

# Development Consent

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

As delegate of the Minister for Planning under delegation executed on 9 March 2022, 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;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development



Chris Ritchie  
**Director**  
**Industry Assessments**

Sydney

8 July 2022

### SCHEDULE 1

|                            |                                                                                                                                                                                                    |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application Number:</b> | SSD-18204994                                                                                                                                                                                       |
| <b>Applicant:</b>          | Snack Brands Industries Pty Ltd                                                                                                                                                                    |
| <b>Consent Authority:</b>  | Minister for Planning                                                                                                                                                                              |
| <b>Site:</b>               | Lot 10 & part Lot 11 DP 2471141, 585-649 Mamre Road, Orchard Hills, Penrith Local government area                                                                                                  |
| <b>Development:</b>        | Construction and 24/7 operation of a food manufacturing facility attached to an existing warehouse and distribution centre with the production capacity of 50,000 tonnes of food product per year. |

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## DEFINITIONS

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Applicant</b>                  | Snack Brands Industries Pty Ltd, or any person carrying out any development to which this consent applies                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>BCA</b>                        | Building Code of Australia                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>BC Act</b>                     | <i>Biodiversity Conservation Act 2016</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Calendar year</b>              | A period of 12 months commencing on 1 January                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Carrier</b>                    | Operator of a telecommunication network and/ or associated infrastructure, as defined in section 7 of the <i>Telecommunications Act 1997</i> (Cth)                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Certifier</b>                  | A council or an accredited certifier (including principal certifiers) who is authorised under section 6.5 of the EP&A Act to issue Part 6 certificates                                                                                                                                                                                                                                                                                                                                                             |
| <b>CEMP</b>                       | Construction Environmental Management Plan                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Commissioning</b>              | The process of installing and testing equipment, prior to the commencement of operations                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Conditions of this consent</b> | Conditions contained in Schedule 2 of this document                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Construction</b>               | The demolition and removal of buildings or works, the carrying out of works for the purpose of the development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent                                                                                                                                                                                                                                                                                            |
| <b>Council</b>                    | Penrith 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>Development</b>                | The development described in Schedule 1, the EIS and Response to Submissions, including the works and activities comprising the partial demolition of existing warehouse and distribution facility, site establishment works, construction and internal fit-out as modified by the conditions of this consent                                                                                                                                                                                                      |
| <b>Development layout</b>         | The plans at Appendix 1 of this consent                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Earthworks</b>                 | Bulk earthworks, site levelling, import and compaction of fill material, excavation for installation of drainage and services, to prepare the site for construction                                                                                                                                                                                                                                                                                                                                                |
| <b>EHG</b>                        | Environment and Heritage Group of the Department                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>EIS</b>                        | The Environmental Impact Statement titled <i>Proposed Industrial Food Manufacturing Facility</i> , prepared by Willowtree Planning Pty Ltd dated 24 August 2021, submitted with the application for consent for the development                                                                                                                                                                                                                                                                                    |
| <b>ENM</b>                        | Excavated Natural Material                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Environment</b>                | As defined in section 1.4 of the EP&A Act                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <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>        | Environmental Planning and Assessment Regulation 2000                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>EPL</b>                        | Environment Protection Licence under the POEO Act                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Evening</b>                    | The period from 6 pm to 10 pm                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Fibre ready facility</b>       | As defined in section 372W of the <i>Telecommunications Act 1997</i> (Cth)                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Heritage</b>                   | Encompasses both Aboriginal and historic heritage including sites that predate European settlement, and a shared history since European settlement                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Heritage item</b>              | An item as defined under the <i>Heritage Act 1977</i> , and assessed as being of local, State and/ or National heritage significance, and/or an Aboriginal Object or Aboriginal Place as defined under the <i>National Parks and Wildlife Act 1974</i> , the World Heritage List, or the National Heritage List or Commonwealth Heritage List under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth), or anything identified as a heritage item under the conditions of this consent |

|                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <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<br>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>a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or</li> <li>b) 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>Mitigation</b>                    | Activities associated with reducing the impacts of the development prior to or during those impacts occurring                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Monitoring</b>                    | Any monitoring required under this consent must be undertaken in accordance with section 9.40 of the EP&A Act                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Night</b>                         | The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Non-compliance</b>                | An occurrence, set of circumstances or development that is a breach of this consent                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>NRAR</b>                          | Natural Resources Access Regulator, DPE                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>OEMP</b>                          | Operational Environmental Management Plan                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Operation</b>                     | The carrying out of the production of food goods as described in the EIS and RTS                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Principal Certifier</b>           | The certifier appointed as the principal certifier for the building work under section 6.6(1) of the EP&A Act                                                                                                                                                                                                                                                                                                                                                                                                      |
| <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>                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Reasonable</b>                    | Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements                                                                                                                                                                                                                                                                                                   |
| <b>Registered Aboriginal Parties</b> | Means the Aboriginal persons identified in accordance with the document entitled " <i>Aboriginal cultural heritage consultation requirements for proponents 2010</i> " (DECCW)                                                                                                                                                                                                                                                                                                                                     |
| <b>Rehabilitation</b>                | The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting                                                                                                                                                                                                                                                                                                                                                                                           |
| <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 and includes the document titled <i>Response to Submissions</i> , prepared by Willottree Planning Pty Ltd and dated 3 February 2022                                                                                                                                                                                                                            |
| <b>Sensitive receivers</b>           | A location where people are likely to work, occupy or reside, including a dwelling, school, hospital, office or public recreational area                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Site</b>                          | The land defined in Schedule 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>TfNSW</b>                         | Transport for New South Wales                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>VENM</b>                          | Virgin Excavated Natural Material                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Waste</b>                         | Has the same meaning as the definition of the term in the Dictionary to the POEO Act                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Year</b>                          | A period of 12 consecutive months                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

## SCHEDULE 2

### PART A ADMINISTRATIVE CONDITIONS

#### OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this consent.

#### TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
  - (b) in accordance with all written directions of the Planning Secretary;
  - (c) in accordance with the EIS and Response to Submissions;
  - (d) in accordance with the Development Layout in Appendix 1; and
  - (e) in accordance with the management and mitigation measures in Appendix 2.
- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
  - (b) the implementation of any actions or measures contained in any such document referred to in condition A3(a).
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c) or A2(e). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c) or A2(e), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

#### LIMITS OF CONSENT

##### Lapsing

- A5. This consent lapses five years after the date from which it operates, unless the development has physically commenced on the land to which the consent applies before that date.

##### Production Capacity

- A6. This development must not produce more than 50,000 tonnes of food product in any one calendar year.

##### Dangerous Goods

- A7. The storage of dangerous goods (DG) within the development must not exceed *Table 3-1* of the *Preliminary Hazard Analysis* dated 29 June 2021 (PHA), especially 37 tonnes of DG Class 8, Packing Groups II or III, as outlined in Table 1 below.

**Table 1**

| Hazardous Material Description                  | Dangerous Goods Class       | Total Storage Capacity |
|-------------------------------------------------|-----------------------------|------------------------|
| Liquefied Petroleum Gas (LPG)                   | 2.1                         | 210 kg*                |
| Nitrogen, refrigerated liquid tank              | 2.2                         | 10,000 L               |
| Packaged Corrosive Substances – acids and bases | 8 (Packing Groups II & III) | 1,960 L                |
| Sulphuric acid bulk tank (acid)                 | 8 (Packing Group II)        | 5,000 L                |
| Sodium Hydroxide bulk tank (base)               | 8 (Packing Group II)        | 10,000 L               |
| Glissen bulk tank (base)                        | 8 (Packing Group II)        | 20,000 L               |
| Lubricant Oil                                   | Combustible Liquid          | 300 L                  |

\*Note: LPG cylinder contains 210 kg of LPG equivalent to 411 L.

- A8. The Applicant must store and handle all chemicals, fuels and oils in accordance with:

- (a) the requirements of all relevant Australian Standards; and
- (b) the NSW EPA's *Storing and Handling of Liquids: Environmental Protection – Participants Handbook* if the chemicals are liquids.

In the event of an inconsistency between the requirements in (a) and (b) above, the most stringent requirement shall prevail to the extent of the inconsistency.

#### **NOTIFICATION OF COMMENCEMENT**

- A9. The date of commencement of each of the following phases of the development must be notified to the Department in writing, at least one week before that date:
- (a) construction;
  - (b) operation; and
  - (c) cessation of operations;
- A10. If the construction or operation of the development is to be staged, the Department must be notified in writing at least one week before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

#### **EVIDENCE OF CONSULTATION**

- A11. 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.

#### **STAGING, COMBINING AND UPDATING STRATEGIES, PLANS OR PROGRAMS**

- A12. With the approval of the Planning Secretary, the Applicant may:
- (a) prepare and submit any strategy, plan or program required by this consent on a staged basis (if a clear description is provided as to the specific stage and scope of the development to which the strategy, plan or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan or program);
  - (b) combine any strategy, plan or program required by this consent (if a clear relationship is demonstrated between the strategies, plans or programs that are proposed to be combined); and
  - (c) update any strategy, plan or program required by this consent (to ensure the strategies, plans and programs required under this consent are updated on a regular basis and incorporate additional measures or amendments to improve the environmental performance of the development).
- A13. If the Planning Secretary agrees, a strategy, plan or program may be staged or updated without consultation being undertaken with all parties required to be consulted in the relevant condition in this consent.
- A14. If approved by the Planning Secretary, updated strategies, plans or programs supersede the previous versions of them and must be implemented in accordance with the condition that requires the strategy, plan or program.

#### **PROTECTION OF PUBLIC INFRASTRUCTURE**

- A15. Before the commencement of construction, 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
  - (c) submit a copy of the dilapidation report to the Planning Secretary and Council.
- A16. 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; and
  - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

## DEMOLITION

- A17. All demolition must be carried out in accordance with *Australian Standard AS 2601-2001 The Demolition of Structures* (Standards Australia, 2001).

## STRUCTURAL ADEQUACY

- A18. All new buildings and structures, and any alterations or additions to existing buildings and structures, that are part of the development, must be constructed in accordance with the relevant requirements of the BCA;

**Note:**

- Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

## COMPLIANCE

- A19. 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.

## CONTRIBUTIONS TO COUNCIL

- A20. An infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of construction. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

## OPERATION OF PLANT AND EQUIPMENT

- A21. All plant and equipment used on site, or to monitor the performance of the development, must be:
- (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.

## EXTERNAL WALLS AND CLADDING

- A22. The external walls of all buildings including additions to existing buildings must comply with the relevant requirements of the BCA.
- A23. Prior to the issue of:
- (a) any Construction Certificate relating to the construction of external walls (including the installation of finishes and claddings such as synthetic or aluminium composite panels); and
  - (b) an Occupation Certificate, the Applicant must provide the Certifier with documented evidence that the products and systems proposed for use or used in the construction of external walls (including finishes and claddings such as synthetic or aluminium composite panels) comply with the requirements of the BCA.
- A24. The Applicant must provide a copy of the documentation given to the Certifier to the Planning Secretary within seven days after the Certifier accepts it.

## UTILITIES AND SERVICES

- A25. Prior to the issue of the relevant Construction Certificate, the Applicant is to prepare in consultation with TfNSW the drawing files (DWG), architectural and civil plans of the proposed utilities to service the site for review and approval. From the infrastructure report, this includes:
- Electrical Services
  - Telecommunication
  - Sewer
  - Potable water
  - Gas
- A26. All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Mamre Road boundary.
- A27. Before the construction of any utility works associated with the development, the Applicant must obtain relevant approvals from service providers.
- A28. Before the commencement of operation of the development, the Applicant must obtain a Compliance Certificate for water and sewerage infrastructure servicing of the site under section 73 of the *Sydney Water Act 1994*.

- A29. Before the issue of a Subdivision or Construction Certificate for any stage of the development, the Applicant (whether or not a constitutional corporation) is to provide evidence, satisfactory to the Certifier, that arrangements have been made for:
- (a) the installation of fibre-ready facilities to all individual lots and/or premises in the development to enable fibre to be readily connected to any premises that is being or may be constructed on those lots; and
  - (b) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in the development demonstrated through an agreement with a carrier.
- A30. Before the issue of the final Occupation Certificate the Applicant must demonstrate that the carrier has confirmed in writing they are satisfied that the fibre ready facilities are fit for purpose.

#### **WORKS AS EXECUTED PLANS**

- A31. Before the issue of the final Occupation Certificate, works-as-executed drawings signed by a registered surveyor demonstrating that the stormwater drainage and finished ground levels have been constructed as approved, must be submitted to the Principal Certifier.

#### **APPLICABILITY OF GUIDELINES**

- A32. 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.
- A33. 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.

## **ADVISORY NOTES**

- AN1.** 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.

## PART B SPECIFIC ENVIRONMENTAL CONDITIONS

### TRAFFIC AND ACCESS

#### Construction Traffic Management Plan

- B1. Prior to the commencement of construction, the Applicant must prepare a Construction Traffic Management Plan for the development to the satisfaction of the Planning Secretary. The plan must form part of the CEMP required by condition C2 and must:
- (a) be prepared by a suitably qualified and experienced person(s);
  - (b) be prepared in consultation with TfNSW;
  - (c) detail the measures that are to be implemented to ensure road safety and network efficiency during construction;
  - (d) detail the measures that are to be implemented to ensure safety and access for pedestrians during construction;
  - (e) detail heavy vehicle routes, access and parking arrangements;
  - (f) include a Driver Code of Conduct to:
    - (i) minimise the impacts of earthworks and construction on the local and regional road network;
    - (ii) minimise conflicts with other road users;
    - (iii) minimise road traffic noise; and
    - (iv) ensure truck drivers use specified routes;
  - (g) include a program to monitor the effectiveness of these measures; and
  - (h) if necessary, detail procedures for notifying residents and the community (including local schools), of any potential disruptions to routes.
- B2. The Applicant must:
- (a) not commence construction until the Construction Traffic Management Plan required by condition B1 is approved by the Planning Secretary; and
  - (b) implement the most recent version of the Construction Traffic Management Plan approved by the Planning Secretary for the duration of construction.

#### Roadworks and Access

- B3. Prior to the commencement of construction works within the road reserve, the Applicant must submit design plans for review and endorsement to the relevant roads authority for the removal of the existing turning head, reinstatement of kerb and gutter, and the installation of separate and perpendicular light vehicle and heavy vehicles driveway access points to the site.
- B4. Within six months of the commencement of operation of the fourth-leg signalised intersection with James Erskine Drive and Mamre Road (including the northern extension of Distribution Drive), the Applicant shall lodge a separate section 138 *Roads Act 1993* application for the removal of the temporary turning area with associated roadworks and be undertaken in accordance with the endorsed design plans.
- B5. The Applicant must submit design plans to the satisfaction of the relevant roads authority which demonstrate that the proposed accesses to the development are designed to accommodate the turning path of a 26 m B-Double.
- B6. Prior to the commencement of construction, a section 138 *Roads Act 1993* (Roads Act) application(s), including payment of application and inspection fees together with any applicable bonds, shall be lodged and approved by Council for any works required in a public road. All works shall be carried out in accordance with the Roads Act approval and Council's specifications, guidelines and best engineering practice.
- B7. Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with any section 138 Roads Act approval(s) have been inspected and signed off by Council, or that suitable arrangements have been made with Council for any outstanding works that are to be commenced post-operation of the development.
- B8. Within six weeks prior to the commencement of the relevant construction works including excavation of the site and support structures, the Applicant must submit design drawings and documentation relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001.
- B9. The Applicant must notify the relevant roads authority of intention to excavate below the base of roadway footings at least seven (7) days before the commencement of works. The Applicant must be responsible for any public utility adjustment or relocation works necessitated by the development and as required by public utility authorities.
- B10. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Mamre Road.

## Parking

- B11. The Applicant must provide sufficient parking facilities on-site, including for heavy vehicles and for site personnel, to ensure that traffic associated with the development does not utilise public and residential streets or public parking facilities.
- B12. Prior to the issue of the relevant construction certificate, the Applicant is to prepare design plans in consultation with Council and TfNSW for the bicycle parking and end of trip facilities for staff and visitors are to be implemented into the development in accordance with Australian Standard AS1742.9:2018 *Manual of Uniform Traffic Control Devices – Bicycle Facilities*, and *Cycling Aspects of Austroads Guides, 2017* including:
- Locate bicycle parking and storage facilities in secure, convenient, accessible areas close to the main entries incorporating adequate lighting and passive surveillance and in accordance with Austroads guidelines.

## Operating Conditions

- B13. The Applicant must ensure:
- (a) internal roads, driveways and parking (including grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) associated with the development are constructed and maintained in accordance with the latest version of AS 2890.1:2004 *Parking facilities Off-street car parking* (Standards Australia, 2004) and AS 2890.2:2002 *Parking facilities Off-street commercial vehicle facilities* (Standards Australia, 2002);
  - (b) the swept path of the longest vehicle entering and exiting the site, as well as manoeuvrability through the site, is in accordance with the relevant AUSTROADS guidelines;
  - (c) the development does not result in any vehicles queuing on the public road network;
  - (d) heavy vehicles and bins associated with the development are not parked on local roads or footpaths in the vicinity of the site;
  - (e) all vehicles are wholly contained on site before being required to stop;
  - (f) all loading and unloading of materials is carried out on-site;
  - (g) all trucks entering or leaving the site with loads have their loads covered and do not track dirt onto the public road network; and
  - (h) the proposed turning areas in the car park are kept clear of any obstacles, including parked cars, at all times.

## Work Place Travel Plan

- B14. Prior to the commencement of operation of any part of the development, the Applicant must prepare a Work Place Travel Plan to be submitted to the Planning Secretary. The Work Place Travel Plan must:
- (a) be prepared in consultation with TfNSW;
  - (b) outline facilities and measures to promote public transport usage, such as car share schemes and employee incentives; and
  - (c) describe pedestrian and bicycle linkages and end of trip facilities available on-site.
- B15. The Applicant must implement the most recent version of the Work Place Travel Plan for the life of the development.

## SOILS, WATER QUALITY AND HYDROLOGY

### Imported Soil

- B16. The Applicant must:
- (a) ensure that only VENM, ENM, or other material approved in writing by EPA is brought onto the site;
  - (b) keep accurate records of the volume and type of fill to be used; and
  - (c) make these records available to the Planning Secretary upon request.

### Erosion and Sediment Control

- B17. Prior to the commencement of any construction the Applicant must install and maintain suitable erosion and sediment control measures on-site, in accordance with the relevant requirements of the *Managing Urban Stormwater: Soils and Construction - Volume 1: Blue Book* (Landcom, 2004) guideline and the Erosion and Sediment Control Plan included in the CEMP required by condition C2.

### Discharge Limits

- B18. The development must comply with section 120 of the POEO Act, which prohibits the pollution of waters, except as expressly provided for in an EPL.

## Stormwater Management System

- B19. Prior to the commencement of operation, the Applicant must design, install and operate a stormwater management system for the development. The system must:
- (a) be designed by a suitably qualified and experienced person(s);
  - (b) be prepared in consultation with Council and TfNSW;
  - (c) be generally in accordance with the conceptual design in the EIS;
  - (d) be in accordance with applicable Australian Standards; and
  - (e) ensure that the system capacity has been designed in accordance with *Australian Rainfall and Runoff* (Engineers Australia, 2016) and *Managing Urban Stormwater: Council Handbook* (EPA, 1997) guidelines.

## AIR QUALITY

### Dust Minimisation

- B20. The Applicant must take all reasonable steps to minimise dust generated during all works authorised by this consent.
- B21. 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.

### Air Quality Discharges

- B22. The Applicant must install and operate equipment in line with best practice to ensure that the development complies with all load limits, air quality criteria/air emission limits and air quality monitoring requirements as specified in the EPL applicable to the site.
- B23. The final design of ventilation outlets (i.e. exhaust stacks) must have a minimum discharge height of 3 metres above the roof line and include a sampling plane compliant with Australian Standard AS4323.1 *Stationary source emissions – Selection of sampling positions* (1995).
- B24. All afterburners must be designed to comply with the requirements for Group 6 plant and equipment in the *Protection of the Environment Operations (Clean Air) Regulation 2021*, including a residence time of more than 0.3 seconds and a combustion temperature of more than 760°C.
- B25. The development must be designed and constructed in a manner that does not preclude future actions to improve the dispersion of pollution from the site or the retrofit of air quality emissions control to reduce emissions from the site.

### Air Quality Verification

- B26. The Applicant must prepare an Air Quality Verification report that confirms the air quality emissions associated with the development. The Air Quality Verification report must be submitted to the Planning Secretary for approval:
- (a) prior to the commencement of construction; and
  - (b) within 90 days of commissioning
- B27. The Air Quality Verification report must:
- (a) be prepared by a suitably qualified and experienced person(s);
  - (b) be prepared in consultation with the EPA;
  - (c) be representative of the final plant design and operating regime;
  - (d) must include all sources of emissions, including but not limited to all boilers and afterburners;
  - (e) demonstrate that odour, particles and NO<sub>2</sub> predicted concentrations comply with the criteria in the *Approved Methods for Modelling and Assessment of Air Pollutants in NSW (2016)* (The Approved Methods);
  - (f) demonstrate the emissions used in the verification report are based on the manufacturers performance guarantees for each emissions source; and
  - (g) identifies contingency measures in the event predicted concentrations exceed the criterion in the Approved Methods, including but not limited to changes to stack height or discharge velocity.

## Air Quality Management Plan

- B28. Prior to the commencement of operation, the Applicant must prepare an Air Quality Management Plan (AQMP) to the satisfaction of the Planning Secretary. The AQMP must form part of the OEMP required by condition C5. The AQMP must:
- (a) be prepared by a suitably qualified and experienced person(s);
  - (b) detail and rank all emissions from all sources of the development, including particulate emissions;
  - (c) describe a program that is capable of evaluating the performance of the operation and determining compliance with key performance indicators;
  - (d) identify the control measures that will be implemented for each emission source; and
  - (e) nominate the following for each of the proposed controls:
    - (i) key performance indicator;
    - (ii) monitoring method;
    - (iii) location, frequency and duration of monitoring;
    - (iv) record keeping;
    - (v) complaints register;
    - (vi) response procedures; and
    - (vii) compliance monitoring.
- B29. The Applicant must:
- (a) not commence operation until the Air Quality Management Plan required by condition B28 is approved by the Planning Secretary; and
  - (b) implement the most recent version of the Air Quality Management Plan approved by the Planning Secretary for the duration of the development.

## Odour Management

- B30. The Applicant must ensure the development does not cause or permit the emission of any offensive odour (as defined in the POEO Act).
- B31. The final plant design and layout must incorporate as a minimum the odour emissions controls (i.e., heat exchangers and afterburners) nominated in Table 1 of the *Advice Note: SBA-Orchard Hills, prepared by Northstar Pty Ltd., dated 25 March 2022*, and in Table 9 in the *Snack Brands Australia, Air Quality & Odour Impact Assessment, prepared by Northstar Pty Ltd., dated 23 August 2021*.

## NOISE

### Hours of Work

- B32. The Applicant must comply with the hours detailed in Table 2, unless otherwise agreed in writing by the Planning Secretary.

**Table 2** Hours of Work

| Activity                    | Day                      | Time         |
|-----------------------------|--------------------------|--------------|
| Earthworks and construction | Monday – Friday          | 7 am to 6 pm |
|                             | Saturday                 | 8 am to 1 pm |
| Commissioning & Operation   | Monday – Sunday          | 24 hours     |
| Corn Silo Filling           | Monday – Saturday        | 7 am to 6 pm |
|                             | Sunday & Public Holidays | 8 am to 6 pm |

- B33. Corn delivery activities to the development must not occur at the same time as potato delivery activities.
- B34. Works outside of the hours identified in condition B32 may be undertaken in the following circumstances:
- (a) works that are inaudible at the nearest sensitive receivers;
  - (b) for the delivery of materials required outside these hours by the NSW Police Force or other authorities for safety reasons; or
  - (c) where it is required in an emergency to avoid the loss of lives, property or to prevent environmental harm.

### Construction Noise Limits

- B35. The development must be constructed to achieve the construction noise management levels detailed in the *Interim Construction Noise Guideline* (DECC, 2009) (as may be updated or replaced from time to time). 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 in the Appendix 2.

### Construction Noise Management Plan

- B36. The Applicant must prepare a Construction Noise Management Plan for the development to the satisfaction of the Planning Secretary. The Plan must form part of a CEMP in accordance with condition C2 and must
- be prepared by a suitably qualified and experienced noise expert;
  - be approved by the Planning Secretary prior to the commencement of construction of each stage of the development;
  - describe procedures for achieving the noise management levels in EPA's *Interim Construction Noise Guideline* (DECC, 2009) (as may be updated or replaced from time to time);
  - describe the measures to be implemented to manage high noise generating works such as piling, in close proximity to sensitive receivers;
  - include strategies that have been developed with the community for managing high noise generating works; and
  - describe the community consultation undertaken to develop the strategies in condition B36(e).
  - include a complaints management system that would be implemented for the duration of the development.
- B37. The Applicant must:
- not commence construction of any relevant stage until the Construction Noise Management Plan required by condition B36 is approved by the Planning Secretary; and
  - implement the most recent version of the Construction Noise Management Plan approved by the Planning Secretary for the duration of construction.

### Operational Noise Limits

- B38. The Applicant must ensure that noise generated by operation of the development does not exceed the noise limits in Table 3.

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

| Location                                                   | Day<br>L <sub>Aeq</sub> (15 minute) | Evening<br>L <sub>Aeq</sub> (15 minute) | Night<br>L <sub>Aeq</sub> (15 minute) | Night<br>L <sub>AFmax</sub> |
|------------------------------------------------------------|-------------------------------------|-----------------------------------------|---------------------------------------|-----------------------------|
| Any residential receiver on Mandalong Close, Orchard Hills | 36                                  | 36                                      | 35                                    | 49                          |
| Any residential receiver on Lot 22 DP 1267425              | 39                                  | 39                                      | 38                                    | 49                          |
| Child Care Centre on Lot 216 DP 1013539                    | 47 (when in use)                    |                                         |                                       | -                           |

**Note** Noise generated by the development is to be measured in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the NSW Noise Policy for Industry (EPA, 2017) (as may be updated or replaced from time to time). Refer to the plan in Appendix 1 for the location of residential sensitive receivers.

### Post-Commissioning Noise Verification Report

- B39. A noise verification report must be submitted to the Department within three months of the completion of commissioning. The report must be prepared by a suitably qualified and experienced acoustic consultant and include:
- an analysis of compliance with noise limits specified in condition B38;
  - an outline of management actions to be taken to address any exceedances of the limits specified in condition B38; and
  - a description of contingency measures in the event management actions are not effective in reducing noise levels to an acceptable level.

### Design, Operation and Noise Validation

- B40. Prior to the commencement of operation, the Applicant must provide evidence, in consultation with the EPA and to the satisfaction of the Planning Secretary, to confirm the recommendations and design requirements detailed in the *Noise Emission Assessment of Warehouse Expansion* prepared by Renzo Tonin & Associated Pty Ltd, Revision 5, dated 31 March 2022 have been implemented.

## ABORIGINAL HERITAGE

### Unexpected Finds Protocol

- B41. If any item or object of Aboriginal heritage significance is identified on site:
- (a) all work in the immediate vicinity of the suspected Aboriginal item or object must cease immediately;
  - (b) a 10 m wide buffer area around the suspected item or object must be cordoned off; and
  - (c) the OEHL must be contacted immediately.
- B42. Work in the immediate vicinity of the Aboriginal item or object may only recommence in accordance with the provisions of Part 6 of the *National Parks and Wildlife Act 1974*.

## HAZARDS AND RISK

### Pre-construction

- B43. At least one month prior to the commencement of construction of the development (except for construction of those preliminary works that are outside the scope of the hazard studies), or within such further period as the Planning Secretary may agree, the Applicant must prepare and submit for the approval of the Planning Secretary the studies set out under subsections (a) and (b) below (the pre-construction studies). Construction, other than of preliminary works that are outside the scope of the hazard studies, must not commence until approval has been given by the Planning Secretary and, with respect to the Fire Safety Study, the study must meet the requirements of Fire and Rescue NSW.
- (a) A **Fire Safety Study** for the development. This study must cover the relevant aspects of the *Department's Hazardous Industry Planning Advisory Paper No. 2, 'Fire Safety Study Guidelines'* and the *New South Wales Government's Best Practice Guidelines for Contaminated Water Retention and Treatment Systems* (NSW HMPCC, 1994). The study must also be submitted to Fire and Rescue NSW for review and comment.
  - (b) A **Final Hazard Analysis** of the development, prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 6, 'Hazard Analysis'*. If the final detailed design of the development is substantially similar to the PHA and the *Dangerous Goods Design Report* dated 29 June 2021 (DG report), a brief report confirming the design of the development may be submitted instead of a full report. If so, the brief report must include and not be limited to the following:
    - (i) differences in the final detailed design of the development compared to the PHA and the DG report, if any;
    - (ii) verification that any difference in (i) will not increase the risks from the development beyond the results in the PHA; and
    - (iii) verification that all safeguards arising from findings and recommendations from the Fire Engineering Brief Questionnaire (FBEQ) process administered by Fire and Rescue NSW (FRNSW), taking into consideration the *Fire Safety Strategy Report* dated 24 August 2021, have been implemented into the final detailed design of the development in an appropriate manner.

### Pre-commissioning

- B44. Prior to commissioning, the Applicant must develop and implement the plans and systems set in (a) and (b). The Applicant must submit to the Planning Secretary documentation describing the plans and systems no later than two months prior to the commencement of commissioning of the proposed development, or within such further period as the Planning Secretary may agree.
- (a) **EMERGENCY PLAN**  
A comprehensive Emergency Plan and detailed emergency procedures for the development. The Emergency Plan must include consideration of the safety of all people outside of the development who may be at risk from the development. The plan must be prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 1, 'Emergency Planning'*.
  - (b) **SAFETY MANAGEMENT SYSTEM**  
A document setting out a comprehensive Safety Management System, covering all on-site operations and associated transport activities involving hazardous materials. The document must clearly specify all safety related procedures, responsibilities and policies along with details of mechanisms for ensuring adherence to the procedures. Records must be kept on-site and must be available for inspection by the Planning Secretary upon request. The Safety Management System must be developed in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 9, 'Safety Management'*.

## Hazard Audit

- B45. Twelve months after the commencement of operation of the development and at the request of the Planning Secretary thereafter, the Applicant must carry out a comprehensive Hazard Audit of the development and within one month of each audit submit a report to the satisfaction of the Planning Secretary. The audits must be carried out at the Applicant's expense by a qualified person or team, independent of the development and approved by the Planning Secretary prior to commencement of the audit. Hazard Audits must be carried out in accordance with the Department's Hazardous Industry Planning Advisory Paper No. 5, 'Hazard Audit'. The audit must include a review of the site Safety Management System and a review of all entries made in the incident register since the previous audit. The audit report must be accompanied by a program for the implementation of all recommendations made in the audit report. If the Applicant intends to defer the implementation of a recommendation, reasons must be documented.

## Further Requirements

- B46. The Applicant must comply with all reasonable requirements of the Planning Secretary in respect of the implementation of any measures arising from the reports submitted in respect of conditions B43 to B45 inclusive, within such time as the Planning Secretary may agree.
- B47. The Applicant must store all chemicals, fuels and oils used on-site in accordance with:
- (a) the requirements of all relevant Australian Standards; and
  - (b) the NSW EPA's *Storing and Handling of Liquids: Environmental Protection – Participants Manual* if the chemicals are liquids.
- B48. In the event of an inconsistency between the requirements B47(a) and B47(b), the most stringent requirement must prevail to the extent of the inconsistency.

## Dangerous Goods

- B49. The quantities of dangerous goods stored and handled at the site must be below the threshold quantities listed in the Department of *Planning's Hazardous and Offensive Development Application Guidelines – Applying SEPP 33* at all times.

## Bunding

- B50. The Applicant must store all chemicals, fuels and oils used on-site in appropriately banded areas in accordance with the requirements of all relevant Australian Standards, and/or EPA's *Storing and Handling of Liquids: Environmental Protection – Participants Manual* (Department of Environment and Climate Change, 2007).

## BUSHFIRE

- B51. The development site shall be managed in perpetuity as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bushfire Protection 2019*.

## WASTE MANAGEMENT

### Construction and Demolition Waste Management

- B52. Prior to the commencement of construction, the Applicant must prepare a Construction and Demolition Waste Management Plan for the development to the satisfaction of the Planning Secretary. The Plan must form part of a CEMP in accordance with condition C2 and must:
- (a) detail the quantities of each waste type generated during construction and the proposed reuse, recycling and disposal locations; and
  - (b) be implemented for the duration of construction works.
- B53. The Applicant must:
- (a) not commence construction until the Construction and Demolition Waste Management Plan is approved by the Planning Secretary.
  - (b) implement the most recent version of the Construction and Demolition Waste Management Plan approved by the Planning Secretary.

### Pests, Vermin and Noxious Weed Management

- B54. The Applicant must:
- (a) implement suitable measures to manage pests, vermin and declared noxious weeds on the site; and
  - (b) inspect the site on a regular basis to ensure that these measures are working effectively, and that pests, vermin or noxious weeds are not present on site in sufficient numbers to pose an environmental hazard, or cause the loss of amenity in the surrounding area.

**Note:** For the purposes of this condition, noxious weeds are those species subject to an order declared under the Noxious Weed Act 1993.

## **Waste Storage and Processing**

- B55. Waste storage must be provided in accordance with the Penrith Development Control Plan 2014.
- B56. Waste must be secured and maintained within designated waste storage areas at all times and must not leave the site onto neighbouring public or private properties.

## **Waste Management Plan**

- B57. Prior to the commencement of operation, the Applicant must prepare a Waste Management Plan for the development to the satisfaction of the Planning Secretary. The Waste Management Plan must form part of the OEMP and be prepared in accordance with condition C5. The Plan must:
- (a) detail the type and quantity of waste to be generated during operation of the development;
  - (b) describe the handling, storage and disposal of all waste streams generated on site, consistent with the *Protection of the Environment Operations Act 1997, Protection of the Environment Operations (Waste) Regulation 2014* and the *Waste Classification Guideline* (Department of Environment, Climate Change and Water, 2009);
  - (c) detail the materials to be reused or recycled, either on or off site; and
  - (d) include the Management and Mitigation Measures included in Appendix 2.
- B58. The Applicant must:
- (a) not commence operation until the Waste Management Plan is approved by the Planning Secretary;
  - (b) implement the most recent version of the Waste Management Plan approved by the Planning Secretary.

## **Statutory Requirements**

- B59. All waste materials removed from the site must only be directed to a waste management facility or premises lawfully permitted to accept the materials or as described in the Waste Management Plan.
- B60. The Applicant must assess and classify all liquid and non-liquid wastes to be taken off site in accordance with the latest version of EPA's *Waste Classification Guidelines Part 1: Classifying Waste* (EPA, 2014) and dispose of all wastes to a facility that may lawfully accept the waste.
- B61. Waste generated outside the site must not be received at the site for storage, treatment, processing, reprocessing, or disposal.
- B62. The Applicant must retain all sampling and waste classification data for the life of the development in accordance with the requirements of EPA.
- B63. The collection of waste generated during operation of the development must be undertaken between 7am to 10pm Monday to Friday.

## **CONTAMINATION**

### **Unexpected Finds**

- B64. Prior to the commencement of earthworks, the Applicant must prepare an unexpected contamination procedure to ensure that potentially contaminated material is appropriately managed. The procedure must form part of the CEMP in accordance with condition C2 and must ensure any material identified as contaminated must be disposed off-site, with the disposal location and results of testing submitted to the Planning Secretary, prior to its removal from the site.

## **VISUAL AMENITY**

### **Landscaping**

- B65. Prior to the commencement of operation, the Applicant must prepare a Landscape Management Plan to manage the revegetation and landscaping works on-site, to the satisfaction of the Planning Secretary. The plan must form part of an OEMP in accordance with conditions C5. The plan must:
- (a) be prepared in consultation with Council;
  - (b) detail the species to be planted on-site;
  - (c) describe the monitoring and maintenance measures to manage revegetation and landscaping works; and
  - (d) be consistent with the Applicant's Management and Mitigation Measures in Appendix 2.
- B66. The Applicant must:
- (a) not commence operation until the Landscape Management Plan is approved by the Planning Secretary.
  - (b) must implement the most recent version of the Landscape Management Plan approved by the Planning Secretary; and

- (c) maintain the landscaping and vegetation on the site in accordance with the approved Landscape Management Plan required by condition B65 for the life of the development.

#### **Lighting**

B67. The Applicant must ensure the lighting associated with the development:

- (a) complies with the latest version of AS 4282-1997 - *Control of the obtrusive effects of outdoor lighting* (Standards Australia, 1997); and
- (b) is mounted, screened and directed in such a manner that it does not create a nuisance to surrounding properties or the public road network.

#### **Signage and Fencing**

B68. All signage and fencing must be erected in accordance with the development plans included in the EIS and RtS.

**Note:** *This condition does not apply to temporary construction and safety related signage and fencing.*

#### **COMMUNITY ENGAGEMENT**

B69. The Applicant must consult with the community regularly throughout the development, including consultation with the nearby sensitive receivers, relevant regulatory authorities and other interested stakeholders.

## PART C ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING

### ENVIRONMENTAL MANAGEMENT

#### Management Plan Requirements

- C1. Management plans required under this consent must be prepared in accordance with relevant guidelines, and include:
- (a) detailed baseline data;
  - (b) details of:
    - (i) the relevant statutory requirements (including any relevant approval, licence or lease conditions);
    - (ii) any relevant limits or performance measures and criteria; and
    - (iii) the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the development or any management measures;
  - (c) a description of the measures to be implemented to comply with the relevant statutory requirements, limits, or performance measures and criteria;
  - (d) a program to monitor and report on the:
    - (i) impacts and environmental performance of the development; and
    - (ii) effectiveness of the management measures set out pursuant to paragraph (c) above;
  - (e) a contingency plan to manage any unpredicted impacts and their consequences and to ensure that ongoing impacts reduce to levels below relevant impact assessment criteria as quickly as possible;
  - (f) a program to investigate and implement ways to improve the environmental performance of the development over time;
  - (g) a protocol for managing and reporting any:
    - (i) incident and any non-compliance (specifically including any exceedance of the impact assessment criteria and performance criteria);
    - (ii) complaint;
    - (iii) failure to comply with statutory requirements; and
  - (h) a protocol for periodic review of the plan.

**Note:** the Planning Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans

#### CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

- C2. The Applicant must prepare a Construction Environmental Management Plan (CEMP) in accordance with the requirements of condition C1 and to the satisfaction of the Planning Secretary.
- C3. As part of the CEMP required under Condition C2 of this consent, the Applicant must include the following:
- (a) Construction Traffic Management Plan (see Condition B1);
  - (b) Erosion and Sediment Control Plan;
  - (c) Construction Noise Management Plan (see Condition B36);
  - (d) Construction and Demolition Waste Management Plan (see Condition B52);
  - (e) Unexpected Finds Protocol (see Condition B64); and
  - (f) Community Consultation and Complaints Handling.
- C4. The Applicant must:
- (a) not commence construction of the development until the CEMP is approved by the Planning Secretary; and
  - (b) carry out the construction of the development in accordance with the CEMP approved by the Planning Secretary and as revised and approved by the Planning Secretary from time to time.

#### OPERATIONAL ENVIRONMENTAL MANAGEMENT PLAN

- C5. The Applicant must prepare an Operational Environmental Management Plan (OEMP) in accordance with the requirements of condition C1 and to the satisfaction of the Planning Secretary.
- C6. As part of the OEMP required under Condition C5 of this consent, the Applicant must include the following:
- (a) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
  - (b) describe the procedures that would be implemented to:
    - (i) to ensure raw corn and potato product delivery to the site does not occur simultaneously;

- (ii) keep the local community and relevant agencies informed about the operation and environmental performance of the development;
- (iii) receive, handle, respond to, and record complaints;
- (iv) resolve any disputes that may arise;
- (v) respond to any non-compliance;
- (vi) respond to emergencies; and
- (c) include the following environmental management plans:
  - (i) Air Quality (see Condition B28);
  - (ii) Waste (see Condition B57);
  - (iii) Landscape (see Condition B65).

**C7. The Applicant must:**

- (a) not commence operation until the OEMP is approved by the Planning Secretary; and
- (b) operate the development in accordance with the OEMP approved by the Planning Secretary (and as revised and approved by the Planning Secretary from time to time).

**REVISION OF STRATEGIES, PLANS AND PROGRAMS**

**C8. Within three months of:**

- (a) the submission of a Compliance Report under condition C14;
- (b) the submission of an incident report under condition C10;
- (c) the submission of an Independent Audit under condition C16;
- (d) the approval of any modification of the conditions of this consent; or
- (e) the issue of a direction of the Planning Secretary under condition A2(b) which requires a review,

the strategies, plans and programs required under this consent must be reviewed.

**C9. 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.*

**REPORTING AND AUDITING**

**Incident Notification, Reporting and Response**

**C10. The Planning Secretary must be notified in writing via the Major Projects website immediately within seven (7) days 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. Subsequent notification requirements must be given, and reports submitted in accordance with the requirements set out in Appendix 3.**

**Non-Compliance Notification**

**C11. The Planning Secretary must be notified in writing to the Major Projects website within seven days after the Applicant becomes aware of any non-compliance.**

**C12. A non-compliance 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.**

**C13. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.**

**Compliance Reporting**

**C14. Within three months after the first year of commencement of operation, and in the same month each subsequent year (or such other timing as agreed by the Planning Secretary), the Applicant must submit a Compliance Report to the Department reviewing the environmental performance of the development to the satisfaction of the Planning Secretary. Compliance Reports must be prepared in accordance with the Compliance Reporting Post Approval Requirements (Department 2020) and must also:**

- (a) identify any trends in the monitoring data over the life of the development;
- (b) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and

- (c) describe what measures will be implemented over the next year to improve the environmental performance of the development
- C15. The Applicant must make each Compliance Report publicly available no later than 60 days after submitting it to the Planning Secretary and notify the Planning Secretary in writing at least 7 days before this is done.

#### **Independent Audit**

- C16. Within one year of the commencement of operation, and every three years after, unless the Planning Secretary directs otherwise, the Applicant must commission and pay the full cost of an Independent Environmental Audit (Audit) of the development. Audits must:
- (a) be prepared in accordance with the Independent Audit Post Approval Requirements (Department 2020)
  - (b) be led and conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Planning Secretary; and
  - (c) be submitted to the satisfaction of the Planning Secretary within three months of commissioning the Audit (or within another timeframe agreed by the Planning Secretary).
- C17. In accordance with the specific requirements in the Independent Audit Post Approval Requirements (Department 2020), the Applicant must:
- (a) review and respond to each Independent Audit Report prepared under condition C16 of this consent;
  - (b) submit the response to the Planning Secretary and any other NSW agency that requests it, together with a timetable for the implementation of the recommendations;
  - (c) implement the recommendations to the satisfaction of the Planning Secretary; and
  - (d) make each Independent Audit Report and response to it publicly available no later than 60 days after submission to the Planning Secretary and notify the Planning Secretary in writing at least 7 days before this is done.

#### **Monitoring and Environmental Audits**

- C18. 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, compliance reporting and independent 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.

#### **ACCESS TO INFORMATION**

- C19. At least 48 hours before the commencement of construction until the completion of all works under this consent, the Applicant must:
- (a) make the following information and documents (as they are obtained or approved) publicly available on its website:
    - (i) the documents referred to in condition A2 of this consent;
    - (ii) all current statutory approvals for the development;
    - (iii) all approved strategies, plans and programs required under the conditions of this consent;
    - (iv) regular reporting on the environmental performance of the development in accordance with the reporting requirements 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) the Compliance Report of the development;
    - (x) audit reports prepared as part of any Independent Audit of the development and the Applicant's response to the recommendations in any audit report;
    - (xi) any other matter required by the Planning Secretary; and
  - (b) keep such information up to date, to the satisfaction of the Planning Secretary.

## APPENDIX 1 DEVELOPMENT LAYOUT PLANS

**Table 4** Schedule of Approved Plans

| Architectural Plans prepared by |                                            |          |          |
|---------------------------------|--------------------------------------------|----------|----------|
| Drawing                         | Title                                      | Revision | Date     |
| 210216-AR-A000                  | Cover Page                                 | B        | 08.04.22 |
| 210216-AR-A001                  | Site Plan (Overall)                        | I        | 08.04.22 |
| 210216-AR-A002                  | Site Plan (Internal Fitout)                | I        | 08.04.22 |
| 210216-AR-A010                  | Existing Site and Proposed Demolition Plan | C        | 23.03.22 |
| 210216-AR-A100                  | Factory Floor Plan (Fitout)                | A        | 08.04.22 |
| 210216-AR-A101                  | L1 Mezzanine Plan                          | F        | 08.04.22 |
| 210216-AR-A110                  | Roof Plan                                  | E        | 08.04.22 |
| 210216-AR-A120                  | Office Ground Floor Plan                   | E        | 01.04.22 |
| 210216-AR-A121                  | Office First Floor Plan                    | D        | 01.04.22 |
| 210216-AR-A140                  | Ground Floor Office RCP                    | C        | 01.04.22 |
| 210216-AR-A200                  | Warehouse Elevations                       | D        | 08.04.22 |
| 210216-AR-A201                  | Office Elevations                          | D        | 08.04.22 |
| 210216-AR-A210                  | Warehouse Sections – Sheet 1               | F        | 08.04.22 |
| 210216-AR-A211                  | Warehouse Sections – Sheet 2               | D        | 08.04.22 |
| 210216-AR-A212                  | Warehouse Sections – Sheet 3               | E        | 08.04.22 |

## APPENDIX 2    APPLICANT'S MANAGEMENT AND MITIGATION MEASURES

## PLANNED MANAGEMENT AND MITIGATION MEASURES FOR THE PROPOSED DEVELOPMENT

|                        |                                                                                                                 |
|------------------------|-----------------------------------------------------------------------------------------------------------------|
| <b>By:</b>             | Snack Brands Australia                                                                                          |
| <b>In relation to:</b> | State Significant Development Application (SSD-18204994)<br>For proposed Industrial food manufacturing facility |
| <b>Site:</b>           | 2 and 14 Distribution Drive, Orchard Hills<br>Lot 10 and 11 DP 271141                                           |

Snack Brands Australia (SBA), plan to undertake the construction and operation of the proposed Industrial food manufacturing facility, in accordance with the following subsections.

Below prescribes some of the terms and abbreviations used in this statement, including:

|                     |                                                                               |
|---------------------|-------------------------------------------------------------------------------|
| <b>Approval</b>     | The Minister's approval of the project                                        |
| <b>BCA</b>          | Building Code of Australia                                                    |
| <b>Council</b>      | Penrith City Council                                                          |
| <b>DPE</b>          | Department of Planning, Industry and Environment                              |
| <b>EIS</b>          | Environmental Impact Statement                                                |
| <b>EP&amp;A Act</b> | <i>Environmental Planning and Assessment Act 1979</i>                         |
| <b>SBA</b>          | Snack Brands Australia                                                        |
| <b>NCC</b>          | National Construction Code                                                    |
| <b>Project</b>      | The proposed development as described in <b>Section 4.1</b> of the RTS Report |
| <b>Secretary</b>    | Secretary-General of the Department (or delegate)                             |
| <b>Subject site</b> | Land to which the project application applies                                 |
| <b>WorkCover</b>    | NSW WorkCover                                                                 |

### ADMINISTRATIVE COMMITMENTS

#### Commitment to Minimise Harm to the Environment

- AC1. SBA will commit to implement all reasonable and feasible measures, to prevent and/or minimise any harm to the environment, that may result from the construction or operation of the proposed development.

#### Terms of Approval

- AC2. SBA will carry out the project generally in accordance with the:

- (a) Environmental Impact Statement;
- (b) RTS Report;
- (c) Drawings;
- (d) Management and Mitigation Measures;
- (e) Any Conditions of Approval.



**Occupation Certificate**

- AC3. SBA will ensure that Occupation Certificates are obtained prior to the occupation of the facilities.
- AC4. If there is any inconsistency between the above, the Conditions of Approval shall prevail to the extent of the inconsistency.
- AC5. SBA will ensure compliance with any reasonable requirement(s) of the Secretary of the DPE arising from the assessment of:
- (a) Any reports, plans, programs, strategies or correspondence that are submitted in relation to this Approval; and
  - (b) The implementation of any recommended actions or measures contained in reports, plans, programs, strategies or correspondence submitted by the Project Team as part of the application for Approval.

**Structural Adequacy**

- AC6. SBA will ensure that all new buildings and structures on the site are constructed in accordance with the relevant requirements of the NCC.

**Operation of Plant and Equipment**

- AC7. SBA will ensure that all plant and equipment used on-site, is maintained and operated in proper and efficient manner, and in accordance with relevant Australian Standards.

**Construction Environmental Management Plan**

- AC8. Prior to the commencement of construction, SBA will prepare a Construction Environmental Management Plan (CEMP) that addresses the following:
- (a) Air Quality;
  - (b) Noise;
  - (c) Waste Classification;
  - (d) Erosion and Sediment Control;
  - (e) Materials Management Plan; and
  - (f) Community Consultation and Complaints Handling.

**Monitoring of State of Roadways**

- AC9. SBA will monitor the state of roadways leading to and from the subject site, during construction, and will take all necessary steps to clean up any adversely impacted road pavements as directed.

**Waste Receipts**

- AC10. SBA will ensure that a permanent record of receipts, for the removal of both liquid and solid waste from the subject site, be kept and maintained up to date at all times. Such records would be made available to authorised person upon request.

**Complaints Handling**

- AC11. SBA will prepare and implement an Operational Complaints Handling Protocol for the development, prior to the commencement of operations.

**Consultation**

- AC12. SBA will prepare and implement a Community Consultation Strategy (CCS), to be implemented throughout the construction and operational phases of the project.

**SPECIFIC ENVIRONMENTAL COMMITMENTS****Air Quality**

- AQ1. Prior to commencement of works, SBA will develop and implement a Dust Management Plan (DMP), which may include measures to control other emissions, approved by the relevant regulatory bodies.
- AQ2. Prior to commencement of works, a construction air quality management plan will be developed (post approval) in line with the Air Quality and Odour Impact Assessment.
- AQ3. SBA will implement an emissions testing program in accordance with the requirements of an Environmental Protection Licence (EPL).
- AQ4. SBA will develop an Operational Environmental Management Plan (OEMP) to address air emissions (including odour).
- AQ5. SBA has an Environmental and Sustainability Policy ESN-001P that outlines commitment to Environmental compliance. SBA will accept and implement the recommendations as outlined in the Air Quality and Odour Impact Assessment for monitoring of performance.

**Noise and Vibration**

- NV1. During the construction phase, SBA will ensure that all recommendations of the Construction Noise and Vibration Management Plan are adopted and implemented.
- NV2. During site operations, SBA will ensure that:
- Corn delivery does not occur at the same time as potato delivery.
  - Forklifts are electric or gas, not diesel.
  - Waste water treatment plant will be located within an enclosed building.
  - Doors on the northern façade of the warehouse must be kept closed except as required for ingress/egress.
  - Heat exchanger room roller door on western façade must remain closed at night time.
  - Filling of corn silo to be limited to daytime only (7am – 6pm).

**Traffic and Transport**

- TT1. SBA will ensure that a Construction Traffic Management Plan (CTMP) is prepared and submitted to DPE. This plan will:
- (a) be submitted to the Secretary for approval prior to the commencement of construction;
  - (b) describe the traffic volumes and movements to occur during construction;
  - (c) detail proposed measures to minimise the impact of construction traffic on the surrounding network, including driver behaviour and vehicle maintenance; and,
  - (d) detail the procedures to be implemented in the event of a complaint from the public regarding construction traffic.
- TT2. The CTMP will be implemented throughout the construction cycle.



TT3. SBA will prepare a Workplace Travel Plan.

**Aboriginal Cultural Heritage**

- AH1. All contractors undertaking earthworks on site will be briefed on the protection of Aboriginal heritage objects under the *National Parks and Wildlife Act 1974* and the penalties for damage to these items.
- AH2. If unforeseen Aboriginal objects are uncovered during construction the unexpected finds protocol will be followed. Work will cease in the area, and the NSW Office of Environment and Heritage will be informed.

**Waste Management**

- WM1. During construction, SBA will implement the measures contained within the prepared Waste Management Plan. These are to be incorporated into the CEMP to be issued prior to commencement of construction.
- WM2. SBA will ensure that all waste generated on-site during construction and operation is classified in accordance with the *Waste Classification Guidelines: Part 1 Classifying Waste* and disposed of at facility that may lawfully accept the waste.

**Dangerous Goods**

- DG1. SBA will reassess the site facility risk contours, in the form of a Final Hazard Analysis once the final design has been completed prior to construction of the DG related elements of the design.
- DG2. SBA will ensure the following documentation is prepared in accordance with the WHS Regulation 2017:
- A DGs Register, indicating the type of chemical, any notations that may be required from the risk assessment and the Safety Data Sheet for the chemical.
  - A Placard Schedule.
  - A Manifest.
  - A DG Risk Assessment of the storage and handling areas.
  - An Emergency Response Plan (ERP) and Emergency Services Information Package (ESIP).
  - A Hazardous Area Classification (HAC) and Hazardous Area Verification Dossier (HAVD).



## **APPENDIX 3     INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS**

### **WRITTEN INCIDENT NOTIFICATION REQUIREMENTS**

1. A written incident notification addressing the requirements set out below must be submitted to the Planning Secretary via the Major Projects website 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 C11 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.

### **INCIDENT REPORT REQUIREMENTS**

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.