineering Approvals Team. This shall be submitted prior to commencement of engineering works required by this consent that are carried out on Council controlled lands such as roads, drainage reserves and parks. This includes Public Liability Insurance with a minimum of \$20,000,000 Indemnity and Workers Compensation.

## **SERVICE AUTHORITY APPROVALS**

- D29. Prior to the commencement for construction of footway crossings and driveways a clearance shall be obtained from the relevant telecommunications carriers and Endeavour Energy. The clearance shall notify that all necessary ducts have been provided under the proposed crossing.

## **CUT AND FILL**

- D30. While building work is being carried out, the Certifying Authority 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
  - (b) the classification and the volume of material removed must be reported to the Certifying Authority.
- D31. 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.
- D32. The Applicant must keep accurate records of the volume and type of fill to be used and make these records available to the Certifier / EPA Auditor upon request.

## **DISPOSAL OF SEEPAGE AND STORMWATER**

- D33. 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*.
- D34. 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.
- D35. 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**

- D36. 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
- (d) *Protection of the Environment Operations (Waste) Regulation 2014.*

## **CONSTRUCTION TRAFFIC**

- D37. Construction vehicles (including concrete agitator trucks) involved in construction and construction-related activities are not to arrive at the site or in surrounding residential precincts outside approved construction hours.
- D38. All construction vehicles are to be contained wholly within the Site, except if located in an approved on-street work zone, and vehicles must enter the Site before stopping.
- D39. No construction zone is permitted on Rooty Hill Road South.

## **ROAD OCCUPANCY LICENCE**

- D40. A Road Occupancy Licence must be obtained from the relevant transport authority for any works that impact on traffic flows during Stage 1 construction activities.

## **NO OBSTRUCTION OF PUBLIC WAY**

- D41. 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.

## **COVERING OF LOADS**

- D42. 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**

- D43. 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.

## **TRAFFIC CONTROL**

- D44. Any "Traffic Control Plan" utilised for engineering works required by this consent must be prepared by a person who holds a current Roads and Maritime Services (RMS) Work Zone Traffic Management Plan accreditation and photo card for all works that are carried out in or adjacent to a public road. This Plan must satisfy all the requirements of Australian Standard 1742.3 - 2009.
- D45. Traffic control devices/facilities (i.e., barricades, signs, lights, etc.) required by the certified Traffic Control Plan must be setup, installed, monitored and maintained and by a person who holds a current Roads and Maritime Services (RMS) accreditation and photo card to implement Traffic Control Plans.
- D46. Persons undertaking the control of traffic through or around work sites on Council controlled roads must hold a current Roads and Maritime Services (RMS) Traffic Controller accreditation and photo card and carry it with them.
- D47. The applicant is advised that prior to implementation of any traffic control system and during the entire course of construction suitably qualified Roads and Maritime Services (RMS) accredited work site traffic controllers will ensure a smooth transition with other nearby traffic control setups. The coordination, communication and cohesion between adjacent traffic control systems shall be addressed by the applicant and must satisfy all the requirements of Australian Standard 1742.3 - 2009.
- D48. Where the Traffic Control Plan may change during the course of construction to facilitate new works, a revised traffic control plan shall be prepared and certified by a person who holds a current Roads and

Maritime Services (RMS) accreditation to prepare a Work Zone Traffic Management Plan. This Plan must satisfy all the requirements of AS 1742.3 – 2009 and the current version of the Roads and Maritime Service Traffic Control at Work Sites manual and shall be submitted to Council prior to implementation.

## **HOARDING REQUIREMENTS**

D49. The following hoarding requirements shall be complied with:

- (a) No third-party advertising is permitted to be displayed on any hoarding/fencing
- (b) The construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of it being identified.

## **UNEXPECTED FINDS PROTOCOL – ABORIGINAL OBJECTS**

D50. In the event that surface disturbance identifies an Aboriginal object or relic, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and the registered Aboriginal representatives must be contacted to determine the significance of the objects. The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) and the management outcome for the site included in the information provided to AHIMS. The Applicant must consult with the Aboriginal community representatives, the archaeologists and Heritage NSW to develop and implement management strategies for all objects/sites. Works shall only recommence with the written approval of Heritage NSW.

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.

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

D51. If any unexpected archaeological relics are uncovered during the work, then all works must cease immediately in that area and the Heritage NSW contacted. Depending on the possible significance of the relics, an archaeological assessment and management strategy may be required before further works can continue in that area. Works may only recommence with the written approval of the Heritage NSW

## **OUTDOOR LIGHTING**

D52. The Applicant must ensure that all external lighting is constructed and maintained in accordance with AS 4282-2019 Control of the obtrusive effects of outdoor lighting.

## **END OF SCHEDULE 4, PART D**

## PART E PRIOR TO THE ISSUE OF ANY SUBDIVISION WORKS CERTIFICATE

### SUBDIVISION WORKS CERTIFICATE

- E1. The Applicant must comply with the requirements of Part 6 of the EP&A Act in relation to the issue of a Subdivision Works Certificate.  
For the purposes of this approval, the issue of a Subdivision Works Certificate/s is restricted to the subdivision defined by the draft subdivision plan listed in Schedule 4, Condition A3.
- E2. Before granting any Subdivision Certificate, the Certifier must be satisfied that the Applicant has complied with all conditions of this consent that are required to be complied with before a Subdivision Certificate may be issued in relation to the plan of subdivision.

### PROTECTION OF PUBLIC INFRASTRUCTURE

- E3. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development
  - (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

Note. 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.

### POST-CONSTRUCTION DILAPIDATION REPORT

- E4. Upon completion of Stage 1 works and prior to issue of a subdivision certificate, a post-construction dilapidation survey must be prepared by a suitably qualified engineer and undertaken on all relevant buildings, infrastructure and roads within the 'zone of influence', detailing whether:
- (c) after comparing the pre-construction dilapidation report to the post-stage 1 early works dilapidation report required under this condition, there has been any structural damage to any adjoining buildings, infrastructure or roads
  - (d) where there has been structural damage to any adjoining buildings, infrastructure or roads, if it is a result of the building work approved under this development consent; and
  - (e) relevant authorities have confirmed that there is no adverse structural damage to their infrastructure and roads.

If damage caused by works associated with this consent is determined, the Applicant must rectify the damage in consultation with adjoining landowners to the satisfaction of the Certifier.

- E5. Before the issue of any Occupation Certificate, the Certifier is to provide a copy of the post-construction dilapidation report to the consent authority and to the relevant adjoining property owner(s).

### ROAD DAMAGE

- E6. The cost of repairing any damage caused to Council's assets in the vicinity of the subject site as a result of the Stage 1 development works must be met in full by the Applicant.

### EASEMENTS, RESTRICTIONS AND POSITIVE COVENANTS

- E7. An easement under section 88B of the *Conveyancing Act 1919* allowing the maintenance of an Asset Protection Zone (APZ) on the adjoining land is to be created over proposed Lot 4 in favour of Lot 3 as denoted (E1) and (M) on the plan referenced as 'Plan of proposed subdivision of Lot 12 in Stage 2 being a subdivision of DP 1267436 and Lot 1 DP 1260111' prepared by LandPartners, plan no. SY073106.006.7A.3, rev. 3, dated 30 June 2022.
- E8. Any easement or restriction created as a result of this consent must be in accordance with the following:

- (f) Blacktown City Council's standard recitals for Terms of Easements and Restrictions (Current Version).
- (g) The standard format for easements and restrictions as accepted by NSW Land Registry Services (LRS).

Each of the proposed lots serviced by the existing inter-allotment drainage easements shall have this burden and benefit created pursuant to Section 88B of the *Conveyancing Act 1919*.

- E9. Prior to the issue of a subdivision certificate, the Applicant shall provide evidence to the satisfaction of the Certifying Authority that all matters required to be registered on title including existing easements and those required by this consent, other approvals, and other consents have been lodged for registration or registered at NSW Land Registry Services.

#### **ENCROACHING AND/OR SHARED SERVICES**

- E10. Any pipes, service lines or the like servicing each lot must be contained within their respective lots or, if service lines encroach upon adjoining lots within the subdivision, or are shared by more than one lot, appropriate easements must be created, pursuant to section 88B of the *Conveyancing Act 1919*, over the service lines where any such encroachment occurs.

#### **FINAL PLAN OF SUBDIVISION**

- E11. The Applicant shall submit a final plan of subdivision, together with 7 exact copies and the appropriate fee to Council. The Applicant shall also provide a copy of the final plan of subdivision to the Secretary.
- E12. The final plan of subdivision will not be released until all conditions of this consent have been complied with.
- E13. Where any permanent control marks are placed in accordance with the *Survey Practice Regulation 1990* in the preparation of the plan, 2 copies of the locality sketch plans of the marks placed are to be forwarded to Council with the final plan of subdivision.
- E14. The Applicant shall submit a copy of the final registered plan of subdivision to the Planning Secretary.

#### **ENGINEERING SURVEYS/CERTIFICATES/WORKS AS EXECUTED PLANS**

- E15. A Work-as-Executed (WAE) plan signed by a Registered Engineer (National Engineering Register) or a Registered Surveyor must be submitted to Council when the engineering works are completed, in a colour softcopy PDF format.
- E16. All engineering Work-as-Executed plans must be prepared on a copy of the original, stamped Construction Certificate plans for engineering works (including works under the *Roads Act 1993* and the *Local Government Act 1993* covered by this Development Application).
- E17. A Certificate shall be submitted by a Registered Surveyor indicating that all pipelines and associated structures lie wholly within any easements required by this consent

#### **SYDNEY WATER COMPLIANCE**

- E18. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation and submitted to the Certifying Authority prior to the issue of a subdivision certificate.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then follow the "e-Developer" icon or telephone 13 20 92 for assistance.

#### **SURVEY MARKS**

- E19. Before the issue of a subdivision certificate, a registered surveyor must submit documentation to the principal certifier which demonstrates that:
  - (h) no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or

- (i) 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.

**END OF SCHEDULE 4, PART E**

FOR INFORMATION



## 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, and work must be conducted at all times 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.

#### **BUILDING PLAN APPROVAL**

AN12. You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works can affect Sydney Water's assets (e.g. water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see plumbing, building and developing then building over or next to assets).

## 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 Condition A14 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
  - (a) identify the development and application number;
  - (b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
  - (c) identify how the incident was detected;
  - (d) identify when the applicant became aware of the incident;
  - (e) identify any actual or potential non-compliance with conditions of consent;
  - (f) describe what immediate steps were taken in relation to the incident;
  - (g) identify further action(s) that will be taken in relation to the incident; and
  - (h) identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
  - (a) a summary of the incident;
  - (b) outcomes of an incident investigation, including identification of the cause of the incident;
  - (c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
  - (d) details of any communication with other stakeholders regarding the incident.